

ACCURATE & CO

Freecall 1800 010 100 Mobile 0411 599 794
Email ahi@bigpond.net.au Internet www.ahibrisbane.com.au



EST INSPECTION REPORT - SUMMARY PAGE

Client: Patricia Johnson

Address of dwelling inspected: 27 Perkins St
Sandgate 4017

Prevailing weather conditions at the time of inspection: ☒ Fine

Support Documentation Were any documents (e.g. approved house plans) provided by the Client? ☐ Yes ☒ No

Thank you for allowing us to report on the above property. We inspected the above home on 18/04/ 2023 and did a "Standard Timber Pest Inspection" according to Australian Standard 4349.3 – 2010 Inspection of Buildings Part 3 - Timber Pest Inspections. The inspection covered the readily accessible areas of the property. The inspection did not include areas which were not readily accessible or inaccessible or obstructed at the time of the inspection. High priority items to be addressed include placement of the home under a "Termite Protection Programme". Following is a summary of our findings.

DESCRIPTION OF PROPERTY

☒ Highset Home ☒ Chamferboard ☒ Clad ☒ Corrugated Metal Roof ☒ Elevated Timber Floor

PEST INSPECTION REPORT SUMMARY

- Visible evidence of subterranean termite workings or damage was found to ☒ home ☒ other, location –Fences, bearers and joists to the left side; flooring to isolated areas and battens and batten frames.
- Active subterranean termites were not found at the time of the inspection.
- There is a possibility of termite damage and termite activity to inaccessible and concealed areas. We strongly recommend a more invasive inspection be undertaken, prior to proceeding, to determine same.
- Visible evidence of borer damage of seasoned timbers was found.
- The home should be placed under the care of a Termite Protection Programme.

Please feel free to contact the inspector, Mark Walker who carried out this inspection on 0413 052 580. Often it is very difficult to fully explain situations, problems, access difficulties, or timber pest activity and/or damage in a manner that is readily understandable by the reader. Should you have any difficulty in understanding anything contained within this report then you should immediately contact the inspector and have the matter explained to you. If you have any questions at all or require any clarification then contact the inspector prior to acting on this report.

Yours Sincerely

.....
Signed for and on behalf of Mark Walker

QBCC Building & Pest Lisc No. 1097513

"Summary of Findings"

This summary is supplied to allow a quick and superficial overview of the inspection results. This Summary is NOT the Report and cannot be relied upon on its own. This Summary must be read in conjunction with the full report and not in isolation from the report. If there should happen to be a discrepancy between anything in the Report and anything in this Summary, the information in the report shall override that in this Summary. **Please Note: This report is for the use of Patricia Johnson only. No responsibility to any other persons is accepted. If a report is needed for any other person's use please contact Accurate & Co.**

TIMBER PEST INSPECTION REPORT

PLEASE READ THE FOLLOWING INFORMATION CAREFULLY: All Pest Inspection Reports are provided subject to the terms and conditions. The terms and conditions qualify this Report.

INSPECTION	NOTES
<u>Property Furnished</u>	☐ Yes ☒ No
<u>Areas inspected:</u>	<i>See "Readily Accessible Areas Inspected".</i>
<u>Risk Areas:</u> <i>Fences.</i> <i>Ant Capping inadequate.</i> <i>Battens in contact with concrete.</i> <i>Areas concealed by vegetation.</i> <i>Inaccessible or concealed parts.</i> <i>Trees, stumps – they can conceal termite nests.</i>	<i>Please note that most untreated timber usually suffers significant damage from subterranean termites in its lifetime. There could be current concealed activity and damage especially to below ground timbers or timbers in direct contact with the soil. Unless verification can be obtained that these timbers are resistant to subterranean termite attack, we recommend that they be chemically treated. Hardwood timbers that are supposedly treated before purchase can mislead. Treated hardwood has mainly the external sapwood areas that can be impregnated with a chemical. Thus the main body of hardwood – heartwood and truewood is susceptible to wet rot and pest attack</i> <i>If termite shields are inadequate (they are often bridged, rusted, damaged or non-existent) it is usually more financially expedient to perform an alternate protection method – chemically treat susceptible areas.</i> <i>The timber battens and batten support frames (between the stumps) had contact with the soil/concrete – there is a possibility that there is current concealed activity. The members should be cut back or soil lowered so that there is 75mm clearance to inspect. Re-inspection is advised once the suggested works have been undertaken.</i> <i>test drilling advised</i>

