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IN OTHER NEWS



How do you lose credibility?

You simply associate yourself with the activities of the PGDB. Some that lost their credibility as organisations, or the credibility of their findings this year are:

- The Regulations Review Committee lost credibility as the Government have voted against their recommendations. (Remembering that their decision was unanimous).
- The Regulations Review Committee by delaying decisions about the PGDB and by discarding complaints about the PGDB.
- The Ombudsmen's Office lost credibility when the PGDB went crying to the Minister and got the laws changed rather than to adhere to the recommendations of

What a Fabulous Decision



The Federation was delighted to see the Judgement of Goddard J in the Wellington High Court where the Plumbers Gasfitters and Drainlayers Board (PGDB) appealed the decision of the then Charities Commission, now the Charities Registration Board, to remove the PGDB as a charitable entity under the Charities Act 2005 (the Act).

The judgment has a number of advantages for the industry, even though it appears to be morally wrong to most that the Board portray itself as a Registered Charity, given that it had received a cash refund of \$173,498 "Fringe Benefit Tax". The majority of us see a "charity" as something we DONATE our time, money or resources to in order to do some good for someone, or something that is less fortunate than ourselves.

This decision brings out another type of charity. One where individuals are COMPELLED to fund the charity in order for it to achieve its charitable purpose, in this case the purposes of the PGDB are to "protect the health and safety of members of the public by ensuring the competency of persons engaged in the provision of sanitary plumbing, gasfitting and drainlaying services; and to regulate persons who carry out sanitary plumbing, gasfitting and drainlaying."

We note with amusement that the Board has been very careful with its wording when commenting how the process started as a result of a complaint to the then Charities Commission by Wal Gordon on behalf of the Plumbers, Gasfitters and Drainlayers Federation.

We thought we would tell you the Federation's involvement in this process, you know, the truth, the whole truth and nothing but the truth - so here is the introduction to the complaint made by the Federation:

This complaint is laid in respect of the activities of the Plumbers, Gasfitters and Drainlayers Board (The Board) who are a Registered Charity. The Board, has as its rules, the Plumbers Gasfitters and Drainlayers Act 2006

We contest that the Board is operating outside the statutory requirements of its rules in respect of licensing conditions imposed on Plumbers Gasfitters and Drainlayers and also with regard to the collection and use of a compulsory discipline levy imposed on the industry.

The Board have imposed a point's based Continued Professional Development (CPD) scheme on Plumbers, Gasfitters and Drainlayers which require the trade's people to attend Board accredited courses to be allocated CPD points. The points are linked to licensing – no points no licence. This scheme was deemed to have no statutory grounds under the Plumbers Gasfitters and Drainlayers Act 1976 by the Office of the Auditor General in its 2010 report and has not satisfied the Regulations Review Committee under the Plumbers, Gasfitters and Drainlayers Act 2006 in its 2010 report.

the Ombudsman.

- The Building and Housing Group lost credibility as they are to provide the Minister with advice regarding the activities of the PGDB. (We hope he isn't paying any more than the 10 cents its worth).

- The Office of the Auditor General as they have not listened to the complaints from the industry about the Board.

Letter to the Editor

Dear Editor.

I am still pissed the Government is pushing ahead with the prosecution Levy and how much the Government and others believe their statements.

How accurate are the Boards statistics regarding discipline and prosecutions?

Ed: This Board has got so much wrong we don't believe much of what they say and discipline and prosecutions are good examples.

One of the worst statistics they give us is their percentage of "WINS" against registered practitioners.

They may be wins on paper, but we know there are lots of people out there who plead guilty on the advice of their lawyers who tell them it will cost more to defend a case that to plead guilty.

As the Board does not have to refund your costs if you win, no matter what, it will cost money.

It's not justice - its

The Discipline Levy also failed to satisfy the Regulations Review Committee that it met statutory requirements and was being collected and used for purposes other than that which it is legislated.

It is clear the Board is not adhering to the statutory provisions of section 32 of the Plumbers, Gasfitters and Drainlayers Act 2006 with regard to training and licensing and is using section 143 of the Act to collect funds for purposes other than those prescribed under this section of the Act.

