NEW ZEALAND
Registered Architects Board

Discipline Report 4

Background
In December 2013, a complaint was laid against a Registered Architect in relation to a residential project.

A disciplinary hearing was held at which the architect acknowledged fault, in that rule 49 of the Code of Minimum Standards of Ethical Conduct for Registered Architects had been breached, which states:

49. Care and diligence
A Registered Architect must perform his or her professional work with due care and diligence.

Following submissions, the NZRAB Board determined as follows – that the architect:

- be censured
- be required to:
  a) remain in employment under the direct supervision of a Registered Architect for a period of two years continuous employment, commencing on the date of the Board's decision on this matter
  b) undertake his/her next competence review required under Rule 22 as a face-to-face interview without a fee
- be required to contribute 30 per cent of the reasonable costs and expenses of and incidental to the inquiry and any payment arrangements permissible *(The Board took the view that a starting point of 50 per cent of the reasonable costs was appropriate. However, this was reduced, in the main to reflect the admission of fault).*

The Complaint
In 2007 the architect was commissioned to design a house, a design was prepared and a resource consent was obtained for encroachments to the height-in-relation-to-boundary requirements, to which the affected party provided their consent. A building consent was obtained.

Work began and surveyors were engaged to set out the works. On reviewing the documentation, the surveyors identified that the heights in relation to boundary were shown incorrectly. The surveyors determined that there was a maximum 3.0 metre encroachment, as opposed to the maximum 1.8 metre encroachment shown on the drawings, on which the affected-parties consent had been gained. On being notified of the issue, the architect responded: "In our opinion, as long as the building complies with the issued resource consent (and building consent) no issue exists."

The client engaged two further firms of surveyors to review the documentation, who identified that the methodology used to calculate the encroachments was not in accordance with the requirements of the District Plan. On being approached again, the neighbours refused to accept the increased encroachment.

The architect still did not accept that there was an issue. The client then engaged another architect to amend the documentation and to seek new consents.

In addition, the original agreement for services between the architect and the client said that:

(a) The architect shall use best endeavours to hold and maintain professional indemnity insurance for the duration of the Agreed Services and for a period of six years beyond completion of the Services for the indemnity amount of $100,000.
(d) Should such insurance not become obtainable or if any material changes to the terms and conditions of cover occur, the architect will accordingly advise the client in writing.

At the time that the agreement was entered into and over the time covered by it, the architect had no PI insurance and the client was never advised.

A second agreement was prepared to cover the later stages of the commission and the clauses relating to PI Insurance were retained, the architect again failing to disclose that no such cover was held.

Lessons learnt
The architect in question made a mistake in regard to the design that involved basic competence as an architect. It was a simple calculation undertaken incorrectly which had significant implications. The architect's refusal to recognise that there was a problem or to put it right was every bit as concerning. The practice of architecture is a service, and architects must have a service ethic towards their clients. When a client says there's a problem, it needs to be resolved.

Also, in line with that same service ethic, architects must be aware of the terms of appointment they have agreed to and must ensure they are honoured. The fine print matters.

10 June 2015