TERMITES

Termite Damage	☒ Yes ☐ No ☒ Home Proper ☒ Other Location – Fences, bearers and joists to the left side; flooring to isolated areas and battens and batten frames.
Extent of Termite damage If termite damage or activity is found there is a possibility of termite damage and/or activity to other areas including inaccessible and concealed parts.	☐ slight to moderate ☒ moderate ☐ moderate to extensive ☐ extensive.
Termite Activity	☐ Yes ☒ No
Was a Termite Nest Found on the Property:	☐ Yes ☒ No
Recommendation of treatment Note: We recommend that the termite protection program comply with Australian Standard AS3660.2. We advise that a Pest Control company should treat the property. As well as treatment recommendations, this home as a very minimum should be inspected every 12 months.	☒ Yes - If no program or warranty in place. ☒ Treatment advised to areas where ant capping inadequate and pest susceptible areas. ☒ A licensed Pest Control Operator should be contacted to undertake treatment.
Areas which are susceptible to termite activity.	<i>See Risk Areas (previous page).</i>
Conditions which can increase the likelihood of timber infestation include poor ventilation and inadequate surface water drainage in subfloor: 1. Ventilation 2. Surface Water Drainage 3. Seepage	☐ Poor ☐ Below Average ☒ Satisfactory ☐ Poor ☒ Below Average ☐ Average ☒ Upgrading Advised. Not applicable.
Evidence of termite protection program	☐ Yes ☒ No <i>You are advised to contact a pest control company as soon as possible to implement a termite protection programme to comply with AS 3660.2.</i>
Evidence of termite shields Note: Termite shields provide a means of detecting termite entry by exposing termite mud tubes. The termite shields should not be damaged or missing as this may increase the likelihood of termite infestation. If termite shields are inadequate (they are often bridged, rusted, damaged or non-existent) it is usually more financially expedient to do an alternate protection method – chemically treat susceptible areas and you are advised to contact a Licensed Pest Controller for specialised opinion in this area.	☐ Yes. ☒ Yes, but inadequate. ☐ No. ☐ Not adequate. ☐ Not required.

Timber Pest Risk Assessment

Due to the level of accessibility for inspection including the presence of obstructions, the overall degree of risk of **undetected** Timber Pest Attack and Conditions Conducive to Timber Pest Attack was considered:

☐ Moderate ☒ Moderate – High ☐ High ☐ Extremely High

RECOMMENDATION: Where the risk is considered “Moderate” or “Moderate – High”, High or “Extremely High”, a further inspection is strongly recommended of areas that were not readily accessible, and of inaccessible or obstructed areas once access has been provided or the obstruction removed.

NOTE: All homes which have a “slab-on-ground” or “part slab-on-ground” construction have, as a minimum, a “Moderate-High” risk assessment due to their inherent inaccessibility. (No access can be obtained below the slab-on-ground – the risk of undetected pest attack or damage is increased if the property is furnished.)

BORERS

Borer activity at the time of inspection:	☐ Yes ☒ No
Borer damage at the time of inspection:	☒ Yes ☐ No
Type of Borer: Note: Once there is evidence of damage caused by the Furniture beetle and Queensland Pine beetle then these beetles are always considered to be active because it is very difficult to determine whether they have ceased being active.	☒ Queensland pine beetle
Location of borer damage:	<i>Pine Floorboards</i>
Extent of borer damage:	☐ Slight to Moderate. ☒ Moderate. ☐ Moderate to Extensive. ☐ Extensive.
Recommendation of treatment: Note: Borer infestation is not detectable until the appearance of exit holes or wood chippings (frass). There is a delay between the onset of infestation and the appearance of exit holes and wood chippings. If a treatment is recommended we suggest a further inspection after a 12 month period.	☐ Yes ☒ No

READILY ACCESSIBLE AREAS INSPECTED

- | | | |
|---|---|--|
| ☒ The Home Interior | ☐ The Roof Exterior | ☒ The Grounds including Fences |
| ☒ The Home Exterior | ☒ Any Accessible Roof Space | ☐ Outbuildings |
| | ☒ Any Sub Floor Space | |

AREAS NOT INSPECTED

The inspection did not include the following areas which were not readily accessible or inaccessible or obstructed at the time of inspection.

