

COMMISSION RESUMES ON TUESDAY 13 DECEMBER 2011 AT 09:30 AM**MR BEADLE CALLS****RICHARD GEORGE SEVILLE (AFFIRMS)**

Q. Is your full name Richard George Seville?

A. Yes.

Q. And are you a Consultant Engineer employed by Holmes Consulting Group and the Business Manager for the Christchurch office and Project Director?

A. I am.

Q. And have you prepared a statement for the Commission?

A. Yes I have.

Q. And do you have it with you?

A. I do.

Q. Could you read it for the Commission please.

WITNESS READS BRIEF OF EVIDENCE FROM PARAGRAPH 3

“Scope of Evidence. I, on behalf of HCG, provide this brief of evidence in response to the Canterbury Earthquakes Royal Commission’s letter dated 28 October 2011 in relation to the building at 593 Colombo Street.

Extent of instructions received. I am asked how HCG became involved in the building at 593 Colombo Street and the nature of the instructions HCG received in relation to the building.

Response. NAI Harcourts, as building owner representatives and building managers, instructed HCG to carry out a post-earthquake rapid structural assessment of their portfolio of properties. A copy of the short form agreement dated 5 September 2010 is attached. The scope and nature of the services HCG was instructed to provide was to carry out an initial earthquake inspection and securing measures as considered necessary. HCG were first requested to inspect 593 Colombo Street on or around the 24th of September. HCG later, October 2010, received further instructions to design temporary securing work, liaise with the contractor carrying out the work and provide a concept design for strengthening the building.

Engineering sketches for pricing only. This is further detailed below.

Details of inspection assessments. I am asked to provide details of any inspection assessment made of 593 Colombo Street and to provide copies of any report drawing photographs other than the sketch plans referred to in the Royal Commission's letter of 28 October 2011.

Response.

Inspection 24 September 2010. In accordance with the agreement from Harcourts on 5 September 2010 an inspection was carried out by Mr Alistair Boys of HCG at approximately 3.00 pm on 24 September 2010. During Mr Boys' inspection of the building he completed a site report and a rapid assessment form, level 2. His site report was subsequently typed up. Copies of his handwritten site report, his typed up site report and the completed rapid assessment form level 2 are attached. Following HCG's initial inspection, NAI Harcourts requested HCG to undertake further investigation and to investigate options for temporary securing works.

Inspection 4 October 2010. I attended site on 4 October 2010 together with Paul Roberts, another structural engineer from Holmes Kelly, a structural engineering consultancy located in San Francisco, USA. HCG's observations and suggested temporary strengthening schemes were recorded in our site report dated 4 October 2010, a copy of which is attached. The site report incorporated photographs of the building and identified the areas requiring temporary strengthening works. The area in the building where there appeared to be the most movement was around the southern elevation and sou-west corner, ie: on St Asaph Street. HCG recommended further observation of the roof using a man-lift from outside the building. HCG also suggested that removal of existing plaster would be required to determine the existing framing conditions and temporary strengthening connection details. I reported back to NAI Harcourts by email dated 6 October 2010 enclosing the site report of 4 October 2010 and a draft short-form agreement for signature by the client before HCG were able to continue. A copy of my email is attached. Under the new agreement HCG were to be instructed to provide a design for temporary securing, to liaise with the contractor to be engaged in carrying out the works and to provide a concept design for strengthening the building, engineering sketches for pricing only.

In my email I recommended that inspection of the roof be carried out urgently to check the stability of the exterior walls and I asked whether NAI Harcourts were able to arrange for a cherry picker on site. I was aware that Harcourts had organised this type of equipment through Spotless on other buildings previously. Photographs taken during inspections of the building have been supplied to the Royal Commission. The proposed short-form agreement was signed by the client on 19 October 2010, a copy of which is attached. The signed agreement was returned to HCG by NAI Harcourts on 10th November 2010. I recall that shortly thereafter HCG were requested to replace the concept design works relating to the strengthening on hold pending confirmation of funding. I understand the owners were to assess whether it was better to repair or demolish the building from a financial perspective. Paul Roberts attended a meeting with Harcourts and the building owner on 24th of November. A brief synopsis of the position reached and a proposed plan of action was sent by NAI Harcourts to Paul Roberts by email on 24 November 2010, a copy of which is attached. A further inspection was arranged for 26 November 2010. Spotless confirmed they had arranged for a cherry picker to be on site on 26 November 2010 to enable the inspecting engineer to examine the roof.

Inspection 26 November 2010. An inspection was carried out by Paul Roberts of HCG on 26 November 2010, including an inspection of the roof. Minor cracking was noted at each end of the eastern parapet. This inspection included pushing on the parapet walls to determine if there was a significant loss of stability. This is a common test for an unreinforced masonry parapet to check for signs of instability. No specific instability was noted. Whilst on site Paul Roberts observed additional damage to the interior brick walls at the ground floor level perpendicular to the south wall on St Asaph Street. Plaster was removed from the walls which revealed lateral displacement between the brick work. Photographs of the damage were taken and forwarded on to NAI Harcourts by email on 29 November 2010. In light of the damage observed a further site inspection was arranged for me to accompany Paul Roberts on site to inspect the additional damage. NAI Harcourts were invited to attend the inspection to observe the damage, however, they emailed to say they could not attend. This inspection took place on 29 November 2010.

Inspection 29 November 2010. Paul Roberts and I attended on site on 29 November 2010 to review the additional damage as previously observed by Paul Roberts on 26 November 2010. The temporary securing works recommended by HCG took into account the additional damage observed.

0940

I believe that it was around this, I'll start that again. I believe it was around the end of November that NAI Harcourts asked HCG to incorporate the recommended temporary securing works as part of the final strengthening works.

Structural Integrity Re-occupation. I am asked for my view on the structural integrity of the building as a whole at that stage and to describe the work that was required to the building to enable it to be re-occupied. In particular the work required in relation to the Colombo Street side of the building.

Response. Designs and concepts were sent to NAI Harcourts by email dated 11 February 2011, a copy of which is attached. NAI Harcourts were advised by HCG that the concepts were general concepts only for the client to gain an idea on budget prices. The securing work recommended for occupancy included: the removal of two internal brick walls and replacing with a new block work wall western end of the building; the replacement of some internal steel posts with new steel posts at ground floor level on the Colombo Street façade; provision of new sections of ply ceiling diaphragm and ties into the external walls around three sides of the building including Colombo Street; and localised repair of two damaged sections of parapet on St Asaph Street and western elevations. Following my inspections on 4 October 2010 and 29 November 2010 I was of the opinion that the St Asaph Street elevation to the south seemed to have suffered the most damage. This side of the building should not, in my opinion, have been permanently occupied. In my opinion the north-eastern section of the building appeared to have sustained relatively minor damage. I believe it to have been in a similar condition to the condition of the building, to the condition the building had been in prior to 4 September 2010 with no apparent significant structural damage. HCG's last inspection of the building was on 29 November 2010. HCG was not requested to carry out a further inspection following the Boxing Day aftershock. In my opinion the damage to the southern

elevation did not have a significant impact on the integrity of the north-eastern section of the building.

Extent of Involvement Post 11 February 2011. I am asked if I had any further involvement with the building after the completion of the sketch plans.

Response. HCG had no further involvement with the building following the issue of the sketches on 11 February 2011. HCG's last inspection of the building was carried out on 29 November 2010."

CROSS-EXAMINATION: MR ZARIFEH

Q. Mr Seville, you visited the building on two occasions, 4th of October and 29th of November?

A. Correct.

Q. And when you first went there on the 4th of October from what you've said you were aware that Mr Boys had been there?

A. Yes I was aware.

Q. And you refer in your brief to the material that he produced from his visit.

A. Correct.

Q. So were you familiar with that material. Did you look at that material before you visited?

A. I was familiar with that material.

Q. And that would be the normal course wouldn't it?

A. It would.

Q. And I think you were in Court yesterday and heard Mr Boys give evidence?

A. I did.

Q. Were you, are you in agreement with what he said or not about the building, about what he found?

A. Yes.

Q. His view was that the building should have been yellow placarded and he thought it already was so he didn't put a placard on. You heard that?

A. Yes I heard that.

Q. Did you agree, do you agree with that?

- A. I agree with that.
- Q. His evidence was that the building as a whole was what he was referring to. Do you agree with that?
- A. I do.
- Q. When you went on the 4th of October you were aware that Southern Ink Tattoo shop was occupied?
- A. That was the last area of the building we inspected and, yeah, there were people in there.
- Q. Did that cause you any concern given what you'd read or been told by Mr Boys?
- A. It didn't cause me immediate concern with the health and safety because I believe there was minimal damage to that area of the building.
- Q. But I thought you said that you agreed with Mr Boys' view that the whole building should be yellow placarded?
- A. Correct.
- Q. Does it not follow from that if the whole building should be yellow placarded that there shouldn't be anyone in occupation in the form of running a business or?
- A. It does follow from that, yes.
- Q. So when you went there and knowing that and you saw that, that they were in occupation, did that not cause you any concern or cause you to stop and think and wonder why they were there?
- A. It didn't cause me immediate concern. As I said I didn't believe they were in immediate safety, there was an immediate safety issue there. I believe I contacted Harcourts and advised them that it was a yellow stickered building. There shouldn't be tenants in there.
- Q. Who in Harcourts did you contact?
- A. Chris Chapman.
- Q. Was he the sole point of contact in relation to this building?
- A. Yes.
- Q. And when did you contact Chris Chapman?
- A. I can't recall exactly when but I believe it was around, on or about the 4th of October, around that inspection time.

Q. So following your inspection in –

A. Correct.

Q. – in, after you'd seen what you'd, you observed of the building?

A. Correct.

MR RZEPECKY:

With, with respect I don't think any of that was put to, recall this being put to Mr Chapman yesterday that he, I know that there was a discussion about Mr Boys discussing with him the status but there isn't anything about Mr Seville from my recollection.

JUSTICE COOPER:

Mr Zarifeh?

MR ZARIFEH:

Do you want my comment sir?

JUSTICE COOPER:

Yes.

MR ZARIFEH:

Well this is the first time I've heard of it –

JUSTICE COOPER:

Yes.

MR ZARIFEH:

I don't think it's in the brief so it couldn't be put, with respect.

JUSTICE COOPER:

This is something that's happened as the hearing has developed. Now I'm certainly not proposing to disallow this evidence on the basis it wasn't put to Mr Chapman. However, should you wish to recall Mr Chapman then obviously we would look favourably on that course being followed but Mr Zarifeh I think is entitled to pursue this issue or he may, he may think he's got all he wishes to but I don't see the fact that it wasn't put to Mr Chapman as preventing it being given now, having regard to the nature of this enquiry.

MR RZEPECKY:

There's just two points I would make with respect. Firstly, of course, I can't obtain instructions from Mr Chapman but I will attempt to cross-examine. The second point is that Mr Chapman is scheduled to give evidence in the new year in respect of another building.

JUSTICE COOPER:

Yes.

MR RZEPECKY:

And I'd simply ask that if I think it necessary I'll, I'll seek to have him perhaps put a paragraph in his brief about this evidence but I'll, I'm quite happy to file a memorandum just seeking that, leave to do that at the time. Would that be convenient to the Commission?

JUSTICE COOPER:

Well, yes but I'm perfectly prepared to in turn once Mr Zarifeh and other counsel have finished their questioning so that you may endeavour to get instructions before you are required to cross-examine.

MR RZEPECKY:

Thank you sir.

CROSS-EXAMINATION CONTINUES: MR ZARIFEH

Q. All right so that was after the 4th of October visit?

A. Correct.

Q. And on the 29th of November when you went again were the tenants still in there?

A. I didn't go into that area of the building so I can't comment.

Q. All right. The 4th of October visit resulted in you preparing a site report?

A. Paul Roberts prepared it.

Q. Paul Roberts rather.

A. Yes.

Q. But it recorded what you'd found and observed?

A. Yes.

0950

Q. And it included some photographs which showed the temporary make safe measures?

A. Yes, I believe it was like the temporary make safe work and wanting to do further inspection.

Q. Right, and included were measures to tie in the Colombo Street facade with the roof diaphragm?

A. Correct, yes.

Q. And tie, - I'm just reading from the photo 'tie plaster to the roof diaphragm as well', it says 'timber whalers with ties to existing roof diaphragm and tie plaster to roof diaphragm'. Do you want to see the photographs that are attached with it?

- A. Yes, if I could.
- Q. They're 00078.2. You can read the top one where I was reading from. There it is. So they were two of the measures that were thought necessary at that point?
- A. We thought they were going – it was likely but we wanted further inspection.
- Q. And the east wall, there was mention of the east wall, that's – sorry the south wall that come away, Mr Boys talked about that?
- A. Yes.
- Q. Was that a concern for you as well?
- A. The most significant movement had occurred on that wall.
- Q. On the St Asaph –
- A. On St Asaph Street, yes.
- Q. When you sent, or when that site report was sent, it was completed and sent to Harcourts, there was no distinction made about areas in the building which might not be as affected as others was there?
- A. No I don't think there was. No there wasn't.
- Q. And as I understand it Mr Roberts went earlier than you and found some additional damage and that's why you went on the 29th of November to confirm that?
- A. Correct. Mr Roberts went on the 26th I think it was I (inaudible 09:52:53).
- Q. And you talked about a man lift, cherry picker, that was used at some stage wasn't it to further identify the damage?
- A. Yes. I believe that was on the 26th of November and Paul Roberts went onto the roof at that time.
- Q. And was that helpful in identifying further damage?
- A. It was actually helpful to see, yes the extent of damage there was actually not a lot of damage up in that roof area.
- Q. In which area of the roof are we talking about?
- A. All around basically, Colombo Street, we've got photographs of the Colombo Street –
- Q. And they're the photographs we were looking at some of them yesterday?
- A. Correct, yes.

- Q. So is it fair to say that all of the investigations or inspections culminated in the plans that you drew up?
- A. Yes. That's correct.
- Q. And we know that the plans were sent on the 11th of February?
- A. Correct.
- Q. So between your November visit at the end of November and February you were involved in presumably preparing those plans, not fulltime I imagine but in that time you were preparing those plans?
- A. That's correct, Paul Roberts did most of the work on it, yes.
- Q. And then on the 11th of February you sent them by email to Chris Chapman?
- A. Correct.
- Q. And if we can just bring that email up, I think it's 0050.1. "I've attached mark-ups showing the general concepts for strengthening of this building split into what's required to be done now for occupancy and what is required to aim for 67 percent." When you referred to what is required to be done now for occupancy, that is the areas marked in red on the plans?
- A. Correct.
- Q. And again you didn't differentiate between occupancy of parts of the building or others?
- A. No.
- Q. So were you referring to for occupancy of the building as a whole?
- A. Correct.
- Q. Did you give any thought to the fact that you had seen and knew there were tenants in part of the building?
- A. At that time?
- Q. Yes.
- A. We believed the building was unoccupied at that time. I'd had the discussion with Harcourts about that earlier, you know, around the 4th of October. We didn't go back into that tenancy. We believed it was unoccupied, it was, you know, yellow-stickered.
- Q. Right. Did you have any discussions with Chris Chapman apart from this email that we see around that time after the plans had been prepared?
- A. No I don't think, I can't recall. I don't think so.

- Q. There's no query about what you meant in your email or anything like that?
- A. No.
- Q. So was the 4th of October the only time you went when there were tenants in there and when you were aware there were tenants at that time?
- A. Correct.
- Q. But you're saying from what you were told later that you thought they'd moved out?
- A. I advised Harcourts that they shouldn't have been in there. It's a yellow placarded building.
- Q. Okay, and so you thought that would have been complied with?
- A. Correct.
- Q. Did you have any contact with the council after what you found about the building?
- A. No.
- Q. Why was that? Was it – would you normally or not?
- A. There was – the building was already yellow placarded when our boys went there. It was still yellow when I went there. We were making no change to that, so there was no reason to discuss with council.
- Q. So on the 4th of October when you went did you see a yellow placard?
- A. Yes.
- Q. And whereabouts?
- A. On – I remember seeing it on two elevations on the Colombo Street elevation and on St Asaph Street elevation.
- Q. And whereabouts on the Colombo Street?
- A. It's on the door to the upstairs.
- Q. So is that the one that was referred to as a yellow placard in the photo?
- A. Correct.
- Q. Do you recall any placard on the Southern Ink Tattoo door that's to the right?
- A. No I don't.
- Q. So you don't know if there was or not, when you say you don't recall?
- A. I don't recall seeing one.
- Q. Did you look at that yellow placard on the doorway in the middle, middle of Colombo Street frontage?

- A. I would have looked at it, yes.
- Q. Can you remember what it said?
- A. No.
- Q. What about the St Asaph Street one?
- A. Again I would have looked at it, but can't remember exactly what it said.
- Q. Do you agree with me that as an engineer, you have an obligation if you find a building as potentially dangerous to advise people such as the owner or the council?
- A. I do.
- Q. And I take it from what you've said that in this case you thought the building was already yellow placarded so there shouldn't be anyone having access other than for inspection or repair to it?
- A. Yes, or short term entry, yes.
- Q. So there was no need to advise the council and there was no need to advise the owner or owners' representative if you like because of your discussion on the 4th, around the 4th of October that you had with Chris Chapman?
- A. Well that was advising the owners' representative.

1000

- Q. Did you talk at all to the tenants about that issue on the 4th of October?
- A. I can't recall talking, talking to the tenants. We were in there for a short time.
- Q. And in your brief you read out which follows the, your letter in reply to a letter from the, from myself, you have talked about the St Asaph Street elevation to the south, this is at paragraph 27, "This side of the building should not in my opinion have been permanently occupied". What do you mean by "permanently"?
- A. Permanent occupation, so short term entry only.
- Q. So consistent with a yellow placard?
- A. Correct.
- Q. Right, so it shouldn't have anyone conducting business there?
- A. Ah, no.
- Q. And then you go on in the next paragraph to say that the north-eastern section of the building it's sus- appeared to have sustained relatively minor damage and you talk about that and the damage to the southern elevation in paragraph

30 “did not have a significant impact on the integrity of the north-eastern elevation”. So you’re drawing a distinction between the southern elevation and the north-eastern?

- A. Ah, I was just replying to your question I think that's (inaudible 10:01:43)
- Q. Right.
- A. – question is.
- Q. But you’re not drawing a distinction in terms of whether there should’ve or could’ve been occupancy?
- A. Sorry I’m not sure I –
- Q. You’re drawing a distinction in terms of the degree of damage?
- A. Between the two elevations.
- Q. Between the two?
- A. Correct. Yes.
- Q. But you’re not drawing a distinction on the basis that there could have been occupancy of one and not the other?
- A. Ah, no it was my view that the whole building was yellow placarded.
- Q. And we’ve covered some of the features that you found on the 4th of October but following the drawing up of the plans it’s clear from what you read out in paragraph 26 that at least two of the items of securing work recommended related to the Colombo Street frontage didn't they?
- A. Ah, they did.
- Q. In an email I think on the 6th of October we had referred to yesterday you’d said that it appeared that the walls had moved on three elevations and you needed the man with the cherry picker?
- A. Correct.
- Q. Was that once you got that, was that a belief borne out once you’d investigated?
- A. Ah, the movement that was observed on the roof was actually not a lot and we also did, well Paul Roberts did some push testing of the parapets to check for instability which is a common test.
- Q. So that was part of the testing that followed from that observation?
- A. Correct.

CROSS-EXAMINATION: MR ELLIOTT

Q. Mr Seville I'm just going to ask you for the record to identify some photographs which I think you referred to in your brief of evidence. I'll just hand the bundle to you and I'm going to ask you to identify which of those you're referring to as having been taken on the 26th or 29th of November?

WITNESS REFERRED TO PHOTOGRAPHS

A. Sorry these are –

Q. Just have a look, have a look through those, those are photographs supplied by Phillips Fox and I just want you to flick through and tell us by reference to the numbers up the top which ones you're referring to in your brief as having resulted from the attendances in November?

A. They, they'll be the photographs from the roof, so of the roof area and there's, should also be some photographs in here of some displacement of some bricks on some internal walls so I'll just find those. The internal walls I believe are EUI.COL593.007C.17.

Q. Could you read out in fact just the range of numbers of the photographs that you were referring to in your brief. I assume they start with a certain number up the top and they, they work through do they?

A. There's more photos on the previous page as well. So I'm referring to the two photographs at the top on the screen there. Also if you go to 007C.16, there's two photographs at the top there as well. 0007C.19 two photographs at the bottom of that page. And on the 26th of November there will also be photographs from within the roof space and photographs of some of the framing as well.

Q. Are they there?

A. Ah, yes.

Q. Can you just read out the number please on the top of the page for those?

A. It's almost probably easier to go the other way and do the photographs I observed on the 4th of October. There's a lot of photographs in there from the 26th of November.

Q. Well I'm just looking to get on the record –

A. Okay.

- Q. – the photographs from each of your visits so that we can have it clear and recorded. So –
- A. Okay.
- Q. – if it's possible for you just to read out the numbers relating to the photographs for each visit that would –
- A. May help.

JUSTICE COOPER:

- Q. Yes can I help. Are you saying Mr Seville that on your second visit you took far more photographs than on the first?
- A. Correct.
- Q. So that it would be easier to read out a small number of numbers and say well those were the ones that were done on the first, taken on the first visit and the rest were taken on the second, is that what you'd like to do?
- A. Yeah.
- Q. All right, if you can do that please? So the first, the first day is the –
- A. 4th of October.
- Q. 4th of October.
- A. So I start at the beginning of the group, 0007A.1. So all of those photos I believe were taken on the 4th of October. 0007A.2, again all of those photos. 0007A.3 all of those photos. 0007A.4 all of those photos. A.5, similarly all of those photos. A.6 all of those photos. A.7 all of those photos. A.8 the single photo on that page. And I'm just checking but I think from then on they are the November photos, I'll just check through that.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

- Q. There may be some in there that Mr Boys had taken because I think Mr Boys referred to some as well so just keep that in mind when you're checking the remainder?

