

Findings and Determination

These are the Findings of the Tribunal constituted by the Architects Registration Board of Victoria to hold an inquiry into the fitness of [the architect] to practise as an architect and into his professional conduct. The Inquiry was conducted in October 2001.

[The Inquiries Officer] appeared on behalf of the Architects Registration Board of Victoria, and [the architect] appeared on his own behalf.

The Tribunal delivered its findings and determinations at the conclusion of the Inquiry.

ALLEGATIONS

The Notice of Inquiry [] issued pursuant to s.27 of the *Architects Act 1991* made the following allegations:

1. That the Architect had failed to set out in writing the description, terms and conditions of your engagement as an architect and to supply a copy of that document to the clients before accepting the engagement to provide architectural services to them; and
2. By reason of the above, the Architect breached Regulation 18 of the Architects Regulation, and by virtue of Regulation 22 his conduct constituted unprofessional conduct irrespective of whether it otherwise was.

FINDINGS

The Tribunal, having conducted an Inquiry into the matters raised in the Notice, and having considered the evidence presented and the submissions made at the Inquiry, found the allegation proved. In view of this finding, the Tribunal found that:

The architect was careless in his practice.

DETERMINATION

The Tribunal made the following order as to costs.

The Architect shall pay the legal costs of the Board, which were accepted as \$330.00.

The Tribunal makes the following further order as to costs:

The costs must be paid by [] January 2002.

REASONS FOR FINDINGS AND DETERMINATION

1. This Tribunal was constituted pursuant to the provisions of s27 of the **Architects Act 1991** to enquire into the conduct of *[the architect]*, as set out in the Notice of Inquiry []. At the inquiry, *[the Inquiries Officer]* appeared on behalf of the Architects Registration Board (“the Board”) and *[the architect]* appeared on his own behalf.
2. *[The Inquiries Officer]* presented a Summary of the evidence on behalf of the Board in relation to the architect’s involvement with *[his clients]*. Members of the Tribunal also had the benefit of considering the contents of a common folder of documents made available to them and the parties prior to the Inquiry.
3. *[The architect]* confirmed that he would not contest the matters set out in the Summary.
4. The history of the allegation made by the Board is as follows:
 - *[In]* November 2000 the architect was approached by *[his clients]* to assess the feasibility of converting the former Post Office building in *[a country town]* for use as a restaurant. The building was to be auctioned on 8 December 2000 and the clients needed to know whether the project was feasible before purchasing the building.
 - *[In]* November 2000 the architect forwarded the clients a memorandum entitled 'Restaurant Costing' which set out indicative costs for the project, including an item for 'professional fees'. The clients subsequently purchased the building.
 - *[In]* February 2001 the architect provided the client with a written description of the terms and conditions of his engagement. However, by the time this letter was forwarded (some 3 months later), part of the architect's work had already been completed.
 - *[In]* June 2001 the clients lodged a complaint with the Board regarding the architect's fees, his designs and his continuing to work without instructions.
 - In the course of investigating the complaint, the Board determined that the architect had failed to provide the clients with a 'written description of the terms and conditions of his engagement as an architect', before accepting the engagement, as required by s.18 of the Regulations.

- The clients' complaint was subsequently withdrawn by letter []. However, the Board, in line with its policy on compliance with s.18, determined to hold an inquiry and constituted a Tribunal to conduct the inquiry on its behalf.
5. The substance of the evidence was that the memorandum from [*the architect*] to his clients [] did not meet the requirements of s.18 of the Regulations as it did not constitute a written description of the terms and conditions of his engagement as an architect, and was not provided before accepting the engagement. Although the memorandum included an item of \$5-7000 for 'allowance for professional fees, permits etc.' it did not specify the services to be provided by the architect.
 6. As stated earlier, the architect did not contest the allegation. He submitted that it was his usual practice to provide clients with written information in compliance with s.18, and that the letter dated [] was the format he generally used. However, he submitted that under the pressure of having to provide advice to the clients within 3 weeks (i.e. prior to the auction) the matter was overlooked.
 7. The Tribunal found that the architect had failed to comply with s.18 in this instance because the letter [] only partially met the requirements. The architect agreed it was this omission that started the train of events leading to the lodging of the complaint and the Board's decision to hold an inquiry. However, the Tribunal accepted the architect's submission that this was an isolated incident and did not reflect a general pattern of non-compliance.

Penalty

8. In view of the above, the Tribunal determined not to impose any penalty on the architect.

Costs

9. [*The Inquiries Officer*] sought an order for the Board's legal costs associated with the inquiry. He submitted an invoice from the Board's solicitor, [], for legal fees totalling \$330 including GST.

10. The architect stated while he would prefer not to have an order for costs made against him, he did not consider the order sought to be unreasonable in the circumstances.
11. The Tribunal, in recognition that the legal costs represent only a portion of the Board's actual costs in this matter, determined that the architect should pay the Board's legal costs of \$330.
12. On further consideration after the hearing, the Tribunal determines that the architect should be given three months within which to pay the costs. []

9 October 2001