A M Hennessy Coroner

19 September 2012

COMMENT / RECOMMENDATIONS (p58 of the Coroner’s findings)

I make the following recommendations:

1. That Office of Fair Trading and relevant residential rental industry stakeholders (including REIQ) review the current property management training program with a view to incorporating a component that provides property managers with an appropriate level of guidance about how to conduct a satisfactory inspection of decks, verandahs and stairs for property management purposes. This review should be undertaken with advice and input from entities including the Building Services Authority and Timber Queensland Ltd. The review should also consider a revision of the training about what constitutes an emergency repair, with a view to identifying potential structural compromise due to the effects of wood rot and termite activity as clearly falling into this category of repair.

1. That Office of Fair Trading and relevant residential rental industry stakeholders conduct an awareness campaign across the industry about the agreed minimum standards of inspection of decks, verandah and stairs for property management purposes and the need to actively consider potential structural compromise due to the effects of wood rot and termite activity as an emergency repair issue.
2. That the Department responsible for administering the *Building Act 1975* review the guideline (Department of Local Government and Planning (DLGP) Use, Inspection and Maintenance of decks, balconies and windows (Sept 2010) with a view to incorporating guidance about the inspection of decking boards for signs of deterioration that may compromise their structural integrity. This review should be informed with advice and input from entities including the Building Services Authority and Timber Queensland Ltd. Further that the reviewed guideline be brought to the attention of the building and real estate industries, local government authorities and, through them, landlords.
3. That the Department responsible for administering the *Property Agents and Motor Dealers Act 2000* and the *Residential Tenancies and Rooming Accommodation Act 2008* amend the relevant legislation to introduce a system of mandatory inspections by an independent licensed builder of the structural integrity of a residential rental property with a deck, verandah or balcony that is greater than 10 years old immediately prior to the property being placed on the rental market and thereafter at a minimum three year interval during its continued use as a rental property.
4. That the Department responsible for administering the *Property Agents and Motor Dealers Act 2000 and the Residential Tenancies and Rooming Accommodation Act 2008* amend the relevant legislation to:

(a)  require the lessor or the lessor’s agent to maintain a register of all maintenance or repairs requested by a tenant or identified by the agent during a tenancy and the lessor’s instructions in respect of each maintenance or repair item; and

(b)  enable a prospective or current tenant, on request to the lessor or the lessor’s agent, to inspect and take a copy of any of the following documents relating to a residential rental property that they propose to rent or are currently renting:

(i)  a mandatory inspection report, as proposed above;

(ii)  any building, pest or termite inspection report commissioned by or on behalf of the lessor;

(iii)  any building, pest or termite inspection report commissioned by another person and in the possession of the lessor or the lessor’s agent ie pre-purchase inspection reports provided to the lessor or the lessor’s agent;

(iv)  a prior entry or exit condition report;

(v)  a routine inspection report; and

(vi)  the maintenance register for a previous or current tenancy.

1. That the Department (responsible for administering the *Property Agents and Motor Dealers Act 2000)* amend the *Property Agents and Motor Dealers (Real Estate Agency Practice Code of Conduct) Regulation 2011* to deal specifically with the letting agent’s responsibilities in relation to reading building, pest or termite inspection reports commissioned on behalf of the lessor and communicating the inspection outcomes and recommendations to the lessor for further written instructions, if required, particularly having regard to the circumstances of Isabella’s death.
2. That the Office of Fair Trading, REIQ, RTA and relevant industry stakeholders continue their efforts to reinforce the importance of regularly and properly maintaining residential rental properties. This requires commitment from:

(a)  tenants to promptly report and document emerging maintenance and repair issues;

(b)  letting agents to comply with their obligation to promptly report those issues to, and seek instructions from, the lessor; and

(c)  lessors to diligently consider those issues and respond promptly and appropriately to them, preferably with the assistance of licensed contractors.

1. That consideration be given by the Office of Fair Trading to implementing a requirement that real estate agents become members of a peak body or association which is charged with the responsibility of providing guidelines, a uniform code of practice and the provision of continuing professional development to its members, including the issues raised as a result of this tragedy.
2. That REIQ and other training bodies in the Industry highlight with real estate agents the importance of maintaining open contact with landlords and provide training on problem solving strategies in this regard.
3. That the Department responsible for administering the *Property Agents and Motor Dealers Act 2000 and the Residential Tenancies and Rooming Accommodation Act 2008* amend the relevant legislation to require Real Estate agencies to adopt a uniform and clear system of recording complaints received by the real estate agent from the tenant, passing those complaints on in the same terms to the landlord and making it clear that instructions are being sought by a certain date that approval is either given for those repairs and conducted or that the landlord will attend to those issues within a specified period; and that feedback be provided to the tenant as to the result of the complaint.
4. That the Department responsible for administering the *Property Agents and Motor Dealers Act 2000 and the Residential Tenancies and Rooming Accommodation Act 2008* amend the relevant legislation to require tenanted properties be subject to a mandatory building and pest inspection before a property is rented and at subsequent regular intervals.
5. That the authority responsible for Australian Standards design an Australian Standard to establish how deck inspections should be conducted if it is considered that AS1720.1 *Timber Structure Part 1 Design Methods* and AS 16894 *Residential Timber Framed Construction* do not provide sufficient guidance in this area.
6. That O’Reilly’s Real Estate adjust their practices to ensure that termite and building inspection reports or reports of experts in respect of potential or actual safety matters relating to the property are read by the property manager and brought to the attention of the landlord in a timely fashion.