1010

- A. Correct. I'm not sure about the photos on 0007C.25. They could be Alistair Boys' photos, the two at the top. Or then again they could have been mine from the 4th, I can't.....
- A. Going back through I think some of the ones on 007A.7 could be Alistair Boys' as well.
- Q. All right so apart from those ones you named the others would be your photographs from the November visit, is that right?
- A. I believe they would be. I could possibly confirm from different files on our system exactly if I had to.
- Q. All right I'm just also going to give you a range of photographs – BUICOL593.0011.1 through to 0011.18 – I'm just going to show those to you and ask you to identify those. Did they arise from the November visits that Mr Roberts and you undertook?
- A. I believe the front, the ones of the elevation are from the October visit – that's the first two photographs.
- Q. That's number 1.
- A. Yep number 2 as well. Number 3 would be from the November visit. Number 4 would be November visit. Number 5 would be November visit. Number 6 is fairly close up so I believe that's November visit with man-lift. Actually I can see, you can see a hand in the left-hand corner so.... Number 7 probably the October visit. Number 8 yeah I'm not sure could be October or November, it's a bit hard to see that. Number 7 I believe would be November, oh sorry number 9 – I'm talking about the numbers at the very top of the page.
- Q. Yes.
- A. 10 from November. 11 from November. 12 I can't quite make that out. I'm not sure. 13 would be November. 14 – November. 15 – November. 16 – November. 17, again, I'm not sure, could be either. Oh sorry there's one in the back. 18 – it's possible an October one but again I can't...
- Q. And who prepared the typed notes that appear on those photographs?
- A. Paul Roberts.
- Q. So your inspection of the 29th of November would have been quite thorough I take it.

- A. Paul's one on the 26th would have been very thorough and then he took me along on the 29th and pointed out the areas of concern he'd noted.
- Q. Around the whole building?
- A. I can't recall I think it was mainly around those two internal walls.
- Q. So did you not have to walk around the base of the building during that process?
- A. Yes on the lingerie shop side.
- Q. Did you walk past the Southern Ink premises?
- A. I can't recall if I walked past there.
- Q. Do you know whether you looked inside to see whether it was occupied at all?
- A. No I don't think I did.
- Q. You don't think you did?
- A. No.

JUSTICE COOPER INSTRUCTS WITNESS TO KEEP VOICE UP

- Q. And your position is that as at the 4th of October you told Harcourts that no-one should be in occupation of the building.
- A. Correct.
- Q. If you had seen someone in occupation during that visit what would you have done?
- A. I imagine I would have advised them and talked to Harcourts straight away.

CROSS-EXAMINATION: MR LAING – NIL

CROSS-EXAMINATION: MR MCLELLAN – NIL

JUSTICE COOPER ADDRESSES MR ELLIOTT

COURT ADJOURNS: 10.17 AM

COMMISSION RESUMES: 10.43 AM**MR RZEPECKY ADDRESSES JUSTICE COOPER**

Thank you, I am most grateful to the Commission for giving me that opportunity. After a wee delay I managed to locate Mr Chapman. I've managed to have a telephone discussion with him about this evidence and I do have some instructions on that basis. I can proceed with the cross-examination now and with the Commission's leave I have actually asked Mr Chapman if he could come back and I would propose subject to the Commission's leave to simply call him, put the conversation to him and let the Commission hear his evidence on it. I think I'm correct in saying that it wasn't put to him previously before today.

JUSTICE COOPER:

Well what this witness is saying was not.

MR RZEPECKY:

I don't have a transcript of course but that's certainly my recollection so I think in the interests for Mr Chapman's sake alone we'd like him to have the opportunity to respond.

JUSTICE COOPER:

Yes and it would be better done whilst everybody's focusing on it, so I am grateful to you for arranging that and we will just have to cope with it.

MR RZEPECKY:

He should be here shortly Sir, I mean Harcourts just want to give their full cooperation in this process.

JUSTICE COOPER:

Yes, well we are grateful for that, thank you.

CROSS-EXAMINATION: MR RZEPECKY

Q. Good morning Mr Seville, you were originally instructed by Harcourts to offer services to all of their commercial clients, weren't you, following the September earthquake?

A. I'm not sure about all of their clients but a large number of them, yes.

Q. Was the intention that you would be available to them so you could progressively work through their portfolio of commercial buildings assessing risk and assisting clients with repairs?

A. Correct.

Q. And is that effectively what you did in the months following 4 September?

A. Yes it is, yes.

Q. And is Harcourts known to you as a significant manager of commercial property in Christchurch?

A. They are.

Q. And would you from your experience as an engineer say that that was a responsible approach by Harcourts?

A. Yes.

Q. And in your experience working with them did they always show a responsible and timely approach to looking after their clients' interests in getting you involved with repairs?

A. Yes they did.

Q. Thank you. So you would reasonably expect that Harcourts when given information by you would act on it appropriately?

- A. I would expect that.
- Q. That's based on your experience of them?
- A. Correct.
- Q. And in particular your experience of working with Chris Chapman?
- A. Correct.
- Q. Now was the 4th of October your first attendance at the site for an inspection?
- A. It was.
- Q. And was that because you were supervising your staff there or did you go back with a staff member that had been on the site previously?
- A. No, it was both Paul Robert's and my self's first visit there.
- Q. Was two people necessary because of the extent of the work or just to give some professional support in terms of making decisions?
- A. No we often went with two people to –
- Q. Bit like lawyers, you have –
- A. Right.
- Q. – a pair. So you obviously had to access through Southern Ink to look at the building properly?
- A. On the 4th of October we did, yes.
- Q. Yes. Did you speak to the tenants?
- A. I would have spoken to them but I can't recall my conversation with them.
- Q. And when did you – at which stage of your visit did you notice that the Colombo Street side had a yellow placard?
- A. That would have been at the beginning of the visit.
- Q. So before you saw the tenants?
- A. Correct.
- Q. And there was no yellow placard on their shop was there?
- A. No, I don't recall there being one.
- Q. Did you see a green placard on their shop?
- A. No. I don't remember seeing any placard.
- Q. And you didn't see fit to mention to them on the day that they were in a yellow placarded building and probably shouldn't have been in your view?

- A. I didn't believe they were in immediate danger because of what I'd seen and our normal process was to inform Harcourts and they would liaise with the tenants.
- Q. So, but you weren't immediately concerned for their safety?
- A. No I wasn't.
- Q. And that was because they weren't in what you considered a dangerous part of the building?
- A. Correct.
- Q. Might that have been consistent with that part of the building originally being green-stickered?
- A. My view is that a building as a whole is stickered one colour.
- Q. You may be aware of evidence that in fact Colombo Street was at the outset green-stickered by Mr Wall, and engineer appointed by the council. Are you aware of that?
- A. Yes I was here yesterday.
- Q. Oh you were here yesterday?
- A. Yes.
- Q. So the fact that he may have green-stickered Southern Ink tenancy given that you didn't think they were in immediate danger would be of no surprise to you?
- A. Be surprised that the building as a whole wasn't stickered one colour.
- Q. When you say the building as a whole, is it your experience that the requirement was for every tenancy or obvious tenancy in the building to receive a separate placard?
- A. Yes, I believe that was the general way things were done.
- Q. And that's just logical, isn't it Mr Seville, because you have to give notice to the tenants. You have to put it in a prominent place where they can see it.
- A. Correct.
- Q. And so that members of the public going into a public styled building also need to be aware of its status at this time following the September earthquake?
- A. Correct.
- Q. But the yellow placard that you saw was only on the centre door?
- A. That's correct.
- Q. But you didn't have a close look at it?

- A. Yes I would have.
- Q. You would have. Didn't you say earlier you didn't actually read it?
- A. I would have read it. That's our standard procedure when you go into the building. We look at the placards and look at the information. I can't recall exactly what was written on it.
- Q. But that of course, given what you've just said, that placard would have referenced the upstairs area wouldn't it?
- A. I can't recall.
- Q. Well it's on the access to upstairs isn't it?
- A. Yes, it was on – yes it was, yes.
- Q. Now following your inspection on the 4th, you and Mr Roberts prepared a site report?
- A. Correct.
- Q. And the intention of that document was that it would be for your file records in your engineering company?
- A. And to send out to the building owner.
- Q. Yes, but that would be one purpose wouldn't it, to create a record in your files?
- A. It's more to send to the client, but it would be kept as a record in our files.
- Q. And to send to the clients which you identified as Harcourts?
- A. Correct.
- Q. But of course you also had a direct contract with the Changs, the owners as well didn't you?
- A. We did, but all our –
- Q. Communications were with Harcourts.
- A. Correct.
- Q. So in terms of your view that Southern Ink shouldn't be in occupation because you'd found a yellow placard on the Colombo Street side, in your view was that important information?
- A. Yes.
- Q. And why was it, why did you view that as being so important?
- A. It was under a yellow placard, they shouldn't be in the building.
- Q. So, and because they were – you would say in danger?

A. I didn't believe they were in any immediate danger but under a yellow placard it should only be short term occupation.

Q. And do you say that you – was it your evidence that you called Mr Chapman to discuss this by telephone?

A. Correct.

Q. And which day was that?

A. I can't recall.

Q. You can't recall?

A. No.

Q. Well how urgent was it that the tenant move out?

A. I didn't believe they were in any immediate danger, but I believe I made a call on or around that 4th of October.

Q. So you think it may have been the same day?

A. I – it was over a year ago, I honestly can't recall what day it was.

Q. Do you recall who you spoke to?

A. Chris Chapman.

Q. Are you sure about that?

A. Yes.

1053

Q. And what might you have said to him?

A. It was over a year ago so I can't recall the exact words, but I recall talking about the fact that it was yellow placarded and shouldn't be in occupation.

Q. And in your view was that an important conversation that you were having with the property manager?

A. Yes.

Q. Did you take a file note?

A. I possibly did. We, I used to carry around A4, all engineers do, A4 hardback folders.

Q. So, so where's the file though?

A. It's, unfortunately our building has been demolished or is in the process of being demolished and I haven't been able to retrieve that hardback folder.

Q. You see Mr Chapman can't recall any conversation with you about the placard statement of the building.

- A. I can only say what I recall, what I recall of the conversation.
- Q. Well perhaps you should, if you could just turn to your 4th of October report which is BUICOL593.007H.1. You'll see it come up on the screen. Now you haven't referred to the placard status or the requirement for the tenant to move out in that report have you?
- A. No I haven't.
- Q. And this is a written report that was going to Mr Chapman?
- A. Correct.
- Q. That would have been important information to put in the report wouldn't it?
- A. The information was important. I believe I discussed it in a phone conversation with him.
- Q. Well it was important to follow that up in writing though wasn't it, if in fact you had that conversation with him?
- A. Not necessarily. A lot of our, Chris Chapman and myself's correspondence was through phone calls.
- Q. But it was an opportunity wasn't it when you produced that report to make sure that the property manager and owner knew what the status of the building was and that a tenant was in place?
- A. I agree it was an opportunity, yes.
- Q. And in fact when Mr Boys did his site report on the 24th of September he had referred to the yellow placarding, hadn't he?
- A. He had.
- Q. But of course that site report didn't go to Mr Chapman did it?
- A. That site report was in our, in our records, in our electronic –
- Q. Yes.
- A. – records.
- Q. But Mr Boys said yesterday he never sent it off to Mr Chapman.
- A. I'm not sure if he did say that. I'm, I'm surprised if it didn't get sent because our admin team were pretty –
- Q. Well Mr Boys' evidence yesterday was that there was a, a breakdown in your system and it was never sent.

MR ZARIFEH:

Sir, (inaudible 10:56:11) Mr Boys said that he wasn't sure. He had given it to office staff to send and had no record of whether it was actually sent in fact but he believed it had been.

JUSTICE COOPER:

Yes.

MR RZEPECKY:

I didn't mean to misrepresent the evidence. My recollection is that he said there was a glitch in the system. Perhaps it was that he said he couldn't prove it had been sent. Certainly Mr Chapman's evidence was he never received it.

JUSTICE COOPER:

Yes.

MR RZEPECKY:

I'm actually coming to a different point so I'm happy to just move on.

JUSTICE COOPER:

Yes.

CROSS-EXAMINATION CONTINUES: MR RZEPECKY

Q. Mr Seville you're familiar with that document of the 24th of September aren't you?

A. Alistair Boys' -

Q. Yes.

A. Yes I am.

Q. And the fact that Mr Boys thought it important enough to mention the placarding shows that you had a system at Holmes where that's one of the things you'd put in your site reports?

A. That was the first inspection we'd made of the building. By the time I went there the building had been yellow on someone else's visit who put the yellow placard on there which is, we're unaware and our (inaudible 10:57:18) so my, I believed that it was clearly advised that it was yellow.

Q. Could you have a look at document 0053.1.

WITNESS REFERRED TO DOCUMENT

Q. You see that, it's your email of the 6th of October?

JUSTICE COOPER:

Well not yet he can't.

CROSS-EXAMINATION CONTINUES: MR RZEPECKY

Q. There it is now. See that's your email of the 6th of October. That's to Mr Chapman?

A. Correct.

Q. And you sent him the written report and some other information in the email?

A. Yes.

Q. And it's, it's reasonably easy for you to, to send an email isn't it and put information in it?

A. It is, yes.

Q. But you didn't think to confirm to Mr Chapman in this email that Southern Ink shouldn't be in the building or its placard status?

A. I obviously didn't. It's not on there.

Q. Sorry?

A. I obviously didn't 'cos it's not on there.

Q. Don't you think you should have done?

A. I go back to, I believe I had a conversation with Chris Chapman advising of the status of the building and that it shouldn't be occupied.

- Q. Well you've, you've had two subsequent opportunities to that, to your phone call in the report and this email to emphasise what you told him. Don't you think you ought to have taken that opportunity?
- A. In writing?
- Q. Yes.
- A. In hindsight, yes.
- Q. So the fact that you haven't put it in these two documents, important documents and direct communications with the owner's representative, the fact that you haven't put it there does that simply establish that you didn't actually have that conversation with Mr Chapman because the fact that Southern Ink was in occupation wasn't in the forefront of your mind?
- A. No I don't believe so.
- Q. And you're entirely certain about the conversation?
- A. I am confident I had that conversation.
- Q. Given what happened and the fact that you were sitting in Court, in the Commission yesterday you realise the significance of your evidence don't you?
- A. Yes I do.
- Q. This is, and this is something that you've known about for some time obviously?
- A. What?
- Q. The significance of your evidence?
- A. Yes.
- Q. And that would have been driven home to you yesterday when you were sitting here in the Commission?
- A. Look I, from the start of the Royal Commission I've been aware that it's important.
- Q. Well don't you think you should have put it in your brief of evidence so the Commission and everybody would know what your position was?
- A. I wasn't asked those questions by Mr Zarifeh.
- Q. So if no-one had asked you about the phone call would you never have told the Commission about it?
- A. I, I can't answer that.

MR RZEPECKY ADDRESSES JUSTICE COOPER**CROSS-EXAMINATION CONTINUES: MR RZEPECKY**

Q. Could Mr Seville be shown document 007A4A?

WITNESS REFERRED TO DOCUMENT

Q. Are you familiar with that photograph Mr Seville?

A. Yes I am.

Q. Did you take that photograph?

A. Either myself or Paul Roberts would have taken that photograph.

Q. So did you, when you were doing the photographs were you sort of shoulder to shoulder?

A. Yes we would have been.

Q. So if you took the photograph well you were looking through the lens and if he took the photograph you were probably standing next to him?

A. Correct.

Q. And if you could have a look please at the bottom right there, you see the Southern Ink Tattoos shop there?

A. Yes.

Q. And what does it say on the door?

A. Open.

Q. Well didn't you tell the Commission before that on this occasion you didn't actually observe whether or not Southern Ink was in occupation?

A. No this is the –

Q. 4th.

A. 4th of October.

Q. And when you went back there on the 20, on the 24th of November –

A. 29th I would think.

Q. 29th?

A. Yeah.

Q. It would have looked just the same wouldn't it?

A. I, I don't know.

Q. So you would have, but you would have gone along Colombo Street wouldn't you?

A. I can't recall how we got to the building. We could have.

Q. Well I assume that to carry out the inspection you carried out on the 29th you would have gone through the middle door there to go upstairs.

A. I can't recall if we went up, if I went upstairs on the 29th. Paul was showing me the damage to the internal walls at the ground floor on the, in the lingerie tenancy.

Q. So are you saying that you would have gone to inspect the building but actually not walked along the Colombo Street façade at all?

A. Possibly.

Q. But you can't rule it out?

A. No I can't rule it out.

1103

Q. Given that you knew on the 4th of October that Southern Ink was still there didn't you think to actually look to see if they'd gone when you back, went back there at the end of November?

A. No, as far as I was concerned the building was yellow and I'd advised Harcourts.

Q. So you didn't even look in the window just to make sure that no-one in the building?

A. No look our purpose of those visits was to determine the temporary securing and strengthening works that's what we were focusing on.

RE-EXAMINATION: MR BEADLE – NIL

QUESTIONS FROM THE COURT : COMMISSIONERS FENWICK & CARTER- NIL

QUESTIONS FROM THE COURT : JUSTICE COOPER - NIL

WITNESS EXCUSED

JUSTICE COOPER ADDRESSES COUNSEL – PROCEDURE

MR MCLELLAN CALLS:**MARK JOHN RYBURN (SWORN)**

Q. Your name is Mark John Ryburn?

A. Yes.

Q. You live in Wellington and you're a structural engineer employed by Opus International Consultants Limited?

A. Yes.

Q. And in front of you you have your signed brief of evidence I think?

A. Yes.

Q. Would you read that.

COUNSEL ADDRESSES JUSTICE COOPER

Q. And if you would read your brief from paragraph 1 and when you get to the document references that are in bold brackets if you could stop and we'll bring up that document to have a look at?

WITNESS READS BRIEF OF EVIDENCE

A. "I, Mark John Ryburn of Wellington, structural engineer, state I hold a Bachelor of Engineering, Civil Honours. I am a member of the Institute of Professional Engineers New Zealand. I have 11 years experience as a civil engineer and construction project manager. Between 22nd of April 2010 and the present day I have been employed by Opus International Consultants Limited as a structural engineer. In January 2011 I was seconded to the Christchurch City Council to carry out inspections under the direction of its Building Recovery office. The inspections of buildings carried out by me and which are relevant to this enquiry were re-inspections of buildings which had previously been subject to level 1 or 2 rapid assessments. I carried out re-inspections of buildings as directed by council staff at daily briefings. For the period that I was seconded to the Council I rarely visited Opus's offices. My day would typically begin with a briefing at the Council where I'd pick up a manila folder for each property that I was designated to re-inspect. The contents of the folders varied but would include a Council re-inspection form filled out by the Council with the address of the property and sometimes my name and cellphone number. As per the form for 187 St Asaph Street. From memory

the file would sometimes include where available other rapid assessment forms, photographs or, and any correspondence available. The files generally had limited information. They did not include drawings or building plans. The purpose of the re-inspections differed. Inspections were predominantly re-inspections carried out for the purpose of identifying damage caused by the September 2010 event or aftershocks that had not been previously identified, reissuing the placarding and in the case of Building Act notices requiring that works be completed by owners and recommending a timeframe within which works must be completed within the context of the standard notice requirements of 60 days. At the end of each day or the following morning I would hand back my completed re-inspection reports to the Council. Any significant concerns were discussed as part of the feedback briefing and separated for more urgent action or review. The re-inspections were visual only. They were not detailed structural engineering evaluations and did not involve calculations of load bearing capacity. As I was working alone I generally did not enter any buildings unless I felt they were safe and there was another person present. By the time of my inspections in January and February 2011 all of the buildings I inspected, and which are the subject of this enquiry, had been inspected one or more times and there was an existing placard. I was not authorised to downgrade the existing placarding. I was, however, able to escalate the placarding from, for example, yellow to red. At the time of my inspections I did not have any information from GNS or any other source regarding the likelihood, location and extent of further aftershocks other than that generally available. My assumption was that aftershocks would continue generally following a standard aftershock decay sequence. My re-inspections were carried out within the context of that aftershock sequence and were governed by the damage I could observe, my engineering experience and judgment of the building characteristics. They were not governed by calculations or analytical assessments of residual or original capacity. I was generally aware of the Council's earthquake-prone building policy but my re-inspections were not carried out for the purpose of quantifying building strength under that policy. I carried out about 10 inspections each day. Each inspection would take about half an hour, sometimes more, sometimes less."

EXAMINATION CONTINUES: MR MCLELLAN

Q. You can carry on reading in relation to the 187 St Asaph Street property please.

WITNESS CONTINUES READING BRIEF OF EVIDENCE

A. Okay 187 St Asaph Street. "I have been advised that the area of interest for counsel for the Commission is the inspection of this building and, in particular, the fact that the 187 St Asaph Street frontage was yellow placarded but that the front of the same building on Colombo Street was green placarded and that this difference was maintained by a number of engineers who looked at the building."

Q. Can I just stop you there and just for clarity and for the record note that the wording in paragraph 12 comes from an email from counsel for the Commission setting out what the area of interest was, as opposed to it being your evidence that you were aware that there was a green placard on Colombo Street. Is that correct?

A. Yes, yes.

Q. Carry on please.

1113

WITNESS CONTINUES READING BRIEF OF EVIDENCE

A. "On 14th of February 2011 I inspected the property at 187 St Asaph Street. This was on the corner of Colombo Street. The Colombo Street frontage was 593 Colombo Street. I refer to my re-inspection report. This does not indicate whether I specifically inspected both frontages. My practice was to, firstly, look at the building generally in a step back view to look for damage and hazards. I would do this before looking for particular damage that may have been identified in previous inspection reports on my file. My recollection is that there was cordon fencing along the front and I've seen a photograph indicating that a shipping container had also been placed along the front of the building."

Q. And in the image in front of you you can, yes that's been helpfully expanded. Is that the photograph your referring to?

