

HOW CAN YOU HELP YOUR FRIENDS AND FAMILY?

Most people don't know building and construction lawyers exist, so it is not surprising that they have no idea how lawyers like us can help them.

At Aitchison Reid, we look after the following people and businesses:

- Subcontractors and trade contractors;
- Homeowners;
- Investors and developers.

We do not act for builders.

Below we have set out how we help each of these groups and the questions you can ask them.

SUBCONTRACTORS AND TRADE CONTRACTORS

We are specialist subbie and tradie lawyers. Our team are well skilled at understanding each of the trades and how their businesses work.

Our speciality is security of payment and helping subcontractors get paid. So you might think that we only do disputes, but actually there are a number of ways we can help subbies and tradies get paid without there being a dispute. In fact, we prefer to help subbies and tradies avoid payment problems, by providing:

- reviews of subcontracts that they have received;
- contract and payment advice;
- an online course on how security of payment works; and
- drafting terms of trade tailored to that business.

If there is a payment dispute, we can help subbies and trade contractors get **paid fast** using security of payment (which is a set of special debt recovery measures just for the construction industry). The BIF Act¹ governs almost every payment made in the industry; it has great enforcement measures and big penalties for payers not complying.

A lot of subbies and trade contractors struggle getting paid and are often completely unaware of the BIF Act or security of payment. So one of the biggest issues we have in the industry is that subbies and trade contractors just do not know or understand their rights and when to ask for help. The time frames for using security of payment are very tight so they need understand security of payment **before** they need to use it.

As we know that non-payment can come in all shapes and sizes, we offer:

- an adjudication pack which is completed by the client (that includes all the documents required to complete an adjudication application and one hours' review by a solicitor); and
- the complete adjudication services, where we complete all the documents for our clients.

¹ Building Industry Fairness (Security of Payment) Act 2017

So how can you help?

Ask your subbie and tradie friends and family:

- If they know that the BIF Act is or what security of payment is?
- Do they have problems getting paid?
- If they don't know or think it is not relevant for them, please forward them this article on our website: <https://www.subcontractors.arbuildinglaw.com.au/single-post/2019/10/21/What-is-all-this-security-of-payment-BIF-Act-business>
- If they would like more information:
 - We can add them to our newsletter list. We like to send out newsletters at least once a month to keep our subbies and tradies aware of the law and the law changes and how it applies to them. Please email details to: subcontractors@arbuildinglaw.com.au
 - They can follow or like us on Facebook, we are very active on social media, sharing tips to help subbies and tradies.

If they are having problems getting paid. We offer a free initial phone call with one of our solicitors. A phone call can be arranged by emailing subcontractors@arbuildinglaw.com.au or calling us on 07 3128 0120. Further information can be found on our website www.subcontractors.arbuildinglaw.com.au.

Testimonials

"Thank you Aitchison Reid. What a great result with 100% of the claim, adjudication fee and lodgement fee awarded to me. Even without any experience in Construction Law, I achieved this result with the guidance of a Senior Associate from your firm and using your Adjudication Application Template I was able to prepare an application that met all the criteria required by the Building Industry Fairness (Security of Payment) Act 2017.

*You cannot ask for better than that." **Subcontractor Client***

*"[Our company] has engaged Fiona's services to assist our business in providing legal services for documentation and negotiation of settlements of monies. We have found Fiona's business very professional and cost effective. We would recommend anybody looking to engage a solicitor for construction services to engage Aitchison Reid's services". **Subcontractor Client***

We are vocal advocates for the rights of subbies and trade contractors to get paid and our involvement in the industry was acknowledged when our director was appointed by the Minister to the BIF Panel to represent the rights of subbies.

HOMEOWNERS

Most homeowners do not realise that industry association contracts such as an HIA contract or a Master Builders' contract are written for the interests of the builder and not the home owner. In addition, the contracts are completed by the builder, who include special conditions or specifications that include hidden conditions, variable costs and/or exclusions that can significantly increase the cost of the build.

Our home build contract reviews have literally saved our clients \$1,000s. Our build contract reviews can be tailored to the amount of the build and the homeowner's appetite for risk. We offer:

- A value contract review, which includes a review of the standard form contract ; and
- A premium contract review that includes a builder licence check, commentary and recommended amendments for the entire contract and specifications and an hour phone call with a solicitor.

