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Combustible cladding builder blocks sanctions in Supreme Court

By **Simon Johanson**

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An attempt by Victoria's building regulator to sanction and potentially deregister a builder for installing combustible cladding that caught fire on a Brunswick apartment block may be stymied by Supreme Court action.

Hickory, the construction company run by Michael Argyrou and his brother George, was hit with disciplinary action in July by the Victorian Building Authority over its use of dodgy cladding on the Anstey Square apartments at 597-605 Sydney Road.



Anstey apartment owners claim they have been financially crippled. JUSTIN MCMANUS

But Mr Argyrou, the builder practitioner listed on Anstey's permit, claims the building authority "lacks jurisdiction" to take disciplinary action against him because the work on the Anstey was carried out before building regulations were updated in August 2016 to deal with the cladding crisis.

There are at least 1000 buildings with flammable cladding across Victoria on a secret government-controlled list.

The extensive use of the cladding by builders has devalued thousands of owners' homes and severely undermined buyers' confidence in Victoria's apartment market.

Anstey apartment owners claim they have been financially crippled after Hickory put the subsidiary that constructed the complex, H Buildings, into voluntary administration in September last year leaving them with liability for rectification costs.

H Buildings was facing millions of dollars in combustible cladding claims after a faulty air conditioner sparked a 2017 fire that spread from one unit in the building to another.

Mr Argyrou faced disciplinary action from a "show cause" notice issued by the building authority in July this year that claims he used combustible cladding on the Anstey and failed to construct it according to the permit.

At least 26 apartment blocks constructed by Hickory around Melbourne have non-compliant aluminium cladding and 17 of its buildings, including the Anstey, were rated at high or extreme risk of fire.

Hickory said it had not been advised by the authority which buildings were identified as a risk. "Hickory would also like to know the buildings in question," it said.

The disciplinary action included directions that Mr Argyrou complete training courses, reprimands, financial penalties and suspension of his building registration.

Show cause notices require their subjects to explain why a certain course of action should not be taken against them. If they can't convince the court or regulator, the action is taken.

The notice also alleged Mr Argyrou contravened building regulations, engaged in "unprofessional conduct" and was negligent.

He had until 23 September to respond to the notice - a deadline later extended to 21 October - but instead launched Supreme Court action against the regulator last week.

Mr Argyrou said in court documents the relevant building legislation that was changed in 2016 and used by the VBA to claim he was liable for cladding work on the Anstey does not apply retrospectively.

The building authority confirmed it will contest the Supreme Court case. The court proceedings would not stop other cladding-related actions, it said.

Mr Argyrou said until a decision was made about its challenge, "Hickory is not in a position to comment on the show cause notice. "

"Hickory has paid multiple defect liability claims - even when they have not had a legal obligation to do so," he said.

At its peak, Hickory was one of Melbourne's largest second-tier builders with multiple projects on the go and a factory in the western suburbs churning out

prefabricated components for major city buildings.



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