

Monday 27 November 2017

Court ruling means leaky building class action all go and there is still time to join

A group of leaky homeowners received good news today - their case will proceed as a class action and others still have until 30 January 2018 to join their fight against corporate giant and cladding manufacturer, James Hardie.

A judgement released today has declined James Hardie's leave to appeal to the Supreme Court meaning the Court of Appeal decision stands, allowing the claim to proceed as a class action, with a final opt-in date of 30 January 2018. (See full judgement: <https://www.dropbox.com/s/niehvmi0ns2yu4o/SC%20104%202017%20Studorp%20Ltd%20v%20Cridge%20%20Ors.pdf?dl=0>)

Leaky building owners represented by Wellington law firm Parker & Associates are encouraging people to move quickly.

The group's lawyer, Dan Parker said: "We are dealing with a large number of enquiries, many from people who have seen and are responding to the claim for the first time.

"A number of owners have approached us unaware of any problems with their properties until expert investigations identify issues. They have subsequently joined the claim.

"We will be pushing forward now to deal with owner enquiries and to get as many owners signed on as possible. As it is a self-funded action, the bigger the group is, the lower the costs per owner.

"The opt-in period will be the last chance for most affected owners to pursue any legal action for recovery of their losses. If they join during the opt-in period they will not be affected by a 15-year limitation longstop that will probably otherwise bar claims after the opt-in period expires. Also the Supreme Court confirmed last year in the leaky schools litigation that the 10 year Building Act limitation longstop does not apply to a product liability claim like this," Mr Parker said.

The group first brought a product liability claim against James Hardie New Zealand Limited and James Hardie company, Studorp Limited, in negligence and for breach in the Fair Trading Act in 2015.

Owners allege that leaks in their homes are attributable to inherent defects in cladding systems manufactured by James Hardie. They also claim James Hardie made misleading statements about its cladding systems in its technical literature. James Hardie denies the allegations.

Thousands of properties were built using Harditex from 1987 until the early 2000s. Titan Board was widely used from 1995.



Mr Parker urges owners of monolithic clad buildings constructed since 1987 using Harditex or Titan board to get in touch to find out how to opt in to join the claim. Experts can be arranged to investigate whether the materials in question have been used and whether damage has resulted.

For further information contact Parker & Associates, 04 499 0390, www.parkerandassociates.co.nz.

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