A. Yes.

Q. Carry on.

WITNESS CONTINUES READING BRIEF OF EVIDENCE

- A. "I do not recall whether I inspected the Colombo Street frontage or whether access was available to that frontage. I have recently seen a report of a level 1 inspection of 593 to 599A Colombo Street on 5th of September 2010."
- Q. And if we just have a look at that you can, it's the report that indicates that there was a green placard.
- A. Recording that a green placard had been recommended by the inspector for that side of the building and that there was minor or no damage recorded in that area. My re-inspection report refers to cracking between numbers 187 and 189 St Asaph Street and records that there had been no work to secure an overflow since 12th of the 10th.
- Q. Just while that's being brought up I'll get you to read into the record the rest of your handwriting under the heading 'General Comments'. Are you able to read that from the screen or do you want it –
- A. No I can see that now thank you. It says 'No work to secure overflow since the 12th of the 10th. This is a safety risk to users of the access way. Also the neighbouring building's wall has collapsed with the wall and roof left unsecured. This area needs to be fenced off. Building has been red stickered'.
- Q. All right carry on.

WITNESS CONTINUES READING BRIEF OF EVIDENCE

- A. "I believe that I had with me during my re-inspection an earlier level 1 inspection report which required that the works be carried out on this area of the building."
- Q. Now could you stop there and I'll just get you to refer to another document which isn't referred to in the brief which is WIT.MCC.003 and it's –
- A. Triple zero.
- Q. 0003.8. Now I think you'd like to correct the reference to a level 1 assessment in that inspection report.
- A. Yes, yes, that should be level 2.
- Q. Do you have a pen?
- A. Yes.

Q. Can you just cross out 1 and write 2 and then put your initials in the margin please.

A. Okay.

Q. And carry on reading from "My re-inspection report..."

WITNESS CONTINUES READING BRIEF OF EVIDENCE

A. "My re-inspection report noted that I considered there was still a safety risk between 185 and 187 St Asaph because the works had not been carried out and I noted in the report that the wall of 185 St Asaph Street had collapsed with the roof and wall left unsecured. I recall that I looked at 185 St Asaph to check that it had been red stickered, which it was."

Q. We'll just bring up that photograph. So in the top right-hand photograph 18, the building that you were looking at – 187 St Asaph – is on the left of the alleyway.

A. Yes.

Q. And 185 St Asaph is to the right.

A. Yes, yes.

Q. And in your re-inspection report, if we could have that back please - which was 593.0008M.1 – under general comments where you've written 'Also the neighbouring building's wall has collapsed'. Which building is that a reference to?

A. That's reference to 185.

Q. And where you said 'this area needs to be fenced off'. Which area were you referring to there?

A. That area around 185 and the access way between 185 and 187.

Q. Where you have written 'Building has been red stickered', what's that a reference to?

A. That's a reference to 185.

JUSTICE COOPER:

Q. You thought that people shouldn't be walking down that access way or alleyway, is that the position?

A. Or driving down, yes.

EXAMINATION CONTINUES: MR MCLELLAN

Q. And that is because of, oh no read on and we'll elaborate. There was a lane, read on from 'There was a lane'.

WITNESS CONTINUES READING BRIEF OF EVIDENCE

A. "There was a lane or access way running between those addresses and I recommended that this area be fenced off to prevent the risk of injury from falling masonry until the works were completed."

Q. Could we just go back to .0007A.5 please. Sorry A.3. And if you have a look at the, firstly to give the general, no the bottom right photograph if we could have that expanded please. That I think was the area of concern for you was it?

A. Yes and the wall from next door.

Q. And the wall?

A. From 185.

Q. Carry on from "I have recently seen...."

WITNESS CONTINUES READING BRIEF OF EVIDENCE

A. "I have recently seen a report of Spencer Holmes Ltd dated November 2011. Which notes that Holmes Consulting Group were commissioned to design temporary shoring work and a concept design for strengthening work for 187 St Asaph which apparently was submitted just before my inspection. I was not aware of that at the time of my inspection."

Q. Perhaps the reference could be noted in the report at pages 4 and 5. I don't need to take you to that. Carry on from paragraph 16.

WITNESS CONTINUES READING BRIEF OF EVIDENCE

A. "187 St Asaph Street was previously yellow stickered. I changed this to a red sticker. I also recommended that the works be carried out within 30 days. I generally regarded 60 days as a starting point, a reasonable time frame, but here the information available indicated that the owner had not complied with an earlier instruction to carry out stabilising works."

Q. Can I just ask you, now you can stop reading your brief there because the rest of it relates to another building. I'll just ask you a question. You were in the Commission hearing yesterday when Mr Smith gave his evidence and I asked him about whether he considered changing the sticker to a red sticker was appropriate given the nature of the damage and I think his answer was to the effect that the concern would have been, or that your response was appropriate because of the fact that no works had been taken to secure that potentially hazardous area. Do you have any comment on Mr Smith's evidence?

A. No that would be correct, that was one of the considerations.

CROSS-EXAMINATION: MR ZARIFEH

Q. Mr Ryburn, when you went to do your inspection on the 14th of February the form that you filled in and which you've referred to - 0008M.1- already had typed in it the address – 187 St Asaph Street, correct?

A. Yes.

Q. So presumably that would have been done by someone in the Council.

A. Yes.

1123

Q. And can we infer from that that it was directing you to that address, 187 St Asaph as opposed to Colombo Street?

A. Yes.

Q. We've heard evidence from Simon Wall who did the inspections on the 5th of September that he separately placarded 187 from yellow and put separate placards on the Colombo Street frontage. I think you've heard that?

A. Yes, yes.

Q. Were you aware of that at the time on 14 February or not?

A. No, no.

Q. So when you said you had access to a level 2 assessment.

A. Yes.

Q. And that had the address 187 St Asaph, didn't it?

A. Yes.

Q. So did you have access to the level 1 assessments for 593 to 599A Colombo?

- A. No.
- Q. No. So were you not aware that there'd been any separate placarding at that point?
- A. No, no.
- Q. When you approached the building I presume you could see that it was one building sited on the corner?
- A. Yes, yeah.
- Q. And did you give any – do you remember giving any thought to it being one building and whether or not you should look at any other parts of the building other than the south-western corner?
- A. No I don't recall – I guess I sort of had a practice of trying to step back and see what we are looking at both to sort of assess safety risk for myself looking at it and trying to just take a step back view, but I don't recall anything on that side, on that 593 side specifically, I guess the best recollection is from what I wrote in my report and it just doesn't – I don't say anything or note anything about that side.
- Q. And can we infer from that that you didn't go on that frontage, or you just can't say?
- A. I honestly can't say.
- Q. And is that why you can't say whether – what placards if any were on the building?
- A. I just don't recall that side of the building.
- Q. How would you describe the level of these re-inspections? We've heard about level 1, level 2 assessments. What would they equate to, the re-inspections?
- A. I guess they were probably less thorough than a level 1.
- Q. Less thorough?
- A. I think yes. We sort of didn't have, there wasn't the form obviously that was as detailed as the level 1 and the purpose of them was slightly different in terms of going there to look at buildings. We are looking at buildings that had already been assessed, rather than perhaps going to a blank building and making a complete assessment.
- Q. Right.
- A. Sorry blank, I mean an un-assessed building.

- Q. Right. But you were going at a time when there'd been some significant aftershocks in the interim hadn't there, between the level 2 assessment in October and your one, there'd been the Boxing Day aftershock hadn't there?
- A. Yes.
- Q. And so you were inspecting, or re-inspecting buildings that had already suffered damage from September?
- A. Yes.
- Q. And could well have suffered further damage from Boxing Day or other aftershocks?
- A. Yes, yes.
- Q. Did you have any input into the level or the nature of the re-inspection?
- A. No, we sort of – we were given the, I guess the brief in the form of those documents and that was what we were tasked with doing. We sort of didn't write anything else ourselves.
- Q. Right. Because a level 1 as I understand it is normally simply an exterior look and it can be 10 minutes, even less. Is that correct?
- A. I wouldn't – I would have thought longer than 10 minutes, but yes, it's based on an exterior.
- Q. So these re-inspections were similar if not less?
- A. In that the form we sort of filled out wasn't as – wasn't the same as a level 1. We were still doing an exterior, just an exterior inspection.
- Q. And does it follow from the degree of the inspection that you spoke about that perhaps that's why you might not have thought to look at the whole of the building, because you're being directed to that address and to that damage from the level 2 assessment?
- A. Possibly.
- Q. Do you remember if you went inside the building?
- A. I remember I didn't go inside the building as I generally, because I was on my own and there was a sort of an element of a safety risk around what we were doing, we didn't go in.
- Q. And what about looking in the windows and ...

- A. I'm sorry, no, no, I can't remember (inaudible 11:28:50), I can't remember on this building, generally if I felt it was sort of, you know, needed I would approach. I think I made a comment about –
- Q. Do you want the form brought up?
- A. Seeing –
- Q. 0008M.1 please.
- A. Yes, part way down I made a comment about seeing some cracks through the windows and so if I could see through the windows then I, you know, I'd obviously try to look.
- Q. Where's the comment? The internal walls show large –
- A. Yes. So I was able to see an internal wall.
- Q. Okay, but you didn't actually go in?
- A. No, not inside no.
- Q. From your experience with these re-inspections – you presumably did a lot of them in that time?
- A. Yes.
- Q. Do you think there's anything to be learnt for the Commission in going – and lessons to be learnt from the September aftermath in relation to these re-inspections and the degree of the inspection applied?
- A. Speaking generally sort of about the re-inspections generally?
- Q. Yes.
- A. I think is obviously having more information can be helpful. There's probably pros and cons to everything but you know, having more information would certainly be helpful as would we'd be able to understand a bit better how the building was I guess constructed inside. Obviously the other side of that is sometimes that information wasn't always available and if we waited for that we wouldn't be able to go through the number of building. The other side is possibly communication. If at the time we had the files, but sometimes they didn't really have a lot of information in it either about what had been done previously or what was currently being done.
- Q. Right.
- A. And so possibly I guess communication could be.

Q. And you made the point that what was going on, what was being completed by Holmes Consulting Group, you were unaware of at the time of your inspection?

A. Yes, yes.

Q. Would that have helped you if you had been aware of that, that material of a pretty detailed inspection of the building?

A. To the extent that I guess I would have had access to a bit more information about what was perhaps going on from different points of view on the building, if, you know, it had been looked at in more detail, I think it would have contributed to my understanding of it, whether it would have – I don't know, sorry when you say help I guess I don't know for what I was there to do I think, I was, you know, I had enough.

Q. Well you made the point that you didn't know of it and I was just wondering if you had known would it have helped?

A. I probably would have come to a similar decision. I still red-stickered the building. I sort of upgraded it and there was probably nothing more I could do from that side of things but it probably would have – I don't know what else it may have done, but I don't think it would have been unhelpful, yes.

Q. Did you believe that you were red-stickering the building as a whole?

A. Probably. I think my stickering was focused on what we were there for, the 187 and those elements relating to the risk from the parapets and the wall from the other side.

Q. Right, but when you were directing that it be red-stickered, did you believe that it was just that corner of the building?

A. That side probably.

1133

Q. You didn't see a problem with that?

A. I sort of, I stickered it based on the damage I saw so I thought it was consistent with (inaudible 11:33:10).

Q. With damage at that corner?

A. For, for what I looked at, for what I remember looking at, yeah. I, I didn't write anything else.

Q. And you didn't give any thought to tenancies on the Colombo Street frontage of the same building?

- A. I didn't, I sort of don't recall that side. I guess if I'd seen something that I thought was worth noting, some damage or something I probably would have, you know, noted it down and made a comment in relation to it. Yeah.
- Q. So you didn't know what the position was with those, those tenancies at that frontage?
- A. I don't recall that, no, sorry.

CROSS-EXAMINATION: MR ELLIOTT

- Q. Mr Ryburn Opus were heavily involved in the post-earthquake assessment process is that right?
- A. We had a team involved in the re-inspections, yeah.
- Q. And you didn't have any information from GNS regarding the likelihood of the location or extent of further aftershocks?
- A. Nothing that wasn't sort of generally available.
- Q. Was that Opus' position as well, that it did not have such information from GNS?
- A. Yeah I, I believe so. We, we sort of shared information and I wasn't aware of anything else that anybody else had.
- Q. Your inspections were based upon an assumption that aftershocks would decay –
- A. Yes.
- Q. – you said?
- A. Yes.
- Q. Aren't engineers more interested in possible ground accelerations than magnitude of aftershock?
- A. Specifically I guess, it's probably the next step in detail.
- Q. So if you'd been aware that GNS could provide potentially calculations of likely ground accelerations in Christchurch arising from different possible magnitudes of earthquake within the aftershock zone, would that have assisted you in your considerations?
- A. I guess at some level it would have but we weren't doing any sort of assessments on, or calculations. So that, that's sort of one side of it and then the other side is considering what the building can and can't actually handle

and we wouldn't have been able to, to kind of have that side based on what we were looking at. So from a general point of view it would have been, I guess we could take it into account but we probably couldn't have done anything detailed with it in terms of what we are doing here.

Q. You were there during business hours were you for this inspection?

A. Yes.

Q. And you stepped back to look at the whole building?

A. I generally, I tried to take a, you know, step back from, from what we were doing rather than getting there and just looking at perhaps what, what was in the form. So I tried to, I tried to step back as a practice, yeah.

Q. Could you not see when you stepped back that the Southern Ink was open?

A. I, I don't recall from, from this one on that frontage – I just don't recall.

Q. You don't recall seeing a neon sign with "Open".

JUSTICE COOPER:

Well Mr Elliott he's told us already several times that he has no recollection of looking at the Colombo Street frontage so he couldn't see a sign there could he?

MR ELLIOTT:

No Your Honour.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

Q. Did you think that it was acceptable to red sticker part of the building?

A. Yeah I guess I, I red-stickered based on the damage I saw. We sort of weren't there to make an overall assessment of the building so we were looking at the damage that we saw at the time.

Q. Was this understanding you just expressed based upon something that the council said to you about what you should do?

A. Yes.

Q. I'll just show you one document then I'm done. Document ENGCCC0002F.148

WITNESS REFERRED TO DOCUMENT

- Q. This is a document produced in a report provided by the Christchurch City Council to the Royal Commission entitled, Building Safety Evaluation Processes After the Earthquake of September 4, document entitled Guidance and Monitoring and Reviewing Barricades. Did you see this document before you departed upon your inspections in February?
- A. It doesn't look familiar, no.

**JUSTICE COOPER REQUESTS DOCUMENT DETAILS – DRAFT 4, 15:15, 16
SEPTEMBER 2010**

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

- Q. Did the Christchurch City Council give you any explanation or guidance verbally about how to monitor or review barricades?
- A. I think there was some comment but I don't remember the exact, the exact details of what was given, no.
- Q. Did you consider the possibility of recommending a barricade along Colombo Street?
- A. No.

CROSS-EXAMINATION: MR LAING

- Q. Mr Ryburn in February you were doing a lot of these re-inspections weren't you?
- A. Yes.
- Q. And was that a consequence of dangerous building notice expiring?
- A. I believe that was one of the, the main purposes of what we were doing. Some of these notices were about to or in the process of expiring.
- Q. And so one of the purposes of your inspection was to follow-up and see whether any work had been done to the property, any remedial work had been done to the property. Is that correct?
- A. Yes.
- Q. And presumably another purpose of that inspection to see whether the state of the property had changed?

A. Yes.

Q. Yes. So that would be probably the main focus or your inspections wasn't it?

A. Yes.

CROSS-EXAMINATION: MESSRS BEADLE AND RZEPECKY – NIL

RE-EXAMINATION: MR MCLELLAN – NIL

**QUESTIONS FROM THE COURT : COMMISSIONERS CARTER AND FENWICK
– NIL**

QUESTIONS FROM THE COURT : JUSTICE COOPER - NIL

WITNESS EXCUSED

**JUSTICE COOPER ADDRESSES MESSRS ZARIFEH AND BEADLE -
DISCUSSION**

COMMISSION ADJOURNS: 11.42 AM

COMMISSION RESUMES: 11.50 AM

MR ZARIFEH CALLS:

MATTHEW PARKIN (AFFIRMED)

Q. Mr Parkin have you got a copy of your statement, signed statement. I think it's dated November 2011 on the back?

A. Yes.

Q. I think your full name is Matthew Parkin?

A. (No audible answer 11:51:55)

Q. Can I ask you please to read your statement to the Commission and then I'll come back to you and get you to refer to some emails?

A. My full name is Matthew Parkin. I own the Southern Ink Tattoo studio together with my brother Kerry. At the time of the September 2010 earthquake we had premises at 593B Colombo Street. The first time I went to the building after the September earthquake I saw that there was a green sticker on the door. However, when I got inside I saw that the ceiling had come down and that you could see up into the upper story which was unoccupied. After the September earthquake we asked for repairs to be done on the ceiling and I remember more plaster coming down. After September the business next door Adam and Eve had moved out and the acupuncturist at the back of our building had moved out as well. Our communication with the landlord was through Chris Chapman of Harcourts Property Management. I remember I rang him to check whether the building should have got a green sticker. Around about Christmas time Chris had two men come into the building. They were doing an engineering inspection. I wasn't there but my brother Kerry was there at the time. I remember being told by Chris that the building needed to be strengthened up to 67%. I think that the owners came over from overseas to have a look at the business but I was not there when that happened. After September the staff made a plan that in the event of another big earthquake we would all run out on to Colombo Street. On the 22nd February 2011 Matty McEachen was working for us when the earthquake struck and I saw him

sitting at his desk inside the shop. I was out the back of the building in the alleyway. I managed to get away without being injured and my recollection is that the rear of the building collapsed within four seconds of the shaking starting. Matty McEachen must have run out the front towards Colombo Street because his body was found under rubble at the front of the building.

Q. Thank you. I just want to clarify a couple of things in your statement. You said that you saw a green sticker on the door. That's the door to Southern Ink?

A. Yep, yes.

Q. And you might have seen the photos. I think you've been sitting here. This photo produced referred to with an open sign on it?

A. Yes.

Q. Is that the door we're talking about?

A. Yeah, to the left of that door.

Q. Right. And that door is immediately next to the building next to you the Lotus Heart café?

A. Yes.

Q. Here we've got it now.

WITNESS REFERRED TO PHOTOGRAPH

Q. So we can see a door looking at the photo to the right with the open sign?

A. Yep.

Q. That's the door you're talking about? That's the Southern Ink door?

A. Yep.

JUSTICE COOPER:

Q. So do you say the green sticker was placed to the left of that door, just to the left of it, is that what you're telling us?

A. Um, where Southern Ink Tattoo is written in the middle window just to the right-hand side of that was where the sticker was placed.

EXAMINATION CONTINUES: MR ZARIFEH

Q. What date do you think that was, when did you first, after the 4th of September when did you first go to the shop?

- A. I went in straight away but I was going up to Wellington, I went in there to get some tattoo gear for my trip and I'm pretty sure the sticker was there already.
- Q. Okay. We've heard evidence from the person who went along on the 5th so that's the next day, the Sunday, and he said he put a green sticker on that building so would you have been there, how soon after the 5th?
- A. Um, the 5th, I went in oh, it's pretty vague.
- Q. Was it within a day or days of that?
- A. Ah, it was within a day.
- Q. Okay.
- A. Yeah within a day.
- Q. And can you tell us what happened to that green sticker. Did it remain there or not – ?
- A. Ah –
- Q. – I mean it's obviously not in that photo is it?
- A. No the green sticker remained for maybe two or three weeks and then I think, I think my brother may have taken it down or it, it went somewhere.
- Q. But you recall it not being there after a period?
- A. After a period it wasn't there.
- Q. See the middle door, where does that go to? The middle door of the Colombo Street frontage?
- A. To the left of the shop there?
- Q. Yes under the SO of Southern?
- A. That goes up, upstairs.
- Q. Okay. And you can see a sticker on that door or what appears to be a sticker?
- A. Yep.
- Q. A placard. Can you recall that being there?
- A. Yep.
- Q. And can you recall what colour it was?
- A. Ah, it was yellow.
- Q. Right. When do you recall that being there?
- A. Ah, I recall that being there when the green sticker was there on our building.
- Q. So in the day or days after the earthquake?
- A. Shortly, shortly after.

- Q. Shortly after?
- A. Yep.
- Q. Is that something that you're sure of?
- A. Oh something I'd, I'm vague with. I know I've seen it.
- Q. You have seen a yellow sticker there?
- A. Yep.
- Q. Okay, and what you're vague on is the exact time?
- A. Um, yeah I'm vague on the exact time of seeing it there.
- Q. All right, what about any other entrances or windows. Were there any other stickers or placards that you can remember?
- A. Um, on St Asaph Street?
- Q. Well first with Colombo Street anything else?
- A. No.
- Q. Okay, St Asaph Street?
- A. I can't remember Adam and Eve having a sticker, um, I know 187 St Asaph Street had a, the two, um, the two shops on St Asaph Street in that block were yellow stickered.
- Q. So they had yellow?
- A. Yep.
- Q. Okay, is that something you're definite about?
- A. Ah, it is because I was wondering why we had a green one yeah.

JUSTICE COOPER:

- Q. I'm sorry I didn't hear that? I couldn't hear you?
- A. Oh sorry mate, um. I was wondering why, I know they had yellow stickers because I was wondering we, we had a green one.

EXAMINATION CONTINUES: MR ZARIFEH

- Q. And just on that you say in your brief that you remember you rang Chris Chapman to check whether the building should've got a green sticker?
- A. Yes.
- Q. When did you do that?
- A. Um, it might have been round November or Christmas time.

