



— Exclusive

Supplier Fairview the target of second cladding class action

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IMF Bentham and William Roberts Lawyers have launched a second potentially devastating class action against a supplier of combustible cladding, filing a product liability claim in the Federal Court against Fairview Architectural over its polyethylene-core Vitrabond panels.

Owners of the 185-unit Solis Apartments complex in western Sydney's Warwick Farm are lead applicants in the action against Fairview, the country's second-largest supplier of aluminium composite panels, and argue the panels failed to meet standards set by consumer protection laws.



Residents of the Solis Apartments in western Sydney's Warwick Farm are lead applicants in the second class action case filed against another supplier of combustible cladding, Fairview Architectural. **Supplied**

The case makes similar arguments to a separate action against largest supplier Halifax Vogel Group and will run concurrently to the first action, but was separate from it, IMF Bentham investment manager Gavin Beardsell said.

"They are being run as separate cases," Mr Beardsell told *The Australian Financial Review*.

"The first action commenced several months ago. We decided it was neater, cleaner to commence separate proceedings rather than now amend the first proceeding." Aluminium panels with as much as 100 per cent-PE core were sold in Australia at least until 2013, despite state and territory regulators being warned about their dangers by fire authorities from as early as 2010, the *Financial Review* showed in March.

The two companies, HVG and Fairview are not the only suppliers of ACP in the Australian market - Alpolic supplied by SGI Architectural is the third-largest brand player - but while Mr Beardsell said IMF and William Roberts were considering further action against other cladding materials, it was not likely to go after the third player.

"In our assessment the lion's share of the market is covered by Alucobond and Vitrabond," he said.

"We've got the two biggest. Why bother going after any more if you've got the two biggest?"

The appetite for punitive action against cladding suppliers is growing. Earlier this month a class action representing 247 claimants - the estates of victims and survivors of the 2017 Grenfell Tower tragedy - filed a claim against Arconic Architectural Products, the supplier of Reynobond PE, the panels that helped spread fire on the 24-level London tower, as well as against supplier Celotex Corporation of the insulation in the walls that also caught fire and Whirlpool, the maker of the fridge that ignited the fire.

"Due to its highly flammable nature, Reynobond PE cannot be sold or fit for high-rise buildings in the US and Arconic therefore determined to exploit the European market and export the danger they couldn't sell at home," the claim filed in the Philadelphia County Court reads.

"Through its behaviour, Arconic sent the message that foreign lives are worth less than American lives and that it is acceptable to exposed people outside the US to dangers to which people in the US would not be exposed."

Fairview was contacted for comment on Monday.

In defence documents already filed with the federal court in Australia, HVG says Alucobond panels complied with all relevant laws and codes and it was only the decisions of consultants and contractors that resulted in them being used in ways that were dangerous and created risk of fire.

The two cases could give compensation to owners of potentially thousands of apartments across Australia, as well as owners of commercial and government buildings and even long-term leaseholders with the obligation to rectify defects.

At present many apartment owners face ruinous claims for replacement of cladding, which RMIT University academics estimate **could range between an \$2500 to as much as \$20,000 per apartment**. Many of them have little recourse, as the party most often liable for installation of cladding that doesn't comply with building rules, the builder, has often disappeared or gone bankrupt by the time a fault is discovered.

Commercial and private owners of affected buildings are automatically included in the class action. Government owners can join the class, but have to actively opt in.



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