BUILDING INTERIOR

In inspecting the building interior there was no inspection of areas more than 3.6 m above floor levels.

Was the inspection of a strata or company title property (e.g. a home unit or townhouse) or other Class 2 building or equivalent? ... ☒ No ☐ Yes

NOTE. If the inspection was limited to assessing the interior of a particular unit or lot, the Client may have additional liability for defects or faults in the common property. This additional liability can only be addressed through the undertaking of a Special-Purpose Inspection Report which is adequately specified.

Were there any obstructions which may conceal possible defects? ... ☐ No ☒ Yes

Ground Floor	☒ Floor Coverings
(including timber joinery)	☒ No access to wall framing due to internal wall linings.

NOTE. The consultant did not move or remove any ceilings, wall coverings, floor coverings (including carpeting and wooden floorboards), furnishings, equipment, appliances, pictures or other household goods. In an occupied property, furnishings or household items may be concealing defects which may only be revealed when the items are moved or removed.

Were there any areas/rooms/units which did not permit entry? ... ☒ No ☐ Yes

BUILDING EXTERIOR, ROOF EXTERIOR AND SITE

In inspecting the building exterior, roof exterior and site there was no inspection of areas more than 3.6m above ground or floor levels.

Were there any areas which did not permit entry? ... ☐ No ☒ Yes

- ☒ Physical roof access not possible due to height of roof (not accessible from a 3.6m ladder – as per Australian Standard). The Consultant is not permitted to a height where a fall of 2.0 metres or more is possible as per Workplace Health and Safety Restrictions.
- ☒ No access to the right side external wall due to zero lot line

Were there any obstructions which may conceal possible defects? ... ☐ No ☒ Yes

- ☒ Vegetation - Fences
- ☒ The obstructions should be removed, if possible, and reinspection undertaken or a pest and wet rot treatment undertaken as there could be current concealed termite activity and/or damage.

NOTE. The consultant did not move or remove any obstructions including wall cladding, awnings, trellis, earth, plants, bushes, foliage, stored materials, debris, rubbish, etc. Such items may be concealing defects which may only be revealed when the items are moved or removed.

Were there any areas/rooms/units which did not permit entry? ... ☒ No ☐ Yes

ROOF SPACE

In inspecting the roof space of any pitched roof there was no inspection of areas where accessibility was less than 600 mm high by 600 mm wide (but includes areas at the eaves of accessible roof spaces, that are within the consultant's unobstructed line of sight and within arm's length from a point with conforming clearance, i.e. 600 mm high by 600 mm wide).

Were there any areas which did not permit entry? ... ☐ No ☒ Yes

☒ No access was possible to inspect the following roof frames, as these were skillion roofs (sealed on the rake) or shallow roof cavities where provision of a manhole would not have given reasonable access: **Enclosed verandahs, kitchen dining**

☒ These areas of the roof cavity were inaccessible due to lack of a manhole in this area (a manhole should be cut and reinspection should be undertaken): **All roof.**

Where access is denied to roof members, alternate more invasive means of inspection should be undertaken.

NOTE. Bodily access should be provided to the interior of all accessible roof spaces. In accordance with Australian Standard AS 4349 the minimum requirement is a 450mm by 400 mm access manhole.

UNDERFLOOR SPACE

Note: *In inspecting the subfloor space of suspended floors there was no inspection of areas where accessibility was less than 400 mm high by 600 mm wide (but includes areas that are within the consultant's unobstructed line of sight and within arm's length from a point with conforming clearance, i.e. 400 mm high by 600 mm wide).*

Were there any areas which did not permit entry? ... ☐ No ☒ Yes

☒ The method of construction does not allow access (infill slab) – all of floor.

NOTES: 1. *Bodily access should be provided to all accessible subfloor areas. In accordance with Australian Standard AS 4349 the minimum requirement is a 500 mm x 400 mm access manhole.*
2. *In the case of suspended floors, if the clearance between the ground and structural components is less than 400 mm, Australian Standard AS 3660 recommends that the soil be removed to provide the required clearance, subject to maintaining adequate drainage and support to footings.*

Were there any obstructions which may conceal possible defects? ... ☒ No ☐ Yes

Subterranean Termite Treatment Recommendation

Most “slab-on-ground” homes or homes with part “slab-on-ground” construction rely on a chemical barrier below the slab and often around the perimeter of the house to prevent termite entry. If applied effectively these chemicals usually perform well.