- Q. So some weeks or months after the September earthquake?
- A. Yes.
- Q. And why were you concerned about whether your building should have been green stickered?
- A. Um, because the ceiling had come down in the September and you could, you could see through to the top story.
- Q. Right. What through the lath and plaster?
- A. Um, the plaster it all came down and you could see the wooden slats and I tattooed, um, a guy one day and he said he could actually see daylight. He was lying down looking straight up, he could see daylight.
- Q. Right. Do you remember Chris Chapman said to you when you raised that issue?
- A. Um, he, he basically just said it's going to get, get looked at, it's gonna, um, get inspected.
- Q. Okay. So were you aware of engineers coming, I think you said that you were away when they came but you found out they, they'd visited?
- A. Yeah I got back in touch with Chris and he said that it needs to be strengthened and that repairs are going to be underway.
- Q. I'm just trying to fix this telephone conversation about whether it should be green stickered. Was it before or after you became aware that engineers had been?
- A. I'm not following you mate sorry?
- 1200
- Q. Well the phone call to Chris Chapman asking whether it should have been green stickered –
- A. Yeah.
- Q. – was that before or after you became aware that engineers had been?
- A. That was, that would have been before, yep.
- Q. And we've heard about visits by engineers 24 September, 27 September I think or the end of September, 4th of October and at the end of November. Were you there when any of those –
- A. I didn't see or talk to anyone.

- Q. You said on the 22nd of February that you were in the back of the building in the alleyway.
- A. Yes.
- Q. So did your Southern Ink premises, obviously had its frontage on Colombo and public entrance there. Could you, did you have access to the alleyway at the back?
- A. Yeah you could walk straight through the shop and then out the backdoor and the backdoor alleyway was the rear of the St Asaph shops.
- Q. Right. So I take it that when the earthquake struck in February you were in the alleyway itself?
- A. Yeah right by the back door of the shop.
- Q. Right and Matthew McEachen was you said in a desk inside the shop itself?
- A. Yeah, yeah.
- Q. Was anyone else there on the day?
- A. Inside the shop?
- Q. Yes.
- A. Yeah Bonny, Bonny was, the receptionist.
- Q. And which way did she go?
- A. When it hit?
- Q. Yes.
- A. She followed Matty.
- Q. But she survived?
- A. She, yeah she got injured but she survived.
- Q. And I take it from what you said that you weren't actually in the building itself when the earthquake struck?
- A. No.
- Q. I just want to ask, take you through emails that we've had Mr Chapman refer us to and I'll try and do it reasonably quickly. The first one is 0056.1. It'll come up on the screen in a moment. If you look at the bottom of that page, can you see on the 20th of September you're sending an email to Chris Chapman?
- A. Yes, yes.
- Q. And you said, "I understand you're the new property manager for 593B Colombo Street?"

- A. Yes.
- Q. Can you remember where, where you got that information from, that he was the new property manager?
- A. I think, I think what I did there was, there was an old property manager and he was really hard to get in touch with. I wrote him repeated emails and didn't get anything back so on the other shops that were for lease down St Asaph Street it had the Harcourts sign for (inaudible 12:03:34) I think it is and I think I rang Harcourts and then slowly just gave them the address and then ended up with Chris, was given his email.
- Q. And in that email you refer to that, then you ask him about repairs and that's for the damage that you told us about with the ceiling?
- A. Yes this is basically just trying to find who's going to try and do the repairs.
- Q. And then look at the top of the page there's his reply, or in the middle, I'll come back in a minute. "Thanks for email. Our first priority is to get the building structurally checked." Can you see that?
- A. Yeah, yeah I can see that.
- Q. Chris Chapman's email back to you and did that start you corresponding off and on with Chris Chapman over the building?
- A. Yeah it pretty much did although it was quite a while before I think I sent another email.
- Q. Well we'll come to that in a minute but what I'm saying is from that point on was he the, your point of contact?
- A. Yes, yes.
- Q. Okay and obviously you understood he was the property, the new property manager. Did he ever tell you otherwise?
- A. No.
- Q. Did you have any direct dealings with the owners at that time?
- A. I've never met them, no. (inaudible 12:04:55).
- Q. And are they overseas residents as far as you understand?
- A. Yeah little snippets of information. They were just, one was in Melbourne, one was in China, one was in London and it was really hard to get stuff done to the building.

- Q. Okay and then you, at the top of the page you reply to his email, "Thanks for getting back to me."
- A. Yep.
- Q. Right. You can look at point 2 please, 0056.2, 30th of September – you send an email to Chris Chapman. See that?
- A. Yep.
- Q. And again you're raising an issue about the rent, correct?
- A. Yes.
- Q. And in the last paragraph again talking about the damage and repairs, when are they going to happen?
- A. Yes.
- Q. And you talk about the health problems as a result of potential -
- A. Yep.
- Q. Okay and then if we look at the, at .3 please. If you look in the middle of that page you'll see what I presume is a reply from Chris Chapman to you on the 8th of October, so about a week later and he tells you about awaiting structural engineers' survey and recommendations.
- A. Yes.
- Q. And he says to you in the middle there that, "From the structural engineer's report I received the other day it may be some time before the building will be able to be tenanted legally."
- A. Mmm.
- Q. Did you, what did you understand by that. Do you recall?
- A. No I can't recall. "Tenanted legally." I think I thought, what's going on here when that came up.
- Q. Okay but he asked you to give him a copy of your lease, correct?
- A. That's right, yeah, yep.
- Q. And then at the top there you can see your reply, "Here's the lease mate. Let me know your thoughts."
- A. Mmm.
- Q. Okay and then the lease was attached to your email and we've got a copy of that which – we'll skip over to the next email which is .22. If you look at the bottom of that page, 18 November you're emailing Chris Chapman again.

- A. Yes.
- Q. And again, "Have you heard any more about the building report?" You talk about the ceiling.
- A. Yes.
- Q. And about nervous about being, bringing the public in.
- A. Yep.
- Q. And you say in the second to last or third to last line, "When you still haven't confirmed whether the building has been deemed safe or not." Correct?
- A. Yes.
- Q. So up to that point had Chris Chapman said anything to you about whether it was safe or not?
- A. No, nothing. I didn't see or hear from anyone and we were green stickered so this is really probably all I could do.
- Q. Right so you're asking what's happening?
- A. Mmm.
- Q. And then his reply there is in the middle of the page the next day, "I've a big meeting with some of the owners on Monday to sort out this property," and wanting to get into the shop.
- A. Yeah.
- Q. Correct?
- A. Yep.
- Q. Then the next email is at the top of that page, 21 January. That's from you to Chris?
- A. Yes.
- Q. So that's the beginning of this year and again checking up on the assessment of the building upstairs?
- A. Yes.
- Q. And talking about the rent. Were you trying to get a lower rent because of the damage?
- A. There was mention of a, of a rent decrease for the repairs.
- Q. Right. Who mentioned that?
- A. I may have rang Chris about that.
- Q. But that was discussions with Chris?

A. Yes, yeah, yep.

Q. And then if you look at page, .23 please. It's just going to come up. You'll see there's the email at the bottom that we've just been talking about from you and then the reply 24 January a few days later from Chris to yourself?

1210

WITNESS REFERRED TO PAGE .23

Q. And he talks about "structural engineers have been working away and 67% of building code", see that reference in the first paragraph?

A. Yes. Yep.

Q. Talks about the rent reduction he's managed to get you a reduction from the owners, second paragraph?

A. Yes.

Q. And talks to you about the last two paragraphs about it being a monthly tenancy and if you want to go somewhere else you can with that notice and it says if you want to look for alternatives then he might be able to help you, or Harcourts might?

A. Yes.

Q. All right. So apart from that information were you told anything about whether the building was effectively safe or not for you?

A. No. I remember thinking 67%'s a lot.

Q. Okay and I think if you look at page .24.

WITNESS REFERRED TO PAGE .24

Q. You'll see your reply, 28 January at the bottom, you see your email to Chris, "Thanks for your reply 67% sounds like a lot". Correct?

A. Yes.

Q. And again you say, "So how safe are we downstairs mate?" correct?

A. Yes.

Q. And then looks like these are emails produced by Mr Chapman but it looks like the next email is the one at the top it will come in a minute, 16 February, so a couple of weeks later?

A. Yes.

Q. Would that be right in your recollection?

- A. Yep.
- Q. And he replies about the 67% which is the Council wish?
- A. Mhm.
- Q. And he says, "I've finally received some repair plans" which he's forwarding on to the contractor, once they got some costs it would be up to the owners to decide what to do, "keep in touch. As soon as I know more I'll let you know"?
- A. Yep.
- Q. So that's obviously a week or just under a week before the earthquake?
- A. It is.
- Q. And was that the last communication from Chris Chapman that you got prior to the earthquake?
- A. Yes.
- Q. So what was your understanding of the position of whether or not you should be in that building as of 22nd of February?
- A. Um...
- Q. Well perhaps I'll put it a different way. Had you been told that you shouldn't be?
- A. No-one ever told us that we shouldn't be in that building.

CROSS-EXAMINATION: MR ELLIOTT – NIL

CROSS-EXAMINATION: MR LAING

- Q. Mr Parkin one thing. Yesterday a Mr Boys gave evidence that when he inspected the building on 24 September last year there was already a yellow sticker on the Colombo Street frontage. Does that accord with your memory?
- A. On, on the upstairs or –
- Q. No on the downstairs, on the door. Could we have that?
- A. That's absolutely incorrect. There was no, it was a green sticker on our shop.

JUSTICE COOPER:

Just clarify which door you're talking about.

CROSS-EXAMINATION CONTINUES: MR LAING

Q. Can you look at this photograph?

WITNESS REFERRED TO PHOTOGRAPH

Q. Could it be enlarged a little. If you look where the bike is you can see a very faint sticker which others have said is a yellow sticker on that doorway?

A. Yeah, that's right.

Q. Yes. Mr Boys said in evidence that that sticker was present when he made an inspection on the 24th September?

A. Yep.

Q. Does that accord with your understanding?

A. That would fit into, um, into what I'm, I'm saying too yeah. I'm sorry I thought you mean on our, our shop.

Q. No. So at that time do you recall that the green sticker was still on your shop front?

A. It should've been but I can't be certain.

Q. No. So you're not certain when the green sticker was removed?

A. No.

Q. No.

A. Um, definitely, it was definitely up for a couple of months now that I think about it. At least, oh, yeah a month and a half, I know it was up for that long.

Q. Yes. And you're not certain who removed the green sticker?

A. No I'm not.

CROSS-EXAMINATION: MESSRS BEADLE & MCLELLAN – NIL**CROSS-EXAMINATION: MR RZEPECKY**

Q. Good morning Mr Parkin.

A. G'day.

Q. I wonder if Mr Parkin could just be shown the photograph that was just up on the screen.

WITNESS REFERRED TO PHOTOGRAPH BUI.COL 593.005A.4A

- Q. Now Mr Parkin you've just been having a look at that photograph. Mr Parkin you've just been talking about the middle door which is access to upstairs and the yellow placard there. Do you ever recall there being a green placard on that door?
- A. No.
- Q. But the only placard that was ever on your shop was green?
- A. Yes.
- Q. And you understand the difference between the two?
- A. Yes.
- Q. I guess most Christchurch people, so that was something that was important to you that your shop was green?
- A. Yep.
- Q. Were you ever there, is it your evidence that you were never on, in your shop when any engineers or building owners came through?
- A. Ah, I never saw anyone.
- Q. Yeah.
- A. But I know that some people did come round.
- Q. You know that people came in?
- A. Yes.
- Q. You don't know which dates they were?
- A. No I don't sorry.
- Q. Mr Chapman was always helpful?
- A. Ah, he was yeah, yeah.

RE-EXAMINATION: MR ZARIFEH - NIL

QUESTIONS FROM THE COURT : COMMISSIONERS FENWICK & CARTER- NIL

JUSTICE COOPER ADDRESSES WITNESS

WITNESS EXCUSED

MR RZEPECKY RECALLS:**CHRISTOPHER CHAPMAN (AFFIRMED)**

Q. Good morning Mr Chapman.

A. Good morning.

Q. Now Mr Chapman you've come back today because there was evidence given earlier by Mr Seville of Holmes that following his inspection of the building on the 4th of October 2010 he noted that there was a yellow placard on the middle door which was accessed upstairs and that Southern Ink was in occupation and his evidence this morning was that on the 4th or soon thereafter he telephoned you to tell you that the building was yellow and that Southern Ink shouldn't be there. What is your response to that evidence?

A. Well I went to my diary and I have copied Monday the 4th of October 2010 (inaudible 12:19:31)

Q. Well firstly Mr Chapman, did you recall a conversation with Mr Seville on that day?

A. Immediately no I did not recall a conversation.

Q. Yes. So to assist your memory what did you do?

A. Ah, went into my archive of diaries and found the page 4th of October 2010.

Q. And is there a note in your diary relating to a call from Mr Seville?

A. There is a note on my diary, ah, "1.31 pm".

Q. Thank you and now when did you make that note?

A. Sorry?

1220

Q. When did you make that note?

A. On the 4th of October.

Q. Okay and would you like to refer to that note to refresh your memory?

A. I would, it um....

Q. Now just pause there a moment.

MR RZEPECKY ADDRESSES THE COMMISSION

Q. Now Mr Chapman could you just explain briefly where you're looking on this double page from your diary?

A. On the middle right-hand side.

UNIDENTIFIED SPEAKER – INAUDIBLE 12.20.40

Q. I think I missed the bench out, sorry, sorry it was my intention that everybody got one. So we're on the middle and is it the entry there 1.31 pm voice?

A. Correct.

Q. And what does that refer to Mr Chapman?

A. Means that there's a, I've received a voice message from somebody at that particular time.

Q. And what would you have done?

A. I've recorded who it's from. I've made a very quick note that it's to do with fixing some, doing some temporary fixing. I've recorded the phone number from who that is from and then I've made a note in relation to which building it is and that refers to 124 Lichfield Street and then I've made a note that I need to talk to Mike Dow from Spotless in regard to those temporary fixing works.

Q. And whose number is that?

A. Having checked the numbers that I have I find that it's Richard Seville's phone number.

Q. I beg your pardon for that?

A. I find it's Richard Seville's cellphone number.

Q. So apart from this note do you recall any other phone calls around about that time from Mr Seville?

A. Not at that time. As you'll see from my diary I receive calls and I make notes about who they're from, phone numbers and brief notes about what the issue is. It's a daily routine that I get into.

Q. So what was your understanding of yellow placarded buildings?

A. Yellow placard buildings would, could be temporarily occupied in short-term usually to perhaps remove gear but they shouldn't be occupied on a full-time basis.

Q. So that was your understanding at the time?

A. My understanding at the time.

Q. So what would your reaction have been had you received a phone call from Mr Seville in which he told you that the building on Colombo Street was yellow and shouldn't be occupied by Southern Ink?

- A. Those notes would have recorded yellow. I would have perhaps even highlighted it and then –
- Q. Just slow down a little bit – yes.
- A. I would have highlighted yellow, because I would have written the word on there, and I would have, next stage would have been to contact the tenant.
- Q. To what end, Mr Chapman?
- A. Contact the tenant to advise them that the building has been placarded as yellow and that they should not be in there.
- Q. And what, if any, written communication would you have expected to have received from Holmes in respect of the placarding of the building. I would have expected that their reports that they provided us from their assessments would have reference to the placarding.
- A. Is that a practice that you were familiar with from Holmes?
- Q. It was a practice that we were familiar with.

WITNESS REFERRED TO DOCUMENT 0007H.1

- Q. You'll see that's the written report from 4th October which you mentioned in evidence yesterday Mr Chapman.
- A. That's correct.
- Q. So you're familiar with that.
- A. I am.
- Q. So if there was an issue about yellow placarding and occupation, what, if anything, would you have expected to see in that report?
- A. I would have expected some reference to yellow placarding and that the building would not, well it may or may not mention that the building should not be occupied but certainly yellow would alert me to the fact that it should not be occupied.
- Q. And did you have a, what sort of a working relationship did you have with Mr Seville of Holmes at this time?
- A. We had a very good working relationship with Mr Holmes, I'm sorry Mr Seville from Holmes, and they were very good at advising us of issues and assisting with the design and the repair of, supervising the repair of works.

WITNESS REFERRED TO 0053.1

- Q. I think you're also familiar with that email of 6 October Mr Chapman.
- A. Yes I am.
- Q. And that's, I take it you would have received many emails at this time from Mr Seville and others at Holmes.
- A. Many emails not just from engineers but from tenants, owners, yes.
- Q. And would you have expected Mr Seville to take the opportunity to tell you about the placarding in Southern Ink in this email had that been important?
- A. I would have expected that yes.
- Q. So if you had received that information in either or both of the 4 October report and the 6 October email what would you have done in response?
- A. I would have immediately contacted the tenant and advised them they should not be in the building.

CROSS-EXAMINATION: MR BEADLE

- Q. Mr Chapman you did attend at the building after this period of time didn't you, the 4th of October, you attended later in November?
- A. I did meet with the owners and engineers and contractors, yes.
- Q. Do you still stand by your position yesterday which is you did not recollect the colour of the placard on the central door underneath the word SOU on –
- A. Correct. I do not recollect the colour of the placard.

JUSTICE COOPER:

- Q. Did you want to say something further.
- A. Yeah I was just going to say that it would have been normal for multiple entranceways to have been placarded, not just the one, and we did have in our portfolio properties that were red placarded and green placarded, areas that weren't accessible, areas that could continue to trade. In fact even in one, not necessarily in the CBD of course, but we did actually have one building that had all three placards on it at one stage as well. So a placard on a central door doesn't necessarily mean to say, well didn't necessarily mean to say that the whole building was not untenable.

JUSTICE COOPER ADDRESSES MR BEADLE

CROSS-EXAMINATION: MR ZARIFEH

- Q. Mr Chapman, where you were just talking about the placarding on separate doorways I understood your evidence yesterday was that you don't recall, you didn't recall seeing the yellow placard in the middle doorway?
- A. I don't recall the colour of the placard on that doorway I think was my reference.
- Q. But you recall a placard though?
- A. There may have been.
- Q. Oh okay.

JUSTICE COOPER :

- Q. Well do you recall it or not?
- A. I don't recall it no but the fact that the photograph –
- Q. Well that was the question.
- A. The photograph intimates that there was one there.

CROSS-EXAMINATION CONTINUES: MR ZARIFEH

- Q. Right well I was just trying to understand whether you recalled it or you were just making a general comment, okay. Just so the record's clear, as you know we've had evidence from Mr Boys and Mr Seville that each of them told you, they say, or talked to you about the yellow placard status of the building, correct?
- A. I'm aware of that evidence.
- Q. That's what they said.
- A. Yes.
- Q. So is your evidence that they did not do that or that you have no recollection of them doing that if they did?
- A. I don't recollect that and, as I've said, I would have expected that those reports would have had the reference there.
- Q. I understand that but just talking about the conversations Mr Boys I think said it was in person and Mr Seville is on the phone. You don't recall them saying anything about it?

A. We had many meetings with the Holmes Consulting over properties in our portfolios, things that they were assessing, the plan for the next several days. I don't recollect every one of those conversations or every one of those meetings.

Q. But presumably you're saying that if you had been told that that would have been a warning to you.

A. If in this message here I would have recorded the fact that the building had been yellow but it doesn't refer to that particular building it refers to another building so if it had referred to that building I would have certainly been in a position to have immediately contacted the tenant.

1230

Q. And the site report of 4 October and that email of 6 October that we just referred to, none of those things raised any concern with you?

A. None of those refer to a yellow placarding requiring a tenant not to be in the property.

Q. But the extent of the damage that they talk about, that didn't raise any concern?

A. I'm not an expert in building assessment. That's the reliance that we have on structural engineers to do those assessments and to provide us with that information and the written reports to do that, so I'm not an expert in assessment on buildings. I would suspect that there are probably buildings around the Christchurch area now, not necessarily the CBD that require repair works but they are currently occupiable and tenanted.

Q. But there's no –

A. Doesn't mean to say they're unsafe.

Q. What are you saying, they're placarded still?

A. Well the placarding I believe finished once the Civil Defence emergency was off but there must be –

Q. So what's your point though that the buildings were being occupied but shouldn't have and still are?

A. What I'm saying now is that there are buildings out here in Christchurch that are occupied that have suffered earthquake damage that may need repair and/

or strengthening but it doesn't mean to say that they are unsafe to be occupied. They are currently tenanted at the present point in time.

Q. Right, and are you saying that in reference to 593 that you thought about it and thought that it was okay?

A. No, that's a general comment, not specific to here. This placard and unfortunately we don't have the placard so we can't read the words on it, but it may actually only refer to access upstairs, not to the fact of any access to the ground floor.

CROSS-EXAMINATION: MESSRS ELLIOTT, LAING & MCLELLAN – NIL

RE-EXAMINATION: MR RZEPECKY – NIL

QUESTIONS FROM THE COURT : COMMISSIONERS FENWICK & CARTER - NIL

QUESTIONS FROM THE COURT : JUSTICE COOPER - NIL

WITNESS EXCUSED

STATEMENT OF KERRY PARKIN READ TO THE COURT

My full name is Kerry Parkin, I own the Southern Ink Tattoo parlour with my brother Matt. I remember after the September 2010 earthquake we had heard reports of looting in the city so we went to check on our business at 593B Colombo Street. There was a green sticker on the front door but once I got inside the building I wondered how we got one. There was plaster on the floor which had fallen from the ceiling and the stairwell that went upstairs the property encroached into our premises. Someone said they could see the sky through the cracks. It made us concerned about the strength and safety of the building. We dealt with the property manager, Chris Chapman. We voiced our concerns with him and before the February earthquake he and two engineers came to our business. I don't remember them introducing themselves to us but they looked around and gave the building what I would call a quick once over, took about five to 10 minutes. I know that they went upstairs. I presume that Chris got them a key to the upstairs property which was unoccupied since before 4 September. I remember one of the engineers saying that there were cosmetic cracks and he commented that the loose stuff from the ceiling had already been removed. Once we knocked the plaster out of the ceiling you could see thin bits of wood. You could see straight through them to the upstairs flat. I was not at the business at the time of the 22 February 2011 earthquake.

