

Australian apartment owners to join legal action over flammable cladding

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Australian law firm Adley Burstyner and Roscon Property Services last month announced a class action law suit against major construction companies. The case is on behalf of approximately 250,000 owners and residents from about 1,400 apartments clad with flammable polyethylene core aluminium composite panels in the state of Victoria.

The \$4.2 billion case, the law firm says, is the first stage in a national campaign to compensate owners for replacing the dangerous cladding and installing sprinkler systems, plus declines in their property values. The law suit is expected to target LU Simon Builders, Hickory Building, Hamilton Marino and Probuild. Slater and Gordon, another legal firm, later said it is considering a similar action.

The announcement came six months after 29 people were killed in a flammable-cladding fuelled fire in South Korea, almost one year after the Grenfell Tower disaster in London killed an estimated 71 people, and more than three years since a cladding blaze at the multi-storey Lacrosse apartment tower in Melbourne, the Victorian state capital, in November 2014.

These fires are universally a direct result of government deregulation of building industry standards, cost cutting and privatisation of safety inspection, in line with demands from property developers and the construction industry.

While no one was killed in the Melbourne blaze, it spread across 13 floors on the outside of the building within 10 minutes. Apartment owners are currently fighting LU Simon in the Victorian Civil and Administrative Tribunal over who should pay the costs of replacing the cladding. The case is due to start in September. According to building specialists, the average cost of cladding replacement on a high-rise building is between \$40,000 and \$60,000 per

apartment.

Irrespective of these legal actions, Australian governments, state and federal, are refusing to take any serious action to prevent future catastrophes facing those living and working in high-rise buildings clad with the proven deadly material.

Architects and building safety officials have reported the “rampant” use of flammable cladding, which is \$35 per square metre less expensive than fire-resistant counterparts, throughout the Australian construction industry.

In the immediate aftermath of the Grenfell Tower blaze, Prime Minister Malcolm Turnbull and Labor Party opposition leader Bill Shorten cynically feigned concern. State governments initiated building audits and promised increased building safety in an industry that Liberal and Labor governments alike have systematically deregulated, opening the way for massive profits for developers and construction companies.

The federal government agreed to extend an existing Senate inquiry over the use of dangerous materials in the construction industry to include flammable cladding. Labor and independent Senators used this platform to demagogically denounce the serious decline in building industry safety standards. While the inquiry eventually called for a total ban on the import and use of the flammable cladding, the federal government rejected this recommendation out of hand.

Three months after the Senate inquiry, LU Simon legally challenged a previous Victorian Building Authority (VBA) order requiring the construction company to replace external cladding with non-flammable products on Lacrosse and five other non-compliant buildings.

The Victorian state Supreme Court found in favour of

LU Simon, ruling that the VBA, a state government authority, could not issue a directive to fix illegal work after a certificate of final inspection or an occupancy permit had been issued. The granting of these certifications has been privatised over the past 15 years. The ruling meant that all six LU Simon buildings involved, some finished ten years ago, were exempted from the VBA directive.

Despite state and federal governments posturing about “getting tough” on illegal constructions, the court verdict highlights the fact that the current legislation renders regulatory authorities, such as the VBA, powerless to act against any building company. All the financial and legal responsibility for repairing unsafe properties falls on building and apartment owners, the innocent victims of cost-cutting construction methods.

As a result, thousands of owners and residents throughout Australia are still living in potential death traps. And it is “business as usual,” with multi-million dollar profits for developers and construction corporations, and windfall tax receipts for governments.

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