Since the banning of the very strong (and effective) organochloride chemical sprays in 1995, there have been a number of failures with the modern less persistent chemicals. Whilst many have a life expectancy of up to 5 and 10 years, warranties of greater than 12 months are unusual. Stories abound of rogue operators handing out treatment certificates with only a nominal amount or no chemical at all used.

Even when the date of chemical application is found (usually in the meter box) the inspector of the home has absolutely no way of determining (by visual means) whether the treatment was performed to standard or whether the chemical barrier is still intact. Obviously no access can be gained below slab-on-ground homes.

It is with this background of ignorance on the strength of the chemical barriers that the inspector is recommending a pest treatment for the peace of mind of both he and the purchaser. This recommendation often comes even though no active termites are found (by visual means) in the home and though there is a possibility that there is adequate chemical barrier currently in place.

Unless evidence of a subterranean termite preventative program in accordance with “Australian Standard 3660.2 Protection of Buildings from Subterranean Termites” can be provided we strongly recommend that this property be protected in accord with this standard. Where evidence of treatment has been found we strongly recommend you contact the company that installed the system for further advice.

Slab-on-Ground Homes (or Homes with Part Slab-on-Ground Construction)

No matter what the external cladding of your home is; for example - granosite, fibrous cement; brick veneer; cavity brick; masonry block; chamferboard; weatherboard etc., “Slab-on-ground” homes that have a slab-on-ground construction (or partial slab-on-ground construction) at ground floor are highly susceptible to subterranean termite attack.

A common entry point for termites is through the brickwork and plumbing penetrations below ground on the building perimeter. Exposure of the perimeter slab edge lessens the likelihood of undetected entry, however very few homes are constructed in this manner. The risk of infestation increases if the physical or chemical barriers are not intact (or have not been placed) in these inaccessible perimeter areas.

Subterranean termites could be in the home, but, due to the slab on ground nature of construction and concealment of wall frame by sheeting, furniture, stored items, etc. they may not be detected during a Standard Timber Pest Inspection. Similarly their presence may go undetected in roof frames and roof cavity due to unreasonable access of the roof cavity perimeter. Insulation within the roof cavity severely limits inspection. “Skillion Roof” frames (where there is no roof cavity and the ceiling sheets are secured to the rafters) are totally inaccessible in a standard timber pest inspection.

Commonly extensive damage occurs to slab on ground homes before subterranean termite presence is detected and it is often the case that, when renovating or removing cladding, termite damage may be found.

Factors which promote termite activity in such homes are placement of gardens and or sprinkler systems against the home and if applicable sprinkler systems should be removed and gardens drawn well back from the home. Gardens and their associated moisture excesses can attract termites into your home. Similarly areas where moisture “ponds” should be eliminated by diverting “ponded” water away from the home.

TERMITES

All buildings, building materials and building contents are subjected to a number of hazards throughout their useful life. These include corrosion of metal, spalling of concrete, fire and water damage. Another is that of termite attack.

There are two main types of termites capable of attacking buildings; drywood termites which do not have ground contact and subterranean termites which require contact with the ground or some other moisture source. Drywood termites occur in coastal and adjacent tableland areas, whereas subterranean termites are distributed throughout Queensland and are responsible for most of the termite damage of economic importance.

Buildings require protection from termites principally for the structural framework, but also for joinery, fitments, furniture, carpets, plastic coating of wiring and some other contents of the building.

In areas where subterranean termites are prevalent, the level of risk of attack to buildings can be reduced by taking simple and inexpensive measures during construction, by eliminating the presence of trapping of moisture and by providing adequate ventilation to enable timber to remain dry.

Termites are so prevalent in the Brisbane area that there is a good chance that even if not found by the inspector in the course of his visual inspection of the property they will be discovered somewhere on the property at some stage.

For traditional Queensland construction (i.e. using timber floors off the ground) protection is easily afforded by incorporating physical barriers into the design coupled with regular inspection of these barriers. Queensland's rich heritage of timber buildings is testimony to the effectiveness of these measures.