MR LAING ADDRESSES THE COMMISSION:

Now Sir, there's that email from Miss Chang that was referred to. I'm not going to read that, that was put in in cross-examination.

JUSTICE COOPER:

No, we're familiar with that. Now I think in this case counsel may wish to make submissions but it will have to be in writing now. I am open to suggestions as to when counsel might like to do that.

MR LAING:

Probably we're the least affected but certainly after Christmas would be helpful.

JUSTICE COOPER:

After Christmas, 27th of December Mr Laing.

MR LAING:

That might be pushing it a little bit Sir.

JUSTICE COOPER:

Well shall we say by the 30th of January, all right.

MR LAING:

Certainly.

JUSTICE COOPER:

And if you wish to, those submissions should address what inferences might be available on the evidence that we've heard. Thank you for your assistance in this matter and we'll now move onto the next case.

90 COLERIDGE STREET**JUSTICE COOPER:**

Mr Zarifeh, I understand Mr Laing has so far been under the impression that the council is not involved in this matter and indeed it isn't on the papers, but I must say having read the file Mr Laing, I am wondering about the fact that there is quite a substantial six metre high, or not six metre high, it must be – well according to Mr Smith's report it is approximately six metres high and extends for a length of three metres, even if it is the other way around which I suspect might be the case, is there no – has a search been made to see if there is any building permit record for this structure. It seems to date from some time in the 1980's as best can be told so that is the question in my mind anyway.

MR LAING:

Sir, unfortunately I have not got my file with me so if you did want evidence on that point I would have to go and brief it. Certainly that that – and there's no respect to anybody but that property has not been top of the mind awareness for me.

JUSTICE COOPER:

No, I understand that and certainly I would give you an opportunity to respond but you might like to wait in the circumstances until Mr Zarifeh's opened and called Mr Smith.

MR LAING:

Certainly Sir, I'll be here as long as it helps.

JUSTICE COOPER:

Thank you, I'm obliged to you.

1240

MR ZARIFEH OPENS:

The Commission pleases, Stephen Cochrane was killed in the 22nd of February earthquake when a concrete block wall collapsed and crushed him as he ran out of Classique Furniture at 90 Coleridge Street. Graham Dreaver is the owner of Classique Furniture and he purchased the building some 10 or 12 years ago. On the eastern side of the building there is a driveway which accesses a sliding door into the factory. On the eastern boundary of the property, very close to the boundary wall, and the boundary wall is a concrete side wall of a neighbouring factory so it's quite a tall building, was the wall in question. It was a free-standing wall approximately six metres high and three metres wide according to Mr Dreaver. When Mr Dreaver purchased the property the wall was as it was prior to the 22nd of February earthquake. At the time that he purchased the property he was told by the previous owner that this wall had been part of a lean-to connected to the building by a roof going across the driveway and apparently the roof collapsed in heavy snows, likely in 1992, leaving the wall standing, as I say, very close to the boundary where it had remained ever since. After the September earthquake and the Boxing Day aftershock there did not appear to Mr Dreaver to be any structural problems with the building. There appears to be no council or Civil Defence assessment of the building it being out of the CBD following September and even after the February aftershock. During the February earthquake sideways movement of the wall resulted in the top two layers of concrete blocks breaking off the wall where they landed on the neighbouring building, on the roof of the neighbouring building. The rest of the wall fell in one lump in the other direction towards the building. Because the two top layers of blocks had already come off, the wall just cleared the building as it toppled over. Stephen Cochrane who had been working at Classique Furniture in the factory at the time of the earthquake ran out of the side door and down that driveway to escape the building. Tragically just as he ran down the driveway the, at that point the wall toppled over crushing him underneath it. Efforts were made to rescue Mr

Cochrane by lifting the wall but he had died as a result of the injuries, the crush injuries. Subsequently it was discovered that the wall had only two approximately 20 ml reinforcement rods, one at each end and they were still there in, at the base of the wall when inspected later. I should say when inspected later the wall had been removed so it wasn't actually inspected by Mr Smith or any other engineer. Those are the brief facts if the Commission pleases. There are four witnesses to be called. Mr Smith will give his report and Ms, Mrs Tania Cochrane will be called. She's provided her statement by way of an email.

JUSTICE COOPER:

Yes.

MR ZARIFEH:

Mr Dreaver, the owner and Mark Hobson who is an employee who was the last person to see Stephen Cochrane will give brief evidence.

JUSTICE COOPER:

Have we, has the Commission through counsel made enquiry of the city council about the status of this wall?

MR ZARIFEH:

Not in terms of permitting. I made enquiries to see if they had anything about the wall on their wall and they had nothing I was told. So I didn't take it any further. So I don't know if that's, or that may not be correct but if it is then there may not be too much that Mr Laing can help with.

JUSTICE COOPER:

Yes, all right.

MR ZARIFEH:

And there are some photos, I haven't got a number on mine. There are two photos available. They may have a number I'm not sure.

JUSTICE COOPER:

I've got in my file photos, two photos, BUICOLE090 –

MR ZARIFEH:

Yes, yes.

JUSTICE COOPER:

01.1 and 1.2.

MR ZARIFEH:

Yes that's them. They're up now. Thank you.

MR ZARIFEH CALLS**PETER SMITH (SWORN)**

Q. Mr Smith we have your written report of November 2011. Can I ask you please, you've heard my introduction which covers some of your report, can I ask you please to read out the two sections on page 3 under "Structural Failure," and "Issues Arising from Review?"

A. The wall failed at two locations. The top two courses of the block work separated from the remainder of the wall and landed on the roof of the adjoining building. This failure was undoubtedly initiated by pounding between the wall and the adjoining building. The remainder of the block wall rotated about the concrete foundation up-stand and collapsed towards the industrial building, tragically killing a worker who was running from the building at the time of the earthquake. We understand that the wall was reinforced with one D20 millimetre reinforcing rod at each end of the wall. Photos of the foundation following demolition of the wall show little or no concrete adhering to the reinforcement and the bent shape of the reinforcement indicates that the cells containing reinforcement were either not filled or filled with poor quality concrete. The dislodging of the top two courses of the wall would also suggest that the upper portion of the wall was not reinforced. Assuming that the reinforcement projecting from the foundations extended up through the wall and that the cells were filled, the wall could be expected to withstand a seismic loading equivalent to 0.03 g. Clearly the failure of the wall was almost inevitable under the severity of shaking on the 21st of February 2011.

Issues Arising From Review. The review of the photos of the wall after the 22nd of February 2011 earthquake establish that the wall was inadequately reinforced and that the infilling of the reinforced cells of the walls was either of low quality or did not exist. The extent of reinforcement was sufficient to meet the minimum reinforcement ratio of NZSS95 but did not meet spacing requirements or strength requirements. Failure of the wall was inevitable under the severe shaking of the 22nd of February 2011 earthquake. The introduction of the Building Act 1991 required appropriate inspections of building work and for the territorial authority to issue a Code Compliance

Certificate when satisfied that the work had been constructed in accordance with the Building Code requirements. These provisions should prevent a repeat of the construction of substandard masonry in any future construction.

MR ZARIFEH ADDRESSES JUSTICE COOPER:

And Your Honour if I can just indicate that, I've just been given a note. Ms Jamieson made some enquiries following your request and it seems from the council records that Mr Hutt from the Commission office had a look at that the wall is shown on the building permit from 1966 and is connected to the main part of the building by rafters. There is no record of the roof being removed on the council file.

EXAMINATION CONTINUES: MR ZARIFEH

- Q. And perhaps Mr Smith. Just on that point, if, if it dated back to 1966 would that, can you make any comment about that, the likelihood of that?
- A. It should have been designed, I think in 1966 there was a requirement for walls to be stable after fire which was a lesser requirement than if it was a simple cantilevered wall on the boundary under normal conditions. Again it, it may or may not have withstood the severity of shaking even if it had have been reinforced at that level.
- Q. Right. So the reinforcing that, we can see those two rods in the photos and if we just turn to those photographs 0001.1 and 2. That's a photograph of each end of the base so the wall has been remove – obviously after it had fallen it's been removed and all we're seeing is the base and in .1 we can see the right-hand end and that reinforcing rod is the piece of rod coming out of the concrete to the left of the pot plant on the very right -
- A. Indeed.
- Q. - of the wall, of the base and .2, the reinforcing rod is to the right of the pot plant that's at the left end of the base.
- A. Yes.
- Q. And what can you say, what should there have been in terms of reinforcing to prevent that wall collapsing?

A. We would expect reinforcement at approximately 400 to 600 millimetre centres for the height of wall.

1250

Q. Right, those rods don't appear very long. Is that an indicator of the length they were or could they have been broken in the fall?

A. That is unknown. That length of a starter rod would probably be acceptable as long as they had reinforcement lapping with them within the wall.

Q. Through the wall, right, and you said that the top two blocks breaking off onto the roof of the neighbouring property, that indicated reinforcing didn't run to the top.

A. Pretty much yes.

Q. And should it have?

A. Yes it should.

Q. And, in terms of perhaps looking beyond just this wall, can you make any comment on how prevalent that kind of wall, whether as a boundary wall or otherwise, in terms of its age and reinforcing or lack of it might exist in other parts of Christchurch or anywhere else?

A. No not really.

Q. But you say that the Building Act, current Building Act, if complied with, would avoid –

A. Yes under the present code the construction of that wall would have to meet quite different requirements.

Q. And, hopefully, withstand even, what, something of the shaking of February?

A. One would expect it to withstand the shaking we had in February even though it may be damaged.

CROSS-EXAMINATION: MR ELLIOTT

Q. Mr Smith, just for those lay people who might be trying to understand your comment there, you said that the, on the one hand the wall was inadequately reinforced. You then say the extent of reinforcement was sufficient to meet the minimum reinforcement ratios of NZS95 but did not meet spacing or strength requirements.

A. That's correct.

- Q. Are you saying there there are three separate requirements under that particular code?
- A. That's correct yes.
- Q. And it met one of them.
- A. That's correct.
- Q. On reinforcing but not –
- A. They used fairly large rods spaced well apart that did actually meet the requirements for a minimum reinforcement but not the other requirements of that code.
- Q. So (inaudible 12.52.26 – overtalking) two.
- A. Yes.

JUSTICE COOPER ADDRESSES MR LAING RE RESERVING RIGHT TO FILE MEMORANDUM OR RAISE ANY ISSUES AT A LATER DATE IF REQUIRED

QUESTIONS FROM THE COURT : COMMISSIONERS FENWICK & CARTER – NIL

QUESTIONS FROM THE COURT: JUSTICE COOPER

- Q. Can I just ask you about the height of this wall. I understand that it seems that as originally constructed there was a roof over which must have been joined to the adjacent, the main building on the property. Are you satisfied that six metres is, I understand you've been, based on what Mr Dreaver says about that. It seems like quite a high wall to me but...
- A. It obviously was quite a high wall because it was at least two courses above the height of the adjoining building so it was quite a high wall.
- Q. So the roof would have sloped down (inaudible 12.54.26)
- A. Back to the gutter of the other building I suspect. I haven't seen plans but rather than putting an extra gutter they probably sloped the roof back to the industrial building.
- Q. Yes and it's not, you would not see a building that high these days on a boundary but that's a planning issue I suppose?

- A. Yes it certainly is possible to build higher than that on boundaries but you certainly need to make sure it's got the strength to withstand earthquake or wind loading.

WITNESS EXCUSED

MR ZARIFEH CALLS:

TANIA COCHRANE (SWORN)

JUSTICE COOPER:

Q. Mrs Cochrane, would you like somebody to be sitting next to you. You're welcome if you'd like.

A. Can I have my sister in law?

Q. Yes certainly. Now we all know this will be an ordeal for you so don't, just do your best and there's some, I'm not encouraging you to use them but there are some tissues there if you want them, all right.

EXAMINATION: MR ZARIFEH

Q. Mrs Cochrane your full name is Tania Cochrane?

A. Yes.

Q. I think I have asked you to put your thoughts or the things that you wanted to express and the questions that you had in an email.

A. Yes.

Q. And you've done that on the 29th of November. Have you got that in front of you?

A. Yes I have.

Q. How would you like to present that? Do you want to read it out? Is that the best way?

A. Yes, I can.

Q. Well it's up to you. If you'd like to do that then you go ahead.

A. I, Tania Cochrane, spoke to Stephen Cochrane about the earthquake on the 4th of September at his work, whether it had been checked by an engineer and he had said to me no-one had checked the building or inspected it while he was around and its surroundings as well. I used to park my car and my truck next to the block wall but I could see that the mortar had cracked through the blocks and the blocks were leaning. Many a time my 11 year old daughter, Kylie-Marie, had said to her father and told her father to stay away from the

wall. I would not park next to the block wall as I was scared that it would fall or something like that. It didn't look safe and Kylie-Marie would always say to her Dad, "Stay away from the wall". She would always say to him when he'd get in the car, "Would you get in the other side. It's not safe to go in that side". But I won't say what he used to say but he would say to me not to be such a worry-wart and he never listened to us girls. But I just wanted to know why the building and its surrounds were not checked after the 4th of September as obviously there was damage inside and out. Even Stephen's friends that had picked him up from work didn't like the look of the block wall and asked why was it there. Work colleagues had also mentioned damage to the building and it was brushed off. I am not impressed with anyone's statement and I feel the truth has to be told.

Q. All right and I think you missed out the second paragraph about "the clearing away". Do you want to read that?

A. Oh yeah. I want to know why Mr Graeme Dreaver had the wall cleared away as soon as February the 22nd struck. What was the reason for the blocks to be taken away so soon and what was trying to be hidden?

Q. Okay now can I just ask you some questions just to amplify some of those points. Firstly, you said that the, you could see the mortar had cracked through and the blocks were leaning, right?

A. Yeah they –

Q. Just tell us a bit more about that.

A. Well you could see when you parked, because I parked next to it all the time 'cos I took him to work quite a bit and you could see that it was cracked and you know how you get a line on a block like that so you could see the mortar was cracked in between the walls and the blocks and it didn't look safe and when we parked next to it, 'cos I used to park next to it quite a bit because Stephen would load up wood and stuff, the wall it would stand about this thick, it's quite a thick concrete block wall, but it was leaning like –

Q. Leaning which way?

A. Towards the door.

Q. Towards the building.

- A. Yeah towards the building itself you see, because there's a gap, there was a gap behind it.
- Q. Right so it was close to the boundary which was the side wall of the factory wasn't it?
- A. Yes the first door.
- Q. The next door factory.
- A. Yep and then it was, it's on that side to the other building, but you could see it because as you parked up, because we used to open the gate and that for him and stuff and I'd say to Stephen "I'm not parking next to that wall any more" and he'd go "Why". I said "Doesn't look safe. Stay away from it". He'd go "It's all right, it's fine". It would have fallen down.

1300

- Q. So how much of a lean, from a vertical how much out from vertical?
- A. Well it would just, it looked like it was on a you know slight lean, but it didn't look safe.
- Q. Right.
- A. You know how if you had a straight wall it wasn't straight. It was – and even his 11 year old daughter said the same thing, "Dad it doesn't look safe, stay away from the wall."
- Q. And the cracks that you describe, so they're going –
- A. They go through the blocks.
- Q. Through the mortar?
- A. Yes.
- Q. And how many of those do you recall?
- A. There was lots of those, there was lots of cracks, I mean I said to Stephen, "Look you can see," it was halfway through the middle, it was halfway through the bottom and you could see the cracks in the mortar.
- Q. And where these cracks were, what can you say about the mortar, was the mortar in the cracks or not?
- A. Yeah there was some of it was missing, you know, like because it had fallen out, probably old.
- Q. Apart from talking to Stephen about it, did you talk to anyone else, did you talk to Graeme?

- A. Only his friends that had like picked him up and stuff like that from work, and they say, "God, why is that block wall there." You know and they didn't like the look of it either.
- Q. Did you ever talk to Graeme Dreaver?
- A. No.
- Q. Do you know if Stephen ever did?
- A. No.
- Q. So from what you –
- A. Stephen used to moan to me rather than moan to his boss.
- Q. Right, but from what you said, Stephen kind off brushed yours and your daughter's concerns?
- A. Yeah, he just, he said, "It's all right, don't be such a worry wart." But we were worried because of the wall.
- Q. You also say that you wanted to know why the wall was cleared away so soon after the 22nd of February. Do you know how long after it was cleared away?
- A. No, it was gone really quickly. I'm not sure when.
- Q. But what –
- A. Because we went –
- Q. - days or weeks or what?
- A. I don't know, I went back there and it had gone.
- Q. When did you go back, how long after the 22nd?
- A. Two, three, when did we have the memorial, because we went back through there and it had gone. It was – he had it there just for a few days and then they were gone, the blocks.
- Q. So you think within days?
- A. Mmm.
- Q. Okay.
- A. I need to know where they went and – I got two blocks back.
- Q. And you said the other thing you wanted to know was why the building and surroundings weren't checked after the 4th of September. I think you've – so we will hear from Mr Dreaver but you've seen his statement. He got a friend who was a builder I think to look at it.
- A. I mean a friend of a friend.

- Q. Yes.
- A. But I mean it wasn't stickered and look at it now, it's got – the boys have had the whole wall braced, they've still got the crates around the front of it.
- Q. This is the factory building you're talking about?
- A. Yes.
- Q. That's post-February isn't it?
- A. Yes. And it was all fixed up and tightened up.
- Q. Okay, but we're talking about post September but your question is why wasn't it properly checked then. Is that right?
- A. Yes, why wasn't it properly checked then and it might have prevented all of this.
- Q. And I think the – it seems clear that there's no check by the council because it wasn't in the CBD after September, but you're talking about a check by the owner?
- A. Yeah, from a structural engineer.
- Q. All right, now is there anything else that I've missed out or have we covered it?
- A. I think I've covered it.

CROSS-EXAMINATION: ALL COUNSEL – NIL

QUESTIONS FROM THE COURT: COMMISSIONERS FENWICK & CARTER – NIL

QUESTIONS FROM THE COURT: JUSTICE COOPER - NIL

WITNESS EXCUSED

MR ZARIFEH CALLS**GRAEME DREAVAR (SWORN)**

Q. Mr Dreaver, your name is Graeme Dreaver?

A. Yep.

Q. And have you got a statement in front of you that you've signed and dated 1.12.11?

A. Well, yeah I've got this, yes, I have yes.

Q. I just want to make sure it's the right one because I think it was put into the first person from the original so I just want to make sure you've got the right one.

A. I've got the one doesn't have a date at the top of it. The one that you did –

Q. So it's got the date on the page 2, if you turn over the page of the statement, no, the statement on your left. No on your left there's the statement.

A. That one there, yeah.

Q. And if you turn over the page. I'll get one handed up to you so that you're reading the same one. Have a look at that and confirm that that's –

A. That is the one yeah.

Q. Can I ask you to read that. Are you happy with that?

A. Oh, okay.

WITNESS READS STATEMENT TO THE COURT

A. "I reside in Christchurch and own Classique Furniture at 90 Coleridge Street, Sydenham. I purchased the property at 90 Coleridge Street some 10 to 12 years ago. At the time there was a free standing wall adjacent to the eastern boundary of the property that had been there for some years before then, according to the previous owner, being part of a lean-to ie connected to a factory roof. The roof collapsed in a heavy snow maybe in 1992 leaving the wall standing. It had remained there ever since. The wall was some six to seven metres high and approximately three metres wide. The wall was made of concrete block, probably 100 mils, 100 mil blocks. I think at the top rows the blocks were filled with concrete. When the earthquake struck I understand that Stephen was working inside the factory, ran the side door on the eastern side

of the factory. As he went past the block wall it toppled over crushing him underneath. From the fact that the wall was found –“

EXAMINATION CONTINUES: MR ZARIFEH

Q. The blocks.

WITNESS CONTINUES READING STATEMENT

A. Oh sorry, “from the fact the blocks were found from a roof of the building on the east of 90 Coleridge Street, it seems that the earthquake struck the wall shook and the top two rows which were filled with concrete broke off and fell onto the neighbour’s roof. The rest of the wall more or less in one lump fell into the western direction towards the factory building. The rest of the wall had just enough clearance to clear the building. If the top two rows of blocks had not come off prior then the wall may have hit the side of the factory instead of falling clear of it. After February earthquake when we had the foundation of the –“

Q. When we looked at the foundation of the wall –

WITNESS CONTINUES READING STATEMENT

A. “When we looked at the foundation we discovered that it only had two approximately 20 mil rods reinforcing, one of each coming out of each end of the foundations before that having gone into the blocks at the end. See photos. After the September earthquake there were no structural problems with the building or any noticeable damage to the wall. The same applied the following Boxing Day quake. After the September quake I had a builder, who was a friend of a friend, look at the building and check it out. The following February earthquake engineers from Opus went through the building but they were only looking at the building and not what was left of the wall. Prior to the February quake we did not appear to have any cracks in the wall. No one had really given any thought to the terms of whether or not it was structurally sound or dangerous. I didn't think –“

Q. I did think.

WITNESS CONTINUES READING STATEMENT

A. Oh sorry, "I did think that perhaps it should have – that we should take it down but because it was not a hazard –"

Q. But not because.

WITNESS CONTINUES READING STATEMENT

A. "But not because it was a hazard. It might give slightly more clearance in the driveway on the east side building."

Q. Thank you. Now can I just ask you some questions to amplify some of these matters?

A. Mhm.

Q. Firstly Mr Dreaver. His Honour has raised an issue as to just checking about the height of the wall and you've said the wall was some six to seven metres high and approximately three metres wide. Is that fairly accurate?

A. Well I would have thought so, I've never actually measured the wall, but I never got a tape out, but that's just what I was going on. Yeah I would have thought so.

Q. So it was a high wall?

A. Yeah, it was a high wall, it went up like the other guy said above the parapet of the building next door by about two or three blocks, yeah.

Q. And it was high but not very long?

A. No.

Q. Did the fact that it was so high compared to its length, did that cause you any concern in terms of (overtalking 13:10:05)?