Did we miss something - like there was no mention of the PGDB charitable status? The initiative to look further into the charitable status of the Board is a routine process taken by the then Charities Commission.

What is very interesting though is that it is the activities of the PGDB that have drawn attention to their status as a Registered Charity by the organisation responsible for the policing the activities of charities - being the Charities Commission. This is much the same as the process followed by the PGDB when a tradesperson is drawn to their attention.

It is quite ironic that the Board have been on the receiving end of processes where they were guilty until they proved themselves innocent. A situation not unfamiliar to some tradespeople who haven't had the funds to prove their innocence.

Back to the complaint - the response from the Charities Commission regarding the complaint stated the PGDB had ACKNOWLEDGED THE BREACHES ALLEGED. Yes they admitted they had breached their own rules but now they seem to be claiming they shouldn't be held accountable!

This is what the Charities Commission stated:

"Our investigation has been met with satisfactory responses from the Board and we believe there is sufficient commitment being made to remedy the breaches that have occurred. I am satisfied at this stage that any issues raised by you in regard to the technical breaches of the legislation are being adequately addressed. Please note however the Commission will continue to monitor the Board to ensure these initiatives are followed through".

The truthfulness of the complaint has been confirmed by the Government Administration Committee, the Regulations Review Committee, the Office of the Ombudsman, the Office of the Auditor General, the Minister of Building and Construction and the Government with the passing of the recent Plumbers Gasfitters and Drainlayers Amendment Bill. This being the blunt instrument being used to cover the unlawful activities of the PGDB.

For once we agree with the PGDB in that losing "charity status" would have meant the PGDB was subject to income tax, and they would have paid more for some goods and services. The impact of both of these would ultimately have been paid for by tradespeople through increased fees.

We also agree that it is disappointing the tradespeople's fees have been used to defend the Board's position, but had the Board not undertaken the unlawful activities in the first instance, there would have been no need for a complaint.

Alan Bickers stated in the October 2012 Info Brief that:

"The Board has also incurred \$24,000 in legal costs and more in staff time in responding to the Charities Commission inquiries which are costs that would have been unnecessary had the complaint not been made. Again these are costs that must be paid for through tradespeople's fees."

revenue gathering to support their Charitable purpose.

How can it be fair that if you win the Board doesn't have to pay your costs but if you lose you have to pay theirs?

How can that be justice?

Minister of Rainbows

Has Flip Flop (Maurice Williamson) the Minister of Rainbows forgotten he is the Minister of Building and Construction and not just the Minister of the PGDB Charity?

Are we as trades people not part of the industry that the government is wanting to increase productivity by 20%?

It appears Flip Flop is too busy ensuring the PGDB Charity is taking enough funds from us to fund its charitable purpose, losing sight of the big picture of having tradespeople to support the charity.

Perhaps Flip Flop is being promoted to the new position of Minister of Regulated Industries Registered Charities.

We are presuming other Boards of regulated industries that protect the public such as electricians, and builders etc will all take advantage of the tax benefits and become registered charities too.

We wonder how ACC will go as they are there for the health and safety of the public and maybe the new Health and Safety Group will also be a Registered Charity.

Should The PGDB close for 6 Months?

We believe these statements about "had the complaint not been made that the costs wouldn't have been incurred" are laughable. That's like saying had a complaint not been made to the PGDB there would be no need for a discipline hearing against the tradesperson.

It appears to us these statements are to pass the blame for the wasteful expenditure on to Wal Gordon and the Federation, well sorry Mr Bickers and your colleagues, the Board WERE responsible for the unlawful activities, got held accountable and IS responsible for the expenditure! Every action has a consequence.

Now the PGDB charitable status is confirmed, the Federation's new Industry Board will explore what can be done about tax relief for fees paid to the PGDB Charity. Currently employers paying fees for staff enjoy the tax relief but employees who pay the fees themselves do not. This will be interesting to follow up with IRD.

We are led to believe that with the passing of the Plumbers Gasfitters and Drainlayers Amendment Bill, the PGDB will be the first Charity to be given the legislative power to impose levies/tax on the people compelled to pay them money. What do you make of this? We would be keen to hear your opinion. Are you "compelled" to give to any other Charity so that you can legally work?

