

## Earthquake Commission not required to cover buildings under construction in the event of a landslide

<b>Legislation</b>	Ombudsmen Act 1975, Earthquake Commission Act 1993
<b>Agency</b>	Earthquake Commission
<b>Ombudsman</b>	Anand Satyanand
<b>Case number(s)</b>	C3927
<b>Date</b>	1996

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*Earthquake Commission and Insurer both decline cover for half-built structure on private property, damaged following a landslide—still being under construction meant the building was not being used for its intended purpose and EQC’s decision in this respect was correct—Ombudsman advised that the complainant could refer the matter back to the insurer for a reconsideration and the Insurer in this case took a liberal view of what had been an unusual event and settled the claim—case indicates the need to obtain cover for landslide while a building is under construction*

A brief period of torrential rain resulted in a minor landslip which damaged a carport pad under construction. Reinstatement of the pad cost in excess of \$3000. The owner’s insurer declined the claim on the grounds that loss through landslip was excluded from cover but referred its client to the Earthquake Commission. Under the *Earthquake Commission Act 1993*, the Commission’s cover is limited to ‘residential buildings’ that are ‘used for the purposes of the household’. The Commission declined the claim because the carport was still under construction and could not therefore be used for its intended purpose when the landslip occurred.

The investigation disclosed that the Commission’s decision was in accordance with the legislation which governs its operations. However, it was suggested that the complainant should refer the claim back to the general insurer because the loss appeared to fall into an area which was covered neither by the Earthquake Commission nor by the insurance policy.

### **Comment**

This case highlights the need for those engaging in building work to obtain cover for landslip while a building is under construction. The general insurer took a liberal view of what had been an unusual event and settled the claim.

*This case note is published under the authority of the [Ombudsmen Rules 1989](#). It sets out an Ombudsman's view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.*