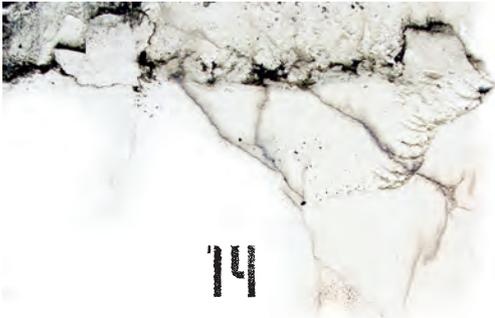


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# Leaky Buildings

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## Leaky Buildings

**T**ens of thousands of homeowners throughout New Zealand have been affected by 'leaky building syndrome' in homes built since 1990. Latest estimates say the crisis has affected 15,000-plus houses and will cost at least \$1 billion to fix.

It is the unfortunate and devastating result of insufficiently-tested new building methods and materials, hurried construction and lax controls. Once water gets into the framing of a leaky building it stays there, gradually warping the timber (which often cracks the cladding, and allows more water in) and provides a breeding ground for moulds, fungus and decay. Eventually the timber becomes weakened and,

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under pressure, can give way completely. Until that happens, it can be very difficult, or even impossible, for the casual observer to tell that there is anything untoward going on.

The regions where the leaky buildings problem are greatest are those with recent and rapid growth: Auckland, the Bay of Plenty, Nelson and Queenstown/Wanaka. Christchurch, Wellington and Dunedin have their share, too.

Any size of building can be affected, from small standalone town houses and terraced housing complexes through to apartment high-rises. Those with plaster claddings, flat roofs, no eaves and insufficient flashings around windows and doors are those most likely to be affected.

To repair the damage, often the entire cladding will need to be removed, and the structural timber replaced: this costs an average of about \$180,000,

although some cost more than \$500,000. In some cases it is deemed more cost-effective to simply demolish the building and start again.

Even where the owners of leaky buildings are entitled to compensation (from the builder for shoddy workmanship, for example, or from the council for not checking that the proposed building method or the actual building work were up to scratch), it can take more than a year for cases to be resolved.

Although it's not only monolithic-clad ('Mediterranean' style) buildings which are affected, these have had the highest profile, and they can be difficult to sell because of the stigma, with some potential buyers not wanting to even consider them after all the horror stories they've read about.

Unfortunately, lack of confidence in the Weathertight Homes Resolution Service has meant that some owners are opting for court action instead: they often get diverted for confidential mediation and the outcome remains secret. Those who enter mediation sometimes come out with less than half the money needed to repair their property; some are then selling their properties without repairs and without disclosure to unwitting buyers.

## **Law changes**

Dissatisfaction with the old resolution service led to the Government introducing the Weathertight Homes Resolution Services Act. The new Act came into force on 1 April 2007.

Weathertight Services, at the Department of Building and Housing, administers the Weathertight Homes Resolution Services Act 2006. The role of the Government agency is to receive claim applications for leaky homes and provide assessment, information, guidance and mediation services. According to the Department of Building and Housing, the purpose of the new Act is to provide speedy, flexible and cost effective procedures for resolving disputes, as an alternative to the courts.

Under the new system, local councils are bound to put Weathertight Services' notices on affected property files, which means this information will then appear on the LIM report. This will let the buyer know if a house has been subject to a claim, and while that might seem off-

## WORD TO THE WISE

*If you have any doubt about a home's weathertightness, do not buy it. The Consumers Institute recommends seeking an assurance from the real estate agent or seller that the property has not been subject to any leakage or Weathertight Homes Tribunal claims. If the agent or seller fudges or fails to answer, proceed with caution – they may be covering something up. If they mislead you and the home turns out to be leaky, you may have a claim under the Contractual Remedies Act 1979.*

putting, if the owner can then show evidence of repairs, then arguably the property may still be a suitable buy. Always get a building inspector to check it out thoroughly first, and keep all records of repairs and reports because once that notification is on the property file it will stay there. When you come to sell, you can assure any potential buyers that all is okay.

Another key change applies to apartment and terraced housing owners.

***“Many early repairs to leaky buildings were substandard and are considered likely to fail.”***

Under the new Act, at least 75% of owners need to agree for invasive testing to take place and at least 80% must agree to take a case to the resolution service (previously, all owners had to agree to both courses of action).

Also a new Weathertight Homes Tribunal has been established and is administered by the Ministry of Justice. The agency was created to counter criticism about advisers at the existing service having a conflict of interest, acting as both advisers and adjudicators.

Other changes include:

Other changes include:

- A more comprehensive assessment and broadened definition of damage that can be claimed for
- Better advice and guidance for buyers and claimants
- A new time limit for mediation - 20 days for low-value and stand alone claims and 40 days for multi- unit claims

Changes that affect leaky building owners:

- The ability to claim for potential as well as actual damage
- More comprehensive assessment reports of damage and what is required to fix it.

The Government also anticipates faster and more effective resolution claims and lower legal and evidential costs

Despite the brouhaha, the law changes, revamped building rules and the reintroduction of treated timber, weathertightness issues are still emerging on building sites. Also, many early repairs to leaky buildings were substandard and are considered likely to fail. Some pundits estimate that up to half of the repairs done so far will be affected. So, for those who thought that the safest bet was to buy an apartment in a building that was identified as leaky and has now been repaired, unfortunately that strategy may be flawed.

The Government, in association with the Consumers' Institute, has developed the website [www.consumerbuild.org.nz](http://www.consumerbuild.org.nz). The website contains an extensive amount information on the topic of leaky buildings, including resource material, checklists and detailed information on what to do if you own a leaky home.

## **How to avoid leaky buildings**

Do your homework, consult a reputable building consultant with experience in this area and then decide to buy or not to buy based upon their advice after a thorough inspection. Ask the inspector to check for signs of water damage or potential leaks. Ensure they also advise you of any areas they have been unable to inspect and find out if they hold professional liability for their findings or whether their report contains a disclaimer clause providing you with little or no protection.

### **If you are buying an apartment, contact the body corporate manager.**

Questions you should ask:

*"Has the building ever suffered any moisture damage?"*

*"If so, what caused the damage? Has the cause been eliminated? How?"*

*“How was the damaged fixed? How much did it cost? How were individual apartment owners charged?”*

*“Has mould ever been recorded as a problem in the building as a whole or in this apartment?”*

Also obtain the minutes of the most recent body corporate’s meetings to see if any reports of leaks are mentioned.

**To reduce your leaky-building risk, look for:**

- Wide roof eaves, which protect the wall cladding
- A drained and ventilated cavity behind the cladding
- Designs which are traditional and simple; eg, gabled roofs
- Cladding which is separated from the ground, paving and tiled surfaces
- Traditional boron treated timber framing

**These features bring increased risk of leaks:**

- No eaves, or narrow eaves
- Exposed sites
- Complex designs with lots of junctions and corners
- Monolithic claddings such as stucco plaster or fibre cement
- Tiled balconies

**Highest risk:**

- Untreated timber framing used in combination with monolithic cladding

**Tell-tale signs of leaky buildings:**

- Water marks or signs of dripping down interior walls, especially around windows and doors
- Mould on the outside of exterior walls, or on interior walls and carpets, especially on the inside of exterior walls
- Visible cracks or gaps in the exterior cladding
- Drafts felt through walls, especially around windows and doors
- Dark, mouldy, rotten wood that flakes off when prodded with a screwdriver