A. No, it never really crossed my mind to be honest, no, it's like I said it's been there for 10 to 12 years so.

1310

Q. Right, and you heard my reference before to the council records showing that it was included in the permit in 1966.

A. Mmm.

Q. Would that accord with what you know about your building. Is it that old?

A. Yeah, because I talked to the previous owner and the building was built by a company called Coleridge Investments and he bought it off them when they'd finished it and he said the wall was built with that and he thought, I mean he's

an elderly gentleman, but he thought it was between 1957 and 1960 he thought the building was built.

Q. All right, so it's about right, 66 might be right.

A. Well I would have thought 66 might be a wee bit late, but still you know.

Q. But as you say you bought the building or bought the property including the building and the wall was free standing when you bought it.

A. Yes.

Q. Because the roof, as you've been told, had come down some years before?

A. Yeah, that's right.

Q. So you didn't do anything to the wall, any work on it or –

A. Never touched it the whole time we had the building, mmm.

Q. Now I just want you to comment on what's an obvious difference between your statement and what Mrs Cochrane has said.

A. Yeah.

Q. You said there didn't appear to be any cracks in the wall and you've heard, I presume you were in Court, you heard Mrs Cochrane say that, she from her observations picking up Stephen that there were cracks in the wall, and she talked about cracks zig zag type cracks through the mortar. What do you say about that?

A. Well I never noticed them to be honest, and none of my staff pointed out to me either so I went over the whole building myself and had a look and I didn't notice anything so you know it was never brought to my attention, so yeah, I don't yeah, I don't go along with that one.

Q. Well so before the September earthquake, or sorry after the September earthquake did you notice any difference in the appearance of the wall, was there any cracking that you could see?

A. Not that I noticed, no. Otherwise if there was I would have got someone to look at it.

Q. Right, well do you think there could have been cracking that was – you might have considered minor, not to warrant any attention?

A. Well it could have been there but not visible to the eye, but not that I saw.

- Q. But someone such as Mrs Cochrane who thought that it might be dangerous and might have had a reason to look at it closely when she come up the drive, she might have noticed it but you say you never did?
- A. That's right, yeah.
- Q. And you say no one ever mentioned anything to you about concerns with cracks?
- A. No.
- Q. None of your staff or anyone else?
- A. No.
- Q. Mrs Cochrane also said there was a slight lean.
- A. Yeah I know, well I don't know about that either because I never measure – I never measured the distance between the wall at the bottom of the wall and the top of the wall between us and the tilt slab next door, so I physically never noticed the lean, but yeah, that's what she said.
- Q. So you never noticed a lean?
- A. No.
- Q. But you never really had a close look to ascertain (overtalking 13:13:29)?
- A. No, I didn't get a tape measure out and say oh, I mean we're in a trade of noticing stuff like that and if it had have been leaning that far I think I would have done something about it.
- Q. In terms of the reinforcement rods and we've got those photos that you've seen which show the two rods, one on each end, we haven't got any photos of the blocks that made up the wall, but can you recall whether there was reinforcing in the blocks or not?
- A. To be honest no, but I'd just like to point out there was actually three rods, the left, right-hand end when I was going through the drive yesterday there was one that has been cut off on the top.
- Q. Okay, that's point one I think.
- A. On the top of the concrete, yeah right there, where that other rod is right on the very edge there was another reinforcing rod that is flush with the top of the concrete. You can't see it because it was either pulled off when the digger driver cleared the wall or it, I don't know, maybe it was snapped off at another stage but it was – there was the other half of the rod is still in the concrete, so

there's only three there. I looked at the other end I couldn't see anything, so yeah.

Q. So just so we're clear can we see, there's a crack in the wall on the front, is that the rod there that snapped (overtalking 13:14:52)?

A. I had a feeling that was that rod there that's come out the front, I think the other one's just behind it by the looks of it, maybe it, um, yeah, but it's there.

Q. So (overtalking 13:15:03) in the shadow of the pot plant?

A. Yeah, basically, yeah.

Q. But in any event so there's maybe two at that end and one at the other?

A. Yeah, yeah.

Q. But my question was and I think you've answered it, you didn't see any – you didn't see how far (overtalking 13:15:16)?

A. I didn't, no to be honest I didn't really hang around, I was at work trying to get a few things sorted out. The digger driver come, he knew what he had to do, I gave him a hand to clear the last few blocks off the roof so I never really looked in the truck to see what was – I saw him pick up the first couple of scoops and that was about it, you know.

Q. Now that was another issue Mrs Cochrane's raised.

A. Mmm.

Q. When was the wall or what was left of the wall, when was that removed?

A. Monday morning, on the Monday after the quake, so the quake was what, Tuesday, so it was on the Monday morning at about eight o'clock in the morning.

Q. So six days later?

A. Mmm.

Q. And she's obviously questioning that, that there was so quick. I presume that the police were – came to the scene and were involved?

A. The police were there the whole time right up 'til Search and Rescue came and removed Stephen's body.

Q. And in terms of removing the wall did you have any discussions with police or anyone else?

A. Yes, I did, yeah.

Q. Just tell us about that.

- A. I was in Tauranga at the time, got the phone call and at that stage we left Tauranga and started driving to Christchurch and for the first probably hour I was on the phone to police and friends, because we were at the stage we knew Stephen was still under the wall and I didn't want him being there and we couldn't get hold of ambulance or anyone to go round there. Well obviously they said that they never had a call logged in and the guys and rung them so I was trying to get a mate who had a crane around there to lift the wall and get Stephen out and I jacked it up and got a guy from an engineering company that was going to go round and do it but the police wouldn't let me. They said it had to be Search and Rescue operation and I was to leave it, so I left it and then I understand that Stephen's body got out so my mate, who had – I rang a couple – another guy and this guy from Waverley Construction whose wife used to work for me and Blakely Construction who have done a lot of demolition work around town, and I said, "Well could he come as well," and he said, "Yeah just let me know when and he'll be there," so when the police said, "No he can't go," I rang him back and said, "No you can't come, just lift the wall, but could you come and get the blocks out of the way," because I didn't really want it there and he said, "Yeah, I'll be there first thing Monday morning," and he was.
- Q. So apart from the police telling you soon after not to remove the wall or lift it, what about the removal of it from your property, did you have any discussions with the police about that or not?
- A. No I didn't, no, no. I, um, no I just said well once Stephen was out I thought, well to be perfectly honest I didn't really want it, because even though my staff weren't allowed to go back to work and weren't in a condition, I mean it was a bit different then, they weren't – they were here and had to go through all that, I wasn't, so I've got a business to run so I had to go and sort things out, so I didn't want to look at that wall across the driveway, and (b) I couldn't get any vehicles in and out of there so I thought well, why not just get it and to be perfectly honest I didn't think if Tania came back she would want to see the wall there, or anyone, or any family member. I wouldn't want it sitting there all the time so that's why I got it removed.

Q. And can you remember the blocks, were they separated into blocks that after it had fallen or were they in big chunks?

A. Most of it was fairly well intact, you know it took him about an hour and half to load, to break it up and take it, most of it, they were fairly well intact. The outside from what I can remember, the outside two or three blocks were filled with concrete most of the way up. The top was filled with concrete but the centre I don't think was.

Q. And the other concern that Mrs Cochrane raised was why did you not get an engineer's report after the September earthquake to cover your building and the wall as well or the surrounds if you like?

A. Well like I said I did have a guy come through and to be perfectly honest from my memory I, John Cochrane actually brought a guy through as well, an engineer.

Q. And is John Stephen's brother?

A. Yeah, yeah. Correct me if I'm wrong, John, but that was – was that after February was it, okay, yeah. So I wasn't sure what day, what time it was so we went through and had a look at that, but we all – I mean the staff and I went round the building and there was no visible cracking, no anything, we were very lucky, we only got a little bit of, I think a few things fell over in the factory and that was about it, there was no visible damage anywhere.

Q. Did you look at the wall after September?

A. To be perfectly honest –

1320

Q. What I'm saying is did you inspect it?

A. Well I, I, to be perfectly honest I can't remember. I'm pretty sure I would have gone through the whole thing and looked at it 'cos I, Steve and I had talked about it, well not Stephen but everyone, I'd talked about taking that wall down, you know, like I mentioned to you but then I'd also thought about maybe we put the lean-to back again and – because we've got nowhere under cover outside, you know, so if it's raining we can't load trucks. So we thought well why not, rather than taking it down we could always put a couple of rafters across there, we'll get an engineer to do that obviously and put a roof back on it again. So that's why the wall just stayed there. It was just never an issue

really. There was never anything wrong with it so we thought, well, why do we have to take it down?

Q. Okay and was there any talk about the wall after September that you were aware of?

A. Not that I can recall.

Q. How long had Stephen Cochrane worked for you?

A. Nine years.

Q. And what was his occupation, what did he do?

A. He was a cabinet maker, furniture manufacturer.

CROSS-EXAMINATION: MR ELLIOTT

Q. I believe we now have up on Trial Director an extract from the original plans which I can call up just for the Commission's assistance I hope – and if the, I think the bottom diagram could be enlarged.

JUSTICE COOPER:

This document has the suffix 0005.1. So that looks like the actual factory building is on the left-hand side and as has been inferred so far the roof is sloping down towards it.

COMMISSIONER FENWICK:

Yes, yes it's sloping back onto the original roof.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

Q. Mr Dreaver, just that diagram in front of you. I appreciate that you came into ownership and possession of this property after the top section was no longer there.

A. Mmm.

Q. But if we just assume that the right-hand side there is the wall.

A. Yeah.

- Q. And the left-hand side is the factory. Well would you confirm that that is correct based on your observation of the site?
- A. That looks, yeah, yeah like I said I've never seen the roof across there but if it went like that well that must be the way it went, yeah.
- Q. And according to that diagram at least the height of the wall seems to be higher than the height of the roof of the factory. Would that be right?
- A. Yep it does.
- Q. So you personally own that property. Is that right?
- A. Mmm.
- Q. And you run –
- A. Well I'm in partnership with my ex-wife, mmm.
- Q. And you run a business that operates from those premises?
- A. Yeah.
- Q. And you employ people who work at those premises?
- A. Yeah.
- Q. Are you aware of an employer's obligations under the Health and Safety in Employment Act about hazards?
- A. Yeah.
- Q. What are they?
- A. Hazards that can happen in the workplace like, well the hazards we, we have written down are things like machinery hazards and stuff like that, mmm.
- Q. So an employer must identify hazards?
- A. Yeah.
- Q. Do you understand that?
- A. Yeah.
- Q. What else should an employer do if they identify a hazard?
- A. Well from what I can gather from our, from around our workplace, we've got a document that each hazard that is a potent – well a potential hazard around the machine and, well, I suppose the building as well for that matter.
- Q. You would agree that you as an employer should be conscious of hazards anywhere within the areas that your employees may go?
- A. Well, yeah, yeah, yeah, well, well I wouldn't have thought the wall was a hazard.

- Q. Well I'll come to that but do you understand as at the 4th of September and subsequently you had an obligation to identify hazards –
- A. Mmm.
- Q. – to your employees?
- A. Mmm.
- Q. And to take steps to minimise those hazards if they couldn't be eliminated entirely?
- A. Mmm.
- Q. You did understand that?
- A. Yeah but there was no, I didn't see any hazards.
- Q. So as at the 4th of September this was a wall which was six metres high?
- A. Mmm.
- Q. So was the hall, was the wall about the height of this hall just to give us an idea?
- A. Probably wouldn't have been quite that high. I would have thought somewhere between the rafter and the heater.
- Q. So a six metre high wall must have looked quite precarious mustn't it?
- A. Well like I said, it's been there for 12 years so. I mean I didn't build it so. I mean I don't, I don't know what was inside it or anything like that but I didn't think, like I said before we could have put a roof like that back on it again if it was deemed structurally able and it would have been back to what it was there again. So I didn't see it as a hazard, no.
- Q. Were you in Christchurch between 4 September and 22 February?
- A. Yeah.
- Q. Did you experience the many hundreds if not thousands of aftershocks that took place between those dates?
- A. Yeah.
- Q. Some of which exceeded magnitude 5?
- A. Mmm.
- Q. Were you aware of the public prediction by GNS of the possibility of a magnitude 6 aftershock following the main shock?
- A. I can't recall that sorry, no.

- Q. Given the ongoing aftershocks and the presence of a six metre wall did it not occur to you that you might consider whether the wall presented a hazard?
- A. It didn't to me, no.
- Q. You said in your statement that prior to the February earthquake there did not appear to be any cracks in the wall. No-one had really given it any thought in terms of whether or not it was structurally sound or dangerous. Do we take it that as you hadn't given it any thought you therefore didn't pay it any particular attention as to whether there were cracks?
- A. No like I said I looked over it and I could not visibly see any cracks.
- Q. So the fact that you looked over it must have indicated you felt it may be a hazard?
- A. No but I looked over the whole building. I went through everything. You know through all the, all the block work, both sides of it, the front, the whole lot and so did a lot of the staff as well.
- Q. Well you looked at the wall and you say that you didn't see any cracks. My question is doesn't looking at the wall indicate that you thought it was a hazard?
- A. I didn't think it was a hazard, no.
- Q. So you looked at the wall in a way that was –
- A. Well just, like, like I look at the wall on the building as well to make that it was just, there was no cracks in it, that's all. I mean I didn't think, hey, there's going to be another earthquake, the wall's going to fall over, if that's what you mean.
- Q. You're aware that the roof of the wall had collapsed under snow because you –
- A. That's what I was told, yeah.
- Q. Did that not suggest to you that the remainder of the wall may also be precarious?
- A. Well that would suggest to me the wall was strong enough to hold it up but, no, it didn't, no and when I saw the report to say, it would withstand a fire, I would have thought that wall would withstand a fire under current Building Regulations back then.
- Q. If you took the time to have a look at the wall yourself which you say that you did wouldn't it have been proper for you to also ask Opus to inspect the wall when they were there doing an inspection of the building?

- A. Well I presume they would. That's not my job. That's their job. They should be looking at the whole, the whole lot. I would have thought they would have done. I, I didn't go round with Opus guy the whole time. I, he took two and a half hours to go around and I just left him to it. Like he said, he said, "I'll, I'll go through and do my assessment and get back to you."
- Q. So when did Opus inspect?
- A. Just after the February quake.
- Q. After the February quake, I'm sorry. So there were no inspections done between the September 4 and 22 February of any part of the building?
- A. Yes there was another guy that came through the building. We rent one building and we own the other building and as well as the carpenter that came through the landlord's, also, carpenter came through and he made a few changes to the building but that was the rented one not the one that we own and that was the only damage that between the two of them they could see that was visible damage.

JUSTICE COOPER:

- Q. Are you about two buildings at 90 Coleridge Street or at different addresses?
- A. Well one's 25 Brisbane Street, yes. So that –
- Q. This is on the corner?
- A. That's the corner. There's a fire door that connects the two buildings so the only damage we saw was in the tilt slab which was the newer building some brackets had let go to hold the two walls together.

1330

- Q. Yes, well we're only interested in the other –
- A. Yeah.
- Q. In the other building.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

- Q. Just on 90 Coleridge did you engage somebody to come along and to inspect premises between 4 September and 22 February?
- A. Not a structural engineer, no.

- Q. Don't you think that you should have done that?
- A. Well there was nothing physically wrong with it that we saw. We, like I said, we'd been over the whole thing.
- Q. Do you agree that really you should have identified that wall as a hazard especially in the post-September 4 environment in which it was clear there was an extended aftershock sequence in Christchurch?
- A. I'm afraid not, no.

RE-EXAMINATION: MR ZARIFEH - NIL

QUESTIONS FROM THE COURT : COMMISSIONER FENWICK:

- Q. The wall, you had Optus came and inspected.
- A. Mmm.
- Q. Was the, the wall, the majority of the wall except for the foundation, that had been removed before they carried out the inspection or was it after?
- A. Yes it would have done, yeah, yeah.
- Q. So there wouldn't have been much for them to see there?
- A. No there wouldn't have been much for them to see, no.

QUESTIONS FROM THE COURT : JUSTICE COOPER AND COMMISSIONER CARTER – NIL

JUSTICE COOPER:

Mr Dreaver, is there anything you wish to add?

MR DREAYER:

Not really I just, there's obviously looking at the regulations of the wall I would have thought back then if there was a Building Code the council would have inspected the reinforcing like they would now before the wall was put up and inspected everything if they were doing their job properly so, you know, like I said it was done before we even owned the building but, you know, I would have thought back then that even in

the 1960s the council would have inspected their, their building ethics but still. Maybe if it had've been stronger it might have lasted. I don't know.

WITNESS EXCUSED

MR ZARIFEH CALLS**MARC HOBSON (AFFIRMED)**

Q. Mr Hobson, your name is Marc Hobson?

A. Yes.

Q. And it's spelt M-A-R-C?

A. Yep.

Q. Have you got a statement that's signed by you dated 1/12/2011?

A. Yes.

Q. Can I ask you please to read that to the Commission?

A. Yep. I reside in Christchurch and work for Classique Furniture. I have worked there for some seven and a half years. After the earthquake struck on 22nd February 2011 I came out of the building looking for workmates. I discovered that the wall on the eastern side of the building had collapsed and that my workmate Stephen Cochrane was underneath it. Stephen was very unlucky because if he had have run out a couple of seconds either side he would have made it. The block wall appeared to be in one piece. I recall a couple of rows of blocks were on the roof of the neighbour's property. Prior to 22nd of February none of the people who worked there really gave any thought to the wall and there was no talk about it. There may have been some talk after the September earthquake to the effect that the wall must have been reinforced because it had not fallen over. We were surprised after the February earthquake to see the wall only had the two reinforcement rods.

Q. Now can I just get you to expand on a couple of things. You've been sitting in Court. You heard Mrs Cochrane -

A. Yeah.

Q. - and the views that she expressed and the observations. Firstly, in relation to the wall -

A. Mmm.

Q. - do you recall seeing any cracking in it?

A. I didn't see any cracking in it, no.

Q. Okay. Did you, did you ever have any reason to look at the wall closely?

A. I walked past it every day.

- Q. Right. So when you did that you didn't notice anything?
- A. Well not any visible cracks to the eye unless you maybe physically go right up to it and look.
- Q. And did you yourself have any concerns, obviously prior to the 22nd of February or, or prior to September did you have any concerns about the wall?
- A. No concerns.
- Q. So apart from noticing it as you walked past in coming and going you didn't have any reason to look at it in particular?
- A. No.
- Q. What about the slight lean, that observation, did, did you see that or not?
- A. I don't believe that to be correct. It was not on a lean.
- Q. So you thought it was vertical?
- A. It looked vertical to me and I've got, you know, I'm in furniture so detail's pretty important and it certainly wasn't on a lean.
- Q. And you don't recall prior to the, let's take it in chunks, prior to September you don't recall any discussion about the wall?
- A. No.
- Q. No. What about the fact that it was there and serving no purpose. Was there any discussion about –
- A. It was just there. We never really talked about it.
- Q. After September, after the earthquake –
- A. Mmm.
- Q. – you said that there may have been some talk after that to the effect that the wall must have been reinforced because it hadn't fallen down.
- A. Yeah.
- Q. Is that what, talk in/around the factory?
- A. Yep between colleagues.
- Q. Because of course no-one would know what reinforcing was in it given the age of it.
- A. No.
- Q. But even with that talk no concern about it?
- A. No there was no concern. We never went to Graeme to say, we've got concern about that. Can you get it taken down.

- Q. And you said after February you were surprised about the lack of reinforcing in it?
- A. Yeah well we sort of thought after the September one, you know, good and strong then, after the February just to see those two rods was kind of a surprise.
- Q. Right. Did you examine the wall or what was left of it on the ground after or not?
- A. Not really. I mean it wasn't somewhere I particularly wanted to be.

CROSS-EXAMINATION: MR ELLIOTT – NIL

QUESTIONS FROM THE COURT : COMMISSIONERS FENWICK AND CARTER – NIL

WITNESS EXCUSED

JUSTICE COOPER:

Well that completes the hearing on 90 Coleridge Street. To Mrs Cochrane and other members of Stephen's family we express our condolences to you for the terrible event that you've suffered and I'm sorry you've had a wait today. You won't hear anything more from us now probably until we issue our final report and you'll get that ahead of the general public, sometime next year. I'm not prepared to give you a date because I'm not sure when it will be. So thank you for your attendance here today.

COMMISSION ADJOURNS: 2.15 PM

COURT RESUMES: 2.15 PM

617-625 COLOMBO STREET

MR ZARIFEH:

We are now moving onto a new hearing in relation to the building that was at 617 to 625 Colombo Street which was on the corner of Tuam and Colombo Streets. This building was a series of two-storied unreinforced masonry buildings on the northwest corner of Tuam and Colombo Streets and they appear to have been constructed as a single building which was connected to the buildings to the north which were at 627 and 629 Colombo sharing a party wall. It appears that the building had previously been a heritage building and I'm not entirely clear of the status as at 22 February but it appears it may have been lifted prior to that. Following the September earthquake all of the tenancies in the building were green placarded. On the 7th of September level 2 rapid assessments were completed by structural engineers Beca on behalf of the owners and the green placards maintained. The owners of the building commissioned Beca to complete an independent assessment of the building and the building was re-inspected on the 10th and the 15th of September and a report supplied dated 10 December 2010. That report identified that the building or calculated that the building was earthquake-prone and some 11 percent of new building standard but it concluded that the building did not pose an immediate risk to the occupants. Various repairs and further investigations were recommended. It would appear that no repair work was carried out on the building prior to the 22nd February earthquake. In the 22 February earthquake the building at 625 Colombo Street and the attached buildings to the north of that building suffered collapses of their street frontages on Colombo Street. Jennifer Donaldson was a pedestrian on Colombo Street at the time of the earthquake. Her body was found by police under rubble outside 625 Colombo Street. Proposed witnesses are Peter Smith, structural engineer; Mr McCarthy from the Christchurch City Council; David Ehlers, who is a lawyer in Dunedin who is one of the owners of the building and that is set up for a video link, I think at quarter to four this afternoon, so with the

Commission's leave we will work round that. Then from Beca Jonathan Barnett and Marc Humphrey. Marc Humphrey carried out the inspections that I've just spoken of in late 2010 but under the supervision of Mr Barnett and it is proposed that Mr Barnett and Mr Humphrey will sit at the table and Mr Barnett will speak to the evidence and, if required, Mr Humphrey can answer any particular questions. The only other information that's listed there is police information showing the location of Mrs Donaldson's body and it's not intended to go into that unless needed. I have set out the, as counsel, what I foresee as likely issues and that's application of Council's earthquake-prone policy to the building which is, as I said, applies to all of these buildings. Secondly, the structural assessment of the building after the 4th of September earthquake and, in particular, the Beca assessment and the conclusion that I've referred to that the building was 11 percent of new building standard but did not pose an immediate risk to the occupants.