With more recent construction methods utilising slab on ground and masonry sub-floors and walls the risk of termite entry into the building has increased, necessitating the use of chemical soil barriers which are the only effective preventative treatment for these methods of construction.

It is advisable to have a six monthly competent inspection preferably by a licensed pest control company to determine termite activity. This should be carried out not only on the building, but on the immediate surrounds. As a method of prevention, search for and eliminate sources of persistent moisture within or near buildings.

Annual inspections should at least include:

- inspection around perimeter weepholes in brick veneer construction;
- inspection of landscaping timbers, fencing and other timber structures;
- inspection of termite shields ensuring they are intact and not breached by galleries;
- underfloor inspection of stumps, floor frame and perimeter masonry.

Landscaping:

- do not store wood or other organic material against buildings
- keep gardens and landscaping clear of weepholes, physical barriers (ant caps) and damp proof courses;
- maintain regular inspections to ensure the perimeter of the house is kept clear of organic material and kept neat and tidy. Most buildings can be effectively protected from subterranean termite attack. The level of protection provided is basically dependant on the precautions taken and maintenance measures employed by the home owner.

SOME IMPORTANT INFORMATION ON TIMBER PESTS, ETC. AND MANAGEMENT SUGGESTIONS

BORERS

Furniture beetle (Anobium punctatum) and Queensland pine beetle (Calymnaderus incisus).

Areas of Damage:

Soft wood flooring (for example, pine and Oregon), furniture, joinery.

Infestation period:

There is a lengthy time period (at least 10 years from the date of first use of the timber) before infestation affects the structural integrity of the timber.

Treatment:

Treatment can have a deterrent affect and is generally recommended. Timber should be replaced when the structural damage to the timber is in excess of 25% of the timber area. You should consult with a builder or an architect before replacing any timber.

Powderpost beetle (Lyctus brunneus)

Areas of damage:

Sapwood in sub-floor and roof timbers, also hardwood timbers.

Infestation period:

Within the first year of the use of the timber.

Treatment:

No treatment is necessary and it is not recommended that the timber be replaced.

ROT OR DECAY FUNGI

Areas of damage:

External windows, doors, balconies, posts.

Infestation period:

Caused by dampness, humidity, lack of or inadequate ventilation.

Treatment:

Replacement of damaged timbers.

SUBTERRANEAN TERMITES (White Ants)

Areas of damage:

Underground timber, areas underneath concrete slabs and aboveground timber, both softwood and hardwood.

Infestation:

Termites live in underground nests. They are able to tunnel underground and then gain access to aboveground timbers. They then hide themselves within the timber. It is also possible for the termites to penetrate through small openings in the concrete slab and thereby gain access to underground and aboveground timber. Termites eat at the timber from the inside out so that it is extremely difficult to locate them.

MINIMISATION OF TIMBER INFESTATION

Poor drainage and ventilation, particularly in the sub-floor area are conducive to an increase in timber infestation. Poor drainage can lead to damp areas, leaking pipes and wood rot which increases the likelihood of timber infestation. Poor ventilation can occur in areas with under 400mm of clearance, and filled areas. Contact between timber and the ground or soil can increase the likelihood of timber infestation. This includes formwork, timber scraps and foam insulation at foundations.

PHYSICAL INSPECTION

It is possible to order a PHYSICAL INSPECTION of the property and is advised. This type of inspection will only be undertaken with the written permission of the property owner. This involves moving furniture, appliances, stored items and lifting insulation and carpeting where possible. This also involves physically touching and testing the timber which may result in permanent marking to the timber.

RISK MANAGEMENT OPTIONS

To help protect against financial loss, it is essential that the building owner immediately control or rectify any evidence of destructive timber pest activity or damage identified in this inspection report. The Client should further investigate any high risk area where access was not gained. It is strongly advised that appropriate steps be taken to remove or rectify any evidence of conditions conducive to timber pest attack.

To help minimise the risk of any future loss, the Client should consider whether the following options to further protect their investment against timber pest infestation are appropriate for their circumstances. Risk areas have been noted in this report.

Undertake thorough regular inspections at intervals not exceeding twelve months or more frequent inspections where the risk of timber pest attack is high or the building type is susceptible to attack. To further reduce the risk of subterranean termite attack implement a management program in accordance with Australian Standard AS 3660.2. This may include the installation of a preventative chemical and/or physical barrier(s). However, AS 3660.2 stresses that termites can bridge or breach barrier systems and that thorough regular inspections of the building are also necessary.