Maybe we will be able to get the media to ask the question "How can a Registered Charity be given the authority by the Government to IMPOSE a tax to get money to fund its charitable status?"

As the Board has fought so hard for the retention of their charitable status they must be acknowledging their responsibilities to adhere to the Charities Act 2005. This is great news for the industry in that, as the PGDB has the Plumbers Gasfitters and Drainlayers Act 2006 (the Act) as their charity rules, meaning the Charities Registration Board can hold them accountable for any breaches of the Act.

It is great to have another Registration Board watching the PGDB to ensure they adhere to legislation. This Board has proven time and again that they need many sets of eyes watching them!

Well done to all those involved. The Federation has been proven to be right yet again. View the full judgement by following this link:

<http://www.pgdb.co.nz/~downloads/Plumbers%20Gasfitters%20and%20Drainlayers%20Board%20v%20Charities%20Registr.pdf>

Who was first - the PGDB under the PGD Act 2006, or the PGDB Charity under the Charities Act 2005?



Now we are back to an age old problem of who came first and who establishes who. The Board claims on their website:

"The Plumbers, Gasfitters and Drainlayers Board ("the Board") is a statutory body established under the

Plumbers, Gasfitters, and Drainlayers Act 2006 ("the Act") to promote the health and safety of all New Zealanders through an efficient and effective regulatory system. The Act is administered by the Department of Building and Housing (DBH)."

Should the PGDB only operate 6 months of the year?

The reason we ask this question is their Business plan expired 31 March 2013 so what are they operating on now?

Their accountability agreement finished on 31 March 2013 so what are their accountabilities this year?

We are 5 months into the new period so surely they have enough staff to get the paperwork out – they certainly appear to be advertising a lot, although we note the Technical Team person's position is still vacant.

Next Week

The weeks sure do fly by when you are having fun.

Next week we will be looking at:

- Investigators writing their own cheques.
- The process for registered tradespeople prosecuted by the PGDB to have a right of reply for the public to read.
- An update on complaints still in progress.
- A skills update.
- We invite apprentices to have their say about the recent exams – how did you get on?

Obviously this is wrong as the Department of Building and Housing does not exist and was replaced with the Building and Housing Group which is part of the Ministry of Business Innovation and Employment, but anyway this states the PGD Act establishes the Board.

The PGDB was registered as a charitable entity by the Charities Commission before the PGD Act 2006 was fully implemented. What is the primary Act, what Act takes precedence over the other Act?

What was the intent of the PGD Act 2006? Was it the intent that the PGDB would be a Statutory Board or a Registered Charity? Perhaps now they have resolved they want to be a Registered Charity the PGD Act 2006 should be changed to read:

“The Plumbers, Gasfitters and Drainlayers Board (“the Board”) is a REGISTERED CHARITY established under the Plumbers, Gasfitters, and Drainlayers Act 2006 (“the Act”) to promote the health and safety of all New Zealanders through an efficient and effective regulatory system. THE PLUMBERS GASFITTERS AND DRANLAYERS ACT 2006 WILL BE THE RULES OF THE CHARITY. The Act is administered by the Department of Building and Housing (DBH).”

But wait – can the PGD Act 2006 establish a Registered Charity? Probably not so we are back to being a Statutory Board.

This really does look like bureaucracy at its best – legislate for an Act to establish an entity by an act of Parliament and then allow that entity to change what it was enacted to whatever it sees fit - but does it have the power to do that? Just another unanswered question.

Chicken or egg first? - Our vote is the eggs came first as they seem to be making the decisions!

We encourage you to ask the question about getting donation status for your fees to this Charitable enterprise – and let us know what they say? We are sure the PGDB will be putting in its claim for fringe benefit tax and tax relief – so why not have a go ourselves?

Donations

Don't forget to make a donation.

Send a cheque made out to the: Plumbers Gasfitters and Drainlayers Federation,

or

Make a direct deposit at any National Bank, deposit on line through internet banking or set up a month direct credit.

Account: National Bank 06 0773 0319398 00

Cheques can be posted to: Plumbers Gasfitters and Drainlayers Federation, 3 Jupiter Grove, Trentham, Upper Hutt 5018