JUSTICE COOPER:

Yes, all right, so can I just note other appearances Mr Zarifeh. We have Mr Elliott, as usual, and Mr Laing.

MR ZARIFEH:

There's the chronology, Your Honour. I don't intend to go through that. It is relatively brief and I will move straight to the first witness which is Mr Smith.

MR ZARIFEH CALLS**PETER SMITH (AFFIRMED)****JUSTICE COOPER ADDRESSES COUNSEL****EXAMINATION: MR ZARIFEH**

- Q. Mr Smith you have prepared a report dated November 2011 on the building that was at 617-625 Colombo Street.
- A. Correct.
- Q. And if I can just take you through the main points of your report. As I've already, you heard me indicate it was a two storey unreinforced masonry building on a corner site.
- A. Correct.
- Q. And it appears to have had few alterations other than some strengthening work carried out in 1994 and then stage 2 in 2000.
- A. Correct.
- Q. And I'll get you to come to that in a moment. The, I think you've looked at the seismic strengthening that was undertaken in those years, am I right, by reference to the City Council records and to references in a report from Beca.
- A. Correct.
- Q. And middle of page 3 I think you briefly summarise that structural strengthening.
- A. Correct.
- Q. That middle paragraph. Stage 1 strengthening provided lateral load resistance to 0.075G.
- A. That's our understanding yes.
- Q. And your interpretation of the correspondence is that on completion of the stage 2 strengthening the building will achieve a lateral load resistance of 0.14G.
- A. Correct.
- Q. And, as we've said, that stage 2 appears to have been undertaken in September 2000.

- A. Correct.
- Q. And, of course, given the change in regulations that post-dated that strengthening that could well mean that the building was still earthquake-prone at the time of the September earthquake, correct?
- A. Correct.
- Q. I just want to turn to the structural failure and perhaps the easiest thing is to get you to read the paragraphs that appear under structural failure and then under the issues arising from the review to the end of your report.
- A. "Structural Failure – The failure of the Colombo Street façade to the buildings at the site 623-629 Colombo Street appears to have been an outward rotation of the first floor facades and parapet about the first floor supports."

JUSTICE COOPER ADDRESSES WITNESS RE MICROPHONE

- Q. "The Code, lateral load co-efficient for a façade to an elastic responding structure in Christchurch at the time of the earthquake sequence was 0.86G. The analysis of the unreinforced masonry construction is not covered in the New Zealand Building Code. The industry uses the New Zealand Society for Earthquake Engineering Guidelines, Assessment and Improvement of the Structural Performance of Buildings in Earthquakes 2000 and Assessment and Improvement of Unreinforced Masonry Buildings and Earthquake Resistance 2011.

1425

Calculations using these documents indicate that a 225 thick, unreinforced masonry wall spanning three metres from the first floor level to roof level in an unreinforced masonry building assuming no edge restraint would meet code requirement. Based on GNS Science records of measurement of accelerations in the Christchurch CBD during the 22nd of February 2011 earthquake the buildings were likely to have been subjected to a ground acceleration of 0.9 g. This level of ground acceleration equates to 1.25 g acceleration at first floor level. The analysis assumes no vertical acceleration occurs when the wall is subjected to the horizontal acceleration. Clearly the walls of St Asaph Street and Colombo Street had significant penetrations which affect both the weight and strength of the façade. The above figures

demonstrate that the facades may not have survived the Canterbury earthquake series had the facades been secured at roof level by fixings designed for the full code requirements.

- Q. Just pause there. I thought when reading it and I still think that the last two sentences that you've just read must have strayed into this report from another one because, correct me if I'm wrong, but we're a couple of blocks north of St Asaph Street here aren't we?

MR ZARIFEH:

Sir, Tuam Street.

MR SMITH:

Sorry, yes you're correct. It is.

JUSTICE COOPER:

- Q. But just be careful here Mr Smith. Are you saying that if we change St Asaph Street –
- A. To Tuam Street.
- Q. To Tuam Street that –
- A. Yes, correct.
- Q. – those comments would be correct?
- A. Yes.

EXAMINATION CONTINUES: MR ZARIFEH

- A. The facades which were restrained to a lateral load co-efficient as low as 0.1 g were unlikely to remain stable in the severe shaking that occurred during the 22nd of February 2011 earthquake although the level of securing did prevent failure of the facades to the buildings 143 Tuam Street and 623 to 625 Colombo Street.

Issues Arising From Review. Upgrading of Unreinforced Masonry Buildings. The front facades of the building 623 to 629 Colombo Street collapsed into Colombo Street as a result of the 22nd of February 2011 earthquake. The roof partially collapsed and the brick party walls and internal walls were damaged. It is significant that the end building in a series of inter-connected unreinforced masonry buildings of similar height at 593, 601A, 603 Colombo Street lost their street facades and were significantly damaged in the 22nd of February 2011 earthquake while the street façades to the strengthened building at 617 to 621 Colombo Street were retained presumably as a result of the strengthening work undertaken on the building. The reason for the failure of the strength of the facades to the buildings at 623 to 629 Colombo Street is unknown but was not unexpected given the low level of seismic strengthening and the severity of shaking during the 22nd of February 2011 earthquake. The retention of facades to the building 617 to 621 Colombo Street demonstrate the benefits of strengthening to as low as 20% of current code requirements while the failure of the street facades to the building 623 to 629 Colombo Street highlights that strengthening of the facades of unreinforced masonry buildings to such a low level is unreliable in a severe earthquake. This level of strengthening may, however, save lives in a moderate earthquake.

- Q. So is that, that final paragraph a comment on low level strengthening and the problems that can flow from it and also a comment on the high level of shaking from the February earthquake?
- A. Yes. Most earthquake strengthening that was done certainly before 2000 was intended to provide resistance in a moderate earthquake. More recent levels of strengthening have been raised but at that time that was the objective and I guess the 4th of September earthquake was the better test. The severity of the 22nd of February was a very severe earthquake.
- Q. And just going back to the paragraph that His Honour picked you up on in, by the reference to St Asaph Street are you saying that the penetrations what, from the windows and openings affected the strength of the façade?
- A. Yes they do.
- Q. And, again, a similar comment to the one in the report from yesterday that the acceleration figures that you gave demonstrate that the facades may not have

survived. So you're talking about the facades to 623 to 629 are you, Colombo Street, may not have survived even if they had been securely fixed?

A. Yes it's talking about facades generally I think. The, a lot of factors come into whether a façade will withstand an earthquake. One is the directionality of the earthquake, the other one's the intensity of shaking and there are other factors in terms of the period of vibration et cetera but given that this building had been strengthened to quite a relatively low level of strength it was surprising in some respects that some of those facades did withstand that.

Q. And perhaps if you can just take us to some photographs to show us what you're talking about with the failure. Perhaps firstly 617.0002E.1.

WITNESS REFERRED TO PHOTOGRAPHS

Q. Now that's clearly after the 22nd of February because rubble's been cleared up?

A. Yes it's also after the USAR team have been through to remove the imminent danger.

Q. Okay so perhaps the only thing we can get from that is a comment on the façade on the, is it 617, the corner building?

A. Yes that as you can see is still in position and has been effectively secured for that shaking.

JUSTICE COOPER:

Q. So that's 617 we're looking at is it, the Satay Noodles?

A. Yes, correct.

Q. That's number 617.

A. And I think the adjoining property which doesn't really have a sign is 621 but part of the veranda is gone.

EXAMINATION CONTINUES: MR ZARIFEH

Q. Perhaps another photo might be clearer, 0007.15. Now that's, I'm not sure exactly when that was taken but it seems to be closer in time to the earthquake?

A. Yes I think so, yes.

Q. And I think I'm correct in saying that the 625 is to the left of the building that has the sign "Sucklings"?

A. Yes, correct.

Q. And so the façade of that building and the buildings to the right of it as you've said were collapsed in the earthquake?

A. Correct.

Q. And as we've seen and can see in that photo the 617 façade was not?

A. That's correct. 621 also.

Q. 621 also collapsed?

A. No it didn't collapse.

Q. Because it's part of that first block if you like?

A. Yes.

JUSTICE COOPER ADDRESSES MR ZARIFEH – STREET ADDRESSES OF PHOTOGRAPHS

1435

Q. Okay well Sir we'll perhaps go to, go to 0008.9 and if that can be expanded on the relevant intersection, it's at the top, thank you. Now Mr Smith just take it, describe by reference to those numbers what comprises the building that we're talking about.

WITNESS REFERRED TO PHOTOGRAPH 0008.9

A. 617 is the corner building, the one that's not actually labelled as 621 between 617 and 63.

Q. Right.

A. 623 is the first building to have lost its façade.

Q. And is that the one that still looks from a layperson's point of view anyway to be part of the 617 building?

A. Yes almost yes.

Q. Right.

A. Certainly in terms of roof form.

Q. 625?

A. Is to the north.

Q. And then on the Tuam Street frontage?

- A. 143 is quite well down Tuam Street.
- Q. Right and is that, that building seems to jut out beyond the 617 building?
- A. Yes it does.
- Q. So 143, 617 to 625 was that all one?
- A. That was all strengthened as one operation.
- Q. Right but is it built as one building?
- A. No I don't believe so.
- Q. No.

JUSTICE COOPER:

- Q. So to the north up Colombo Street next door to 625 is 627?
- A. I believe so yes.
- Q. And then we have?
- A. 629.
- Q. 629.
- A. Mhm.
- Q. Now can I – just bear with me Mr Zarifeh please. Mr Smith at page 4 of your report in the second to last paragraph on that page you say the front façades of the buildings 623 to 629 Colombo Street collapsed into Colombo Street?
- A. Correct.
- Q. At, on the following page you say in the second to last paragraph, “The level of securing did prevent failure of the façade”. Do you see that second to last paragraph there?

WITNESS REFERRED TO REPORT

- Q. “Did prevent failure of the façades to the buildings 143 Tuam Street”, I follow that.
- A. Is this on page 5?
- Q. Yes.
- A. Mhm.
- Q. Second to last paragraph?
- A. Yes.
- Q. You've found where I was reading from? Would you like me to read it again?
- A. (No audible answer 14:38:24)

- Q. Can you hear me Mr Smith?
- A. Yes I can yes. Yeah.
- Q. Have you found where I was reading from?
- A. Yes.
- Q. Or would you like me to read it again?
- A. I believe so yes.
- Q. Well, "the level of securing did prevent failure of the façades of the buildings 143 Tuam Street"?
- A. Yeah. Quite correct that's six one –
- Q. And 623 to 625?
- A. You're quite correct that should be –
- Q. Well let me finish? 623 to 625 Colombo Street. Now there's an error somewhere and what should that say or is it correct on page 5 and not on page 4?
- A. I'm sorry Your Honour there was a, we did a have confusion of numbers that's not been picked up. Ah, six, it should read 617 to 621.
- Q. It should read 617?
- A. To 621.
- Q. To 621. Right. Right I think that fixes it. Just whilst we're scene setting still, could you go to the front page of your report and see the photograph you've put there. Just let me make sure I'm orientated correctly. That is taken diagonally across the intersection of Tuam and Colombo?
- A. Yes.
- Q. Looking at number 617 in the centre, is that right?
- A. That's correct.
- Q. So the building whose collapse resulted in Mrs Donaldson's death at 625 if I'm understanding correctly would be obscured by that tree?
- A. That's correct.
- Q. Right?
- A. That's correct.
- Q. So that's on Colombo Street and the road to the left is Tuam Street, right?
- A. Yes, correct.

CROSS-EXAMINATION: MR ELLIOTT – NIL**CROSS-EXAMINATION: MR LAING**

Q. Mr Smith we've got plenty of time but I won't be requiring very much. I'm not going to ask you questions, repeat questions from the other day but can I ask you to turn to page 6 in your last paragraph.

WITNESS REFERRED TO PAGE SIX OF REPORT

Q. You say there that "the retention of the façades at 617, 621 demonstrates the benefit of strength utilised 20% of current code"?

A. Mhm.

Q. I hope I've got this right but 33 and a third percent is current earthquake-prone level –

A. Correct.

Q. – isn't it?

A. Correct.

Q. So if I can now go over to page 3 and it's about the middle of page 3 where you talk about the stage 1 and stage 2 seismic strengthening and if we go one, two, three, four paragraphs down the last sentence, sorry the middle sentence, "Our interpretation corresponds on completion of stage 2 strengthening the building would achieve a lateral load resistance of 0.14g"?

A. Correct.

Q. What percentage of current code would that amount to?

A. That's the 20% referred to.

Q. Yes. Thank you. Can I then take you over to page 4 and about two-thirds of the way down you refer to the Beca report?

A. Correct.

Q. Of December 2010?

A. Correct.

Q. Under paragraph 2 there's a reference of the "IEP is approximate estimation of lateral load of 11% NPS". Would you agree with that?

A. That's what it says yes.

Q. But would you agree with that given your earlier comments?

- A. I think as I understand it the IEP that was used to establish the 11% was made without reference to the previous strengthening. An IEP is only a, an approximate means of assessing the strength of a building and I think they possibly allowed for some effects of damage from the previous earthquake.
- Q. Yes so certainly from your point of view you would stand by your estimate of 20% of current code?
- A. I believe that's what it was designed for.
- Q. Yes.
- A. Mhm.
- Q. And that would have been in excess of the definition of earthquake-prone under the 1999 Building Act wouldn't it?
- A. I believe so yes.

QUESTIONS FROM THE COURT : COMMISSIONER FENWICK - NIL

QUESTIONS FROM THE COURT : COMMISSIONER CARTER:

- Q. Mr Smith, the earthquake we experienced in February was violent but short in duration so I'm just wondering if what your comments are in relation to Mr Laing's question and your comment about 20% level as compared to the IEP of 11%. Would the IEP not be taking into account the, an earthquake that had a longer duration, I mean -
- A. I don't –
- Q. – compared to this one if you, do you wish to elaborate on that point?
- A. I don't believe so. I think the IEP at best is a fairly approximate tool for assessing building strength. It's actually, most of these buildings were never designed to a code. The IEP therefore is really not a very good guide to building strength for an unreinforced building unless you know the level to which the building was strengthened and I don't believe that the Beca engineers knew that.

1445

- Q. The fact, although the stiffness of these buildings is such that they will experience at their worst case a very you know short period events, there is

still also some evidence that buildings progressively deteriorate if they have accumulated damage over earthquake -

A. Absolutely.

Q. – sequences.

A. Particularly unreinforced masonry.

QUESTIONS FROM THE COURT: JUSTICE COOPER

Q. Mr Smith, just if you go to page 2 of your report, the paragraph near the bottom headed compliance, the second line, should that refer to 621 Colombo Street rather than 629?

A. No I believe the strengthening incorporated 629, sir. It was several buildings that were strengthened as one operation.

Q. So is it the case the buildings from 617 to 629 were all strengthened but the strengthening only prevented failure of the facades of the buildings of 617 to 621?

A. Correct. So the facades of some of the building that was strengthened did fail.

Q. And I'm not sure if I'm understanding the issue raised by Mr Laing, but when he cross-examined you but it relates to the what was achieved with the strengthening exercise in terms of the cross reference to new building standard. I think you said to him it was 20 percent.

A. Yes.

Q. And not 11 percent as had been referred to by BECA Carter.

A. We had access to the council records which established the strength level they used when they strengthened the building. I don't believe BECA had that and they used the IEP process which is an approximate tool to come up with some assessment of the building strength.

Q. Right, and did you say one of the factors that might have contributed to that was some sort of allowance for damage in September?

A. It's certainly possible, yes.

Q. But whether or not, whatever the explanation was, you're satisfied that what was achieved was a 20 percent –

A. I'm reasonably comfortable that the strengthening work did bring the building up to 20 percent of the code at the time.

WITNESS EXCUSED

MR LAING CALLS**STEPHEN MCCARTHY (SWORN)**

Q. Is your full name Stephen James McCarthy?

A. Yes it is.

Q. You've given evidence before the Commission previously?

A. Yes.

Q. Could I ask you to start reading your brief at paragraph 6 please?

WITNESS READS BRIEF OF EVIDENCE

“Events after the 4th of September 2010 earthquake. I attach an aerial map of 617 Colombo Street to indicate which buildings are located at this address. annexure A
—“

JUSTICE COOPER:

Q. Could we just pause there and look at annexure A please? It's not a very clear map but you have a large white area surrounded partially by green, 143 Tuam Street?

A. Yes.

EXAMINATION CONTINUES: MR LAING

Q. And then a dark area with two red spots which I think you label 617 and then you have another green area which you've labelled 625. Now is that also 623 as well, the green area?

A. Yes it is.

Q. Can you just continue at paragraph 6 please?

WITNESS CONTINUES READING BRIEF OF EVIDENCE

A. “617 Colombo Street is a large premises and a council's webmap records note that the property is also known as 143 Tuam Street, Switched on Gardener, 623 Colombo Street JJ Club, and 625 Colombo Street Silk Bowl Food Post which is downstairs.”

JUSTICE COOPER:

- Q. Do you think that might be Silk Road rather than Silk Bowl because you call it Silk Road in paragraph 10?

EXAMINATION CONTINUES: MR LAING

- Q. I think that is correct. I think what Mr McCarthy is saying that is what is on the rapid assessment form, but I think it – Mr McCarthy is that correct, it's Silk Road on the building or don't you know?
- A. I really don't know.
- Q. Thank you. We'll come back to that. The last sentence of paragraph 6 please?

WITNESS CONTINUES READING BRIEF OF EVIDENCE

- A. "The aerial map attached indicates which parts of the building were sometimes referred to as 143 Tuam Street, 623 Colombo Street and 625 Colombo Street. However I note that the entire building is in fact 617 Colombo Street. A level 1 rapid assessment was carried out for 143 Tuam Street, first floor Respawn Limited, on 5th September 2010 which resulted in a green placard annexure B. A level 1 rapid assessment was also carried out for 143 Tuam Street ground floor, Switched on Gardener. The assessment form was signed on 5th of September 2010 and resulted in a green placard annexure C. A level 2 rapid assessment was carried out on 7 September 2010 which stated that the building address was 143, while the actual address was 617 Colombo Street. The stated building name is Switched on Gardener, minor damage noted. Under general comments it is recorded recommended inspection of upper level and repair cracks in brick walls. Inspection at 143 only, annexure D. I note that the building assessment dated 7 September 2010 has a BECA stamp on it. I understand at that time, at the time that Colliers as a property manager engaged BECA to carry out building inspections of the buildings that it managed. It is possible that this assessment was carried out by BECA as part of this process and therefore was carried out on behalf of the building owners rather than being an assessment carried out by the volunteer engineers as part

of the Civil Defence emergency. A level 1 rapid assessment was carried out for 625 Colombo Street, Silk Road Food Post on 5 September 2010 which resulted in a green placard, annexure E. A level 1 rapid assessment was carried out for 623 Colombo Street, JJ Club, on 5 September 2010 which resulted in a green placard, annexure F. A level 1 rapid assessment was carried out for 617 Colombo Street Sampan House on 5 September 2010 which resulted in a green placard, annexure G.”

1455

Q. Can I ask you to pause there please. Could you go to annexure E please.

A. Yes.

Q. And if you look in the towards the top where it says building name.

A. Yes it refers to Silk Road.

Q. Right. Thank you.

A. The Beca report BUICLL 617625.0011.7 on the Royal Commission secure website states that two rapid assessments of the building were undertaken by Beca on 10 September 2010 and 15 September 2010. The council has been unable to locate any record of receiving those rapid assessments from Beca or the building owners. As the building received green placards in September and the council had not received any notification of the building being potentially unsafe no further assessments would have been carried out by the council.

On 26 February 2011 a level one rapid assessment was carried out which resulted in a red placard on 617 to 625 Colombo Street, annexure H. Under the general comments the inspector has noted that the front facade has completely collapsed on to the street and that it was too dangerous to place a placard. The next day 27 February 2011 there were two further level one rapid assessments carried out on 617 Colombo Street, one for Sampan House and one for Respawn Switched on Gardener, annexure I. This time they both resulted in a yellow placard. Under comments the inspector has written for Respawn Switched on Gardener, “Parapet damage” and for Sampan House, “Neighbouring, isolated risk from neighbouring building.” As outlined above 617 Colombo Street was a large building which was often referred to as

different addresses. The rapid assessment form dated 26 February 2011 states that the address is to be confirmed. 623 Colombo Street has been crossed out and replaced with 617 Colombo Street. There is no building name. The assessment carried out on 27 February 2011 states that the building is 617 Colombo Street and the building name is Sampan House. It is possible that the two assessments were carried out on adjacent premises. I also attach a photograph taken of the building after the 22 February earthquake, annexure J. The photograph shows the part of 617 Colombo Street which has collapsed. It is likely that this part of the building was actually referred to as 623 Colombo Street and this correlates with the rapid assessment forms completed as the front façade with what is referred to as 623 Colombo Street has collapsed onto the street while Sampan House has minimal damage. Application of relevant legislation and the council's earthquake –

JUSTICE COOPER:

- Q. Can I just interrupt you there because I'm just wanting to follow. Do you agree that the façade of 625 collapsed into the street as well?
- A. The downstairs façade does appear to have.
- Q. Because that is where it seems Mrs Donaldson was killed.
- A. The 623 is the upstairs tenancy.
- Q. I see.
- A. And 625 is the downstairs tenancy. It appears that the façade on both the upper and the ground level appear to have collapsed on to the road. The upstairs tenancy as I understand sir is the JJ's. It's a dance studio of some description.
- Q. Thank you.