DISCLAIMER OF LIABILITY

No liability shall be accepted on account of failure of the Report to notify any Timber Pest activity and/or damage present at or prior to the date of the Report in any area(s) or section(s) of the subject property physically inaccessible for inspection, or to which access for Inspection is denied by or to the Licensed Inspector (including but not limited to any area(s) or section(s) so specified by the Report).

DISCLAIMER OF LIABILITY TO THIRD PARTIES

This Report is made solely for the use and benefit of the client names on the front of this report. No liability or responsibility whatsoever, in contract or tort, is accepted to any third party who may rely on the Report wholly or in part. Any third party acting or relying on this Report, in whole or in part, does so at their own risk.

IMPORTANT NOTE

Special attention should be given to the Scope of Inspection and Report, Limitations and Exclusions.

Importantly, Australian Standard *Inspection of Buildings. Part1:Property Inspections – Residential Buildings* recognises that a standard property report is not a warranty or an insurance policy against problems developing with the building in the future.

Also, the presence of dampness is not always consistent as the prevailing and recent weather conditions at the time an inspection is carried out may affect the detection of damp problems. The absence of any dampness at the time of the inspection does not necessarily mean the building will not experience some damp problems in other weather conditions.

Likewise whether or not services have been used for some time prior to an inspection being carried out will affect the detection of dampness. Also, where a shower recess has been water tested by turning on of taps, and no leakage was evident, this does not necessarily mean that the shower will not leak after prolonged use.

Accordingly, to fully detect and assess a damp problem, may require the monitoring of the building over a period of time.

This inspection and report only deals with the detection, or non detection of structural damage, conditions conducive to structural damage and any significant defect in the general condition of secondary elements and finishing elements of construction discernible at the time of the inspection.

Consideration should also be given to the inspection and assessment of:

- Areas on the property which were not reasonably accessible at the time of the inspection (*see Access Restrictions*).
- Any minor fault or defect i.e. a matter, in view of the age, type and condition of the building being inspected, that does not require substantial repairs or urgent attention and rectification
- Solving or providing costs for rectification or repair work.
- The structural design or adequacy of any element of construction.
- The operation of fireplaces or chimneys.
- Any services including building, engineering (electronic), fire and smoke detection or mechanical.
- Any swimming pools and associated pool equipment or spa baths and spa equipment or the like.
- Any appliances such as dishwashers, insinkerator, ovens, stoves and ducted vacuum systems.
- A review of occupational, health or safety issues such as asbestos content, or the provision of safety glass or swimming pool fencing.

This additional information or advice may be the subject of a special-purpose inspection report which is adequately specified and undertaken by an appropriately qualified inspector.

In addition, this inspection and report does not include the inspection and assessment of items or areas that do not fall within the consultant's expertise. Accordingly, consideration should be given to other specialist inspections and services such as hydraulics; geotechnics; or building, engineering (electronic), fire and smoke detection or mechanical services.

As a matter of course, in the interests of safety, an inspection and assessment of the electrical and plumbing/gas installations should be carried out by a suitably qualified person.

It is essential that all homes be placed under the care of a Termite Protection Programme according to Australian Standard 3660.02. This may involve chemical treatment of the property (*see Recommendation of Treatment – in Pest Report*). If such treatment is advised it should be undertaken as soon as possible by a Licensed Pest Control Operator.

Where possible, the records of the appropriate local authority should be checked to determine or confirm:

- The presence of reactive foundation soils – footing movement and cracking can occur due to seasonal changes and especially the influence of trees.
- Whether the ground on which the house rests has been filled, is liable to subside, is subject to landslip or tidal inundation, or if it is flood prone.
- The status of the property and services (e.g. compliance of the house with the provisions of any building Act, code, regulation or by-laws).
- Whether council has issued a building certificate or other notice for the dwelling including extensions and attached structures, outbuildings, etc.

Where appropriate, legal advice (e.g. from a solicitor) should be sought to explain title and ownership matters and to deal with matters concerning easements, heritage concerns, covenants, restrictions, zoning certificates, insurance searches via the Building Services Authority and all other law related matters. This inspection report was produced for the use of the client. We are not liable for any reliance placed on the report by any third party.