Once the build has started and there is a dispute, we have helped many clients take advantage of the QBCC Statutory Home Warranty Insurance. We also help with disputes in QCAT if QBCC Home Warranty Insurance does not apply or does not cover the entire loss.

So how can you help?

Ask your friends and family that are intending to build:

- If they are intending to have a review of their building contract;
- If they want to know more information, forward them the following article on our website: <https://www.homeowners.arbuildinglaw.com.au/single-post/2017/09/18/Five-reasons-you-should-get-legal-advice-before-you-sign-your-home-building-contract>
- If they want to know more, please let them know that we offer a free initial phone call with one of our solicitors, who can explain the advantages of getting a home build contract review. A phone call can be arranged by emailing homeowners@arbuildinglaw.com.au or calling us on 07 3128 0120. Further information can be found on our website www.homeowners.arbuildinglaw.com.au.

Ask your friends and family who are building:

- If they are checking that each stage is complete before they make a stage payment?
- Are they using a building inspector to check the work is complete or are they just relying on their own knowledge?
- Do they have any concerns about the build, is the cost escalating or is the build delayed, is the work substandard?

Testimonials

*"[My wife] and I cannot thank you and your staff enough for your assistance in this matter. We were on the verge of a mental breakdown until you stepped in to help. Thanking you again" **Happy homeowner***

*"we engaged Fiona to undertake a contract review before entering into a contract with a builder to construct our new home. Fiona provided us with practical, easy to follow advice in plain English which enabled us to successfully navigate the challenges of building a new home with the confidence of knowing the potential pitfalls and where to find them. I wouldn't hesitate to engage Fiona should the need arise again the future." **Happy homeowner***

INVESTORS AND DEVELOPERS

Once a building project is not a personal home, commercial construction law (the BIF Act²) applies to all of the payments made and includes big penalties for payers not complying. For example, if a

² Building Industry Fairness (Security of Payment) Act 2017

payer does not pay by the due date for payment or send a payment schedule in time, the payer will be liable for the entire amount claimed (and unable to raise a defence or counterclaim), and may also receive a QBCC fine.

Most builders are well skilled at taking advantage of the legislation and have their contracts written in a manner that allows them to do so. All of which increases the investor or developer's risk and reduces their return. At Aitchison Reid, we reduce risk and increase return on investment by:

- Reviewing contracts received by builder;
- Preparing contracts that suit the owner's interests;
- Providing advice on how security of payment works;
- Providing tailored advice to your situation or project; and
- Using our knowledge of the industry and the BIF Act to resolve disputes.

So how can you help?

Ask your friends and family that are intending to invest in a building project or develop:

- If they are intending to have a review of their building contract;
- if they know what the BIF Act is or what security of payment is?
- If they don't know or think it is not relevant for them, please forward them this article on our website: <https://www.developers.arbuildinglaw.com.au/single-post/2019/10/21/Developing-Investing-in-the-BIF-Act-World>
- If they would like to be added to our newsletter list, we like to send out newsletters at least once a month to keep our investors and developers aware of the law and the law changes and how it applies to them. Please email details to: developers@arbuildinglaw.com.au.
- If they want to know more, please let them we offer a free initial phone call with one of our solicitors, who can explain the advantages of getting a building contract review. A phone call can be arranged by emailing developers@arbuildinglaw.com.au or calling us on 07 3128 0120. Further information can be found on our website www.developers.arbuildinglaw.com.au.

Ask your friends and family who are building:

- How are they assessing that the work is complete in accordance with the contract?
- Do they have any concerns about the build, is the cost escalating or is the build delayed, is the work substandard?

Testimonials

"Fionna and her team are invaluable! We came to Fionna at a critical time in our building contract negotiations. We had previously been dealing with one of the larger legal firms in the City. But their inflexibility had caused all sorts of problems in negotiating with our builder. ...

[Aitchison Reid] was instrumental in being able to restart the negotiations with our builder on a good note. She was able to listen to what we were both trying to achieve and find a fair outcome for both parties. Most importantly she was able to explain and enact clauses that were in plain English."

Happy developer