EXAMINATION CONTINUES:

- A. Under the provisions of the Building Act 1991 the building was deemed to be earthquake prone because it was constructed of unreinforced masonry. The building was strengthened in a two stage project in 1994 to meet the

requirements of section 66 of the Building Act 1991. The work included adding extra walls in a north south direction, adding an overlay to the first wall to provide a diaphragm and connecting this to the walls and tying existing brick parapets back to the roof system. This work strengthened the building in excess of the requirements set in the Building Act 1991 but its strengthening was unlikely to have met the increased standard in the Building Act 2004 and 2005 regulations. The Building Act 2004 had no provision deeming certain buildings to be earthquake prone. Rather the Building Act 2004 and the relevant 2005 regulations which defined the level of strength below which a building could be classed as earthquake prone raised the threshold level significantly from about 10% of new building standard to about 33% of the new building standard. This meant that the buildings that had been strengthened prior to the commencement of the relevant 2005 regulations would probably be earthquake prone under the new standards. The building of 617 Colombo Street was noted as earthquake prone prior to 4 September 2010. The strengthening work referred to above was undertaken prior to the introduction of the earthquake prone buildings policy 2006. The policy did contain a separate section three related to heritage buildings as required by section 131 of the Building Act 2004. However there was no further building work undertaken that would necessitate an application of section three of the policy to this building. If a building consent application had been received an assessment of the application would have been made to see if it could be considered to be a significant alteration as defined in the policy. If the work was in this category the procedure in the policy would have been followed see section 1.7 of the policy. In 2009 there was a proposal for a new kitchen facility. The work was started but the owner had not advised the council that the work was completed by September 2010. The consent was valued at less than 50,000 and did not effect the structural support of the building. The building's rateable value was 2.17 million and so the value of the work was less than 25% of that value, therefore the work was not a significant alteration and the 2006 policy did not require strengthening work to be done.

CROSS-EXAMINATION: MR ZARIFEH

- Q. Mr McCarthy, just on that last point about the earthquake prone policy. Is that an example of, we talked about briefly yesterday, that a building owner wasn't required under the policy to do any structural strengthening unless there was significant alterations to the premises or if the proposed alterations or work were more than 25% of the value of the building is that right?
- A. Could you clarify for me which work you're talking about please?
- Q. Well I'm just thinking of para 24 in your brief where you talk about this new kitchen facility that was proposed in 2009.
- A. Yes.
- Q. So my understanding from what you say is that because it was less than 25% of the value of the building it didn't require any structural strengthening then?
- A. That's correct.
- Q. So that was one of the markers if you like of the policy coming into effect in terms of requiring structural strengthening?
- A. That's correct. Either that or a structural upgrade of the building would have triggered a requirement to go to at least the target level of 67% which more recently was established.
- Q. When you say a structural upgrade, what if the owners wanted to do a structural upgrade?
- A. If they wanted to do structural work on the building that would have triggered a requirement to upgrade the building.
- Q. Right. And that would be a significant alteration presumably wouldn't it?
- A. Yes.
- Q. And you said in paragraph 22 that or implied that it was a heritage building. Is it because I think the, in a reply from one of the owners said the heritage spaces had been lifted some time ago?
- A. Yes I'm a little unsure about that but it was previously I understand a heritage four building but that appears not to have been, not to be the case now.

1505

JUSTICE COOPER:

- Q. Well it's not now but what was it in September last year?
- A. I'm a little unsure of that, the answer to that, Sir.

CROSS-EXAMINATION CONTINUES: MR ZARIFEH

Q. And is that because the records are unclear or you're just not sure?

A. I haven't checked that issue.

Q. You said that the Beca reports of was it 10 and 15 September weren't on the Council file. The two earlier ones were but not those two, that's paragraph 11.

A. Yes.

Q. And the Beca information says that they forwarded them to Civil Defence, hand delivered them, and I'm just wondering whether, and it doesn't, it's not that significant in this case but did that highlight any difficulty in other cases with records or communication of things like that post-September? I'm just thinking of this lessons to be learned.

A. There was, yeah, yeah, there was certainly, the magnitude of this event was such that there was a flood of information coming in which we geared up to. By the end we had about 50 administration staff just entering these things but, at the time, we may have been a bit under-resourced.

Q. Perhaps that's something the Council can address in the assessment hearing as a general point.

A. Yes.

Q. The only other thing I wanted to ask you about was in the letter that Beca sent to the Commission or to myself, 25 November 2011, and in response to a question that I'd asked which was how you're finding that the building has a lateral load capacity of 11 percent new building standard related to the issue of whether the building was safe to occupy or safe to the public. That was my question, and what I wanted to get your comment was the reply or the first part of the reply, said "It is important to note that the CCC, the Christchurch City Council, policy in operation at the time was largely concerned with identifying and addressing damage levels. In other words what impact any damage may have had on the underlying strength of the building rather than estimating, rather than the estimated lateral load resistance of buildings. That is what the strength of the building was prior to the earthquake, which may well have been low. For example, the placard system is primarily concerned with observed damage rather than assessed lateral load capacity." Have you got any

comment about that in terms of the Christchurch City Council policy at that time?

A. Clearly the focus for us with our level 1 and level 2 assessments, if indeed level 2 assessment occurred, was to assess immediate hazards and to act upon those. It wasn't possible to assess the underlying strength of a building in the time we had available.

Q. And in your experience, post-September, did the use of level 1 and level 2, did it carry on beyond the emergency period and beyond even the, was it the BRO office that was set up?

A. It was used as an indication of observable damage, yes.

CROSS-EXAMINATION: MR ELLIOTT

WITNESS REFERRED TO BUICOL617-625.0007.2

Q. This appears to be a seismic risk survey for this building, 617 Colombo Street –

A. Yes it is.

Q. – which you say relates to the whole building.

A. Yes.

Q. And that was carried out on the 28th of November 1991.

A. Yes.

Q. And you see down the bottom of the document 'Hazard identified as being parapet and cornice' and then there's some notes about that in the bottom left-hand corner.

A. Yes.

Q. And then in the bottom right-hand corner the building's been given a category A and I'm right in saying that for that categorisation the recommended action was immediate action under s 301A of the Municipal Corporations Act. Is that right?

A. Yes.

Q. Are you aware of whether any action was taken about that hazard?

JUSTICE COOPER:

- Q. Well I don't think it would have been in 1991, Mr McCarthy, would it?
- A. No I don't believe it was, Sir, but the record indicates that the discussions with the owners resulted in the commencement of strengthening work in 1994.
- Q. I hope we're not at cross-purposes. My point was simply that the Municipal Corporations Act ceased to exist in 1974, didn't it?
- A. It did, it did, Sir, and it was taken over by the Local Government Act.
- Q. Yes, some other provision to similar effect.
- A. Mmm. To what?
- Q. To similar effect.
- A. Yes.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

- Q. Thank you Your Honour. That might confirm what you were saying yesterday, Mr McCarthy, which is that these forms had been round for quite some time as at 1991 and that they were referring to an Act which, at that time, no longer applied.
- A. That's correct. There was the Municipal Corporations Act did have a transitional period I believe as well. The cessation of that transitional period I'm a little unsure of.
- Q. All right and so you've said that the strengthening work in 1994 addressed this issue of the parapets which had been identified back here in 1991.
- A. Mhm.
- Q. You might appreciate there is a bit of an issue there that between 1991 and 1994 there appears to have been something which at least one Council officer thought would require immediate action.
- A. Yes.
- Q. Do you know why that wouldn't have been attended to in that three year period?
- A. No I don't.
- Q. Is it possible, you mentioned yesterday that the 1991 Building Act presented some difficulties for the Council in taking action about such matters. Is it possible that that was the problem?

- A. It may have contributed. I believe that at that time you had to demonstrate the potential collapse of the building, catastrophic collapse of the building or parts of the building to actually enact the dangerous goods provisions of the, sorry the dangerous building provisions of that Act, so that may have contributed. There doesn't, the immediacy of this work or the requirement for immediate work is not immediately apparent from what I'm reading.

MR ELLIOTT:

Your Honour I've spoken to my friend Mr Laing just arising from Mr McCarthy's reply yesterday about the 1991 Building Act presenting an impediment to the Council and I've just invited, rather than asking Mr McCarthy, I've just invited that the Council set out for the Commission what it perceived the difficulties were and to what extent they were dealt with or not and I think, perhaps not might be the case, in the 2004 Act. I think other local authorities provided similar comments to the Commission in the course of that hearing and I think the Council is yet to get its –

JUSTICE COOPER:

Council is going to do that for us early next year I think. So that will be an issue to follow up on then Mr Laing will it?

MR LAING:

It's already underway, if Your Honour pleases. I will be calling some evidence around the, what was actually done as opposed to what was ordered to be done from about 1970 onwards but I'll also be addressing that in submissions on the, at some stage as well so I will have both for you.

RE-EXAMINATION: MR LAING – NIL

QUESTIONS FROM THE COURT : COMMISSIONERS FENWICK & CARTER – NIL

QUESTIONS FROM THE COURT : JUSTICE COOPER – NIL

WITNESS EXCUSED

1515

MR ZARIFEH CALLS

JONATHAN BARNETT (SWORN)

MARK HUMPHREY (AFFIRMED)

MR ZARIFEH TO MR BARNETT:

Q. Mr Barnett, if I can address you firstly.

A. Yep.

Q. Your name is Jonathan Barnett?

A. Yes.

Q. And you are an Associate Director, Structural Engineering of Beca?

A. Yes.

MR ZARIFEH TO MR HUMPHREY:

Q. And Mr Humphrey, your name is Mark Humphrey and you are a structural engineer employed by Beca Carter?

A. Yes.

MR ZARIFEH TO MR BARNETT:

Q. And as I understand it Mr Barnett you will speak to the report, the Beca report and if there's, if it's necessary to refer to Mr Humphreys for any questions or details of the inspection, the inspections that we're concerned with we can do that but you as the, providing the oversight on the reports Mr Barnett you'll speak to those?

A. Yes.

Q. Can I perhaps start with just asking you about your qualifications Mr Barnett. You have a Masters of Engineering with Honours and you are a member of IPENZ?

A. That's correct.

Q. And you have the CPEng qualification?

- A. Yes.
- Q. And I think you've got over 16 years experience?
- A. That's correct.
- Q. And as I said before you, the inspection of this building that we're dealing with was done by Mr Humphrey on the, the days of the inspection but under your oversight and your checking of the report and the calculations subsequently?
- A. Yes I reviewed the reports.
- Q. Thank you. I just wanted to ask you what instructions you received from the owners or via the owners in relation to the inspections?
- A. Initially we were asked to undertake damage inspections of the, of the property.
- Q. And so when you say damage inspections, just to assess what damage had been inflicted by the September earthquake?
- A. Yes.
- Q. And were you asked for any, to, to consider the issues of safety or not?
- A. Not to my knowledge, no. The, the request was verbal. It didn't come to me directly but the request was to check out the damage at, at a series of buildings that Colliers as property managers managed and this was one of them.
- Q. And so was this, what we heard this morning, not from Colliers but from someone from Harcourts that they had a standard policy it seemed that they would get Holmes in that case to, Holmes Consulting Group to check over the buildings that they managed following the September earthquake. So was that a similar arrangement?
- A. I don't think there was an arrangement before September 4 but after –
- Q. Following it?
- A. – September 4, following that we did a lot of Colliers properties, yes.
- Q. And these properties, in particular this one that we're concerned with were tenanted with various businesses?
- A. Yes.
- Q. So on the, I think there was a visual inspection which was termed a level 2 rapid assessment of 143 Tuam Street on the 7th of September?
- A. Yes.

- Q. And I think again on the 10th of September following a series of aftershocks?
- A. Yes.
- Q. On the 15th of September a visual inspection undertaken of 625 Colombo Street?
- A. Yes.
- Q. And the result of that, the level 2 rapid assessment form that you've produced, that was forwarded to the council or I think via the Civil Defence?
- A. Yes.
- Q. And you'll have heard a moment ago that's the one that council don't have a record of but I think your letter says it was hand delivered, I think was it?
- A. Yes and as Mr McCarthy said there were a great number of these. We were in the practice of putting them all in a, in an out-tray, all the completed level 2 assessment forms. We would then send those, hand deliver those to, to Civil Defence and, and they were then doing the placarding on the buildings.
- Q. Now I think following that, was Beca then engaged by the owner Best Little Law House Limited to undertake a more thorough survey of the building damage?
- A. That's correct.
- Q. And I think too to complete a preliminary assessment at least of the lateral load capacity of the building?
- A. Yes.
- Q. And to include proposed or recommended remedial works?
- A. Correct.
- Q. And did that result in a report that you've produced to the Commission, substantial report dated 10 December 2010?
- A. Yes.
- Q. Were you asked to do any kind of inspection following the Boxing Day aftershock?
- A. Yes we were.
- Q. And was that via Colliers?
- A. Again via Colliers.
- Q. And I think that was 25 January of this year?
- A. Yes.

- Q. Did that change the assessments that have been made in that detailed report?
- A. No it didn't change the, the overall assessment but we did recommend some, some immediate work to secure a parapet.
- Q. Right was that a parapet on the Tuam Street frontage –
- A. Yes.
- Q. – of 143?
- A. Yes.
- Q. And that securing work was done?
- A. Yes.
- Q. And how did that fair, that parapet, in the 22 February earthquake do you know?
- A. It appears to have fared well.
- Q. So the restraining of that parapet seems to have worked?
- A. It seems to have, yes.
- Q. And I think following the 22 February earthquake Beca were requested to undertake further inspections?
- A. Yes.
- Q. And structural damage reports of what had happened in the February earthquake?
- A. Visual damage assessment, yes.
- Q. Has all of that building now been demolished?
- A. I believe 617 has been demolished along with –
- Q. The ones to the north.
- A. – 625 to 629 I believe to the north. As I understand it 143 Tuam Street is still standing.
- Q. Right. Apart from what's in your report was there any verbal advice given to the owners either direct or via Colliers in relation to the structural integrity of the building? This is prior to February I'm talking about.
- A. No, no, the verbal advice that came after the report was issued which is detailed in our letter response was with regard to the, the subsequent shake following the Boxing Day earthquake and related to the, to the parapet on Tuam Street.

Q. Okay so the advice apart from that parapet issue is really what's contained in the report?

A. Yes.

Q. I just wanted to ask you to comment on the standard or the test you applied when carrying out the inspections that led to that 10 December report and in particular what account if any you took of the fact that it was in an aftershock zone following September?

A. Yes we were briefed and aware that we were expecting aftershocks, a series of diminished shaking and increasing duration, longer periods between aftershocks. That was what was typically expected by, by us all, by the profession and that was the advice we were given and so the, the damage assessments that we undertook and the, the recommendations that we gave that the building did not pose an immediate risk were in that, you know, to that standard within that knowledge that we were expecting aftershocks but diminished shaking to a lesser extent on a building and, and certainly we were not expecting the unprecedented shaking that we saw on the 22nd of February.

1525

Q. And where did the information that you were basing that on come from?

A. It came from –

Q. Briefings or what?

A. – yeah, it came from a, a number of briefings, internally as well as I believe it's Civil Defence although I didn't attend any Civil Defence myself, and also there were various bulletins being emailed around the profession.

Q. Thank you.

A. From GNS.

Q. Thank you, now you would have heard me referring Mr McCarthy to an answer to a question that was posed to you in a letter from myself, and perhaps incorrectly stated the question in terms of reference to your report but in your report you determine that the building had a lateral load capacity of 11% new building standard?

A. Yes.

Q. And the question which I'll correct now because I want to ask you it again, the question is how does that correlate with the conclusion in the, I think it's in the

executive summary of your report where you said, “The buildings do not pose an immediate risk to their occupants. However, repairs will be required to the damaged walls and to prevent further collapse of the masonry parapets”. How does the, what's the correlation between the two or is one inconsistent with the other I suppose I'm asking?

- A. No I think we need to, we need to view them both together, however they are separate. When we look at the damage we're looking for damage that may cause an immediate risk so those, those initial rapid assessments were done on that basis and, and we drew that conclusion that the, the damage didn't present an immediate risk. The buildings did not cause an immediate risk to their occupants. We, we went on to, to recommend repair works. We also did the IEP assessment which came out with a building score of, of 11% which, which again confirmed what we had already been, already suspected that it was an earthquake-prone building. Now to put that in context I suppose 11% for a very old unreinforced masonry building is not unusual, that would be a typical score for a building of that age, of, of that material so the –

Q. And are you talking even say at any time before the September earthquake?

- A. Yes, yeah, yeah, that's right, I mean we, we made the determination that the damage that was apparent after our inspections following the September 4 earthquake had not significantly changed the building's performance and its, and its immediate resilience. We obviously monitored that and, in subsequent aftershocks we re-inspected but the score was the score before the earthquake you know that, the level of lateral load resistance in that building hadn't really changed from before the earthquake.

Q. How do you know that it hadn't changed if you hadn't assessed it before the earthquake?

- A. Our assessment was based on the, the configuration and material type and the building age, that's it, as Mr Smith had described it, it is a broad brush tool so those inputs to that procedure would have been the same inputs that we'd've used prior to September. We'd've come out with a similar score.

Q. Right.

- A. The damage wasn't deemed to be in our opinion the damage that we were observing hadn't significantly changed the building's stability.

- Q. Because I guess to the lay person if someone says it's 11% of new building standard, it sounds very low?
- A. It is low.
- Q. On the face of it doesn't seem consistent with not posing a risk to occupants?
- A. The building score puts it in the earthquake-prone bracket, but there were many buildings throughout New Zealand which would score a similar value.
- Q. Right so when you said does not pose an immediate risk, what do you mean by immediate in that sense?
- A. Well we were, I said described the, the understanding at the time of the seismicity in Canterbury was that yes we would expect aftershocks but we were expecting diminished shaking, we weren't expecting the, the unprecedented shaking that we saw and so when we talk about immediate risks I'm really talking about the immediate knowledge that yes there'll be aftershocks and it should hold up to those and in fact it did. Our subsequent inspections we didn't see, in our subsequent inspections we didn't see any cause for concern.
- Q. Such as Boxing Day you mean?
- A. Yes.
- Q. Right.
- A. The Boxing Day event for example we did see some concern in the parapet at 143 Tuam Street and we, we advised some barricade, barricading and some stability to the parapet.
- Q. Okay. But if there was a significant earthquake then that wasn't included in the immediate?
- A. That's correct and we do note that in the report you know the building is, is earthquake-prone.
- Q. And still liable to collapse in –
- A. Still liable to collapse in a, in a significant future earthquake.
- Q. Right.
- A. I think we didn't use the collapse I think we used the word failure.
- Q. Sorry?
- A. I think we used the word failure, subject to a failure in a significant future earthquake.

- Q. All right so I think you made the point in your letter that you didn't specifically advise the owner as to safety of the building other than that sentence that I've read out to you about it not posing an immediate risk?
- A. That's correct. We, we advised on, on the risk that their building had the risk revolved around the damage that it had seen and we did spell out that there was no immediate risk but that damage needed to be taken care of and repaired in the short term but we stressed that the damage and the repairs that we were talking about would not improve that 11% score. It needed to be done but it wouldn't, it wouldn't, what was needed was a detailed strengthening scheme to be fully investigated and designed and implemented and we gave a time frame for that.
- Q. Do you accept that to a lay person owner reading that it didn't pose an immediate risk might be equated with, that it was, wasn't a safety concern, subject to the repairs?
- A. Possibly if you only read that one statement and took it isolation but –
- Q. But if you read the whole –
- A. If you read the whole report I think it's clear in the report that what we were advising was that this is a, this is a building with a very low score and, and needed to be under the Council's earthquake-prone, dangerous and insanitary buildings policy it required strengthening.
- Q. Okay. Just talking about those recommended repairs, I think you said in paragraph 7.2 of your report. I'll just find it.

WITNESS REFERRED TO REPORT – PARAGRAPH 7.2 PAGE 26

- Q. Well firstly perhaps just above 7.2 in the penultimate paragraph to 7.1 you've said in the middle of that paragraph, "We do not consider the earthquake damage to the buildings to be so significant as to pose a danger to the building's general stability. However attention should be given to stabilising the parapets at 143"?
- A. Correct.
- Q. "For public safety purposes", so that again was another indicator that you didn't consider that generally the stability was, was okay?
- A. Yes within the context of, of the assessment which was diminished seismic shaking yes.

- Q. In the context of the kind of building it was you mean?
- A. Yes well we obviously knew what type of building it was but we, we – this was written and considered in a context that the, the seismic shaking would not be several times greater than, than it had gone through so, yes we, we considered that the earthquake damage didn't pose a significant risk. However, the shaking that it went through on the 22nd of February was not considered. We didn't consider that level of excitation.
- Q. Right, I see okay and then 7.2 structural damage. You say there in the second sentence, "Some repairs are essential to ensure the operation and immediate safety of the buildings and their occupants so should be carried out as soon as possible", correct?
- A. Yes.
- Q. Well firstly can I ask you when you say that they're essential to ensure the safety of the occupants, how does that fit in with saying that the building doesn't pose a danger, is not a danger to its general stability or doesn't pose an immediate risk to the occupants if there were repairs that have to be done to ensure their safety?

1535

- A. I think these repairs as has already been mentioned and if left unchecked can deteriorate so we wanted these repairs to be effected so that there wasn't any continued deterioration that may result in a concern.
- Q. Right.
- A. And also as part of that work we were also wanting the – some temporary or immediate strengthening or shoring up of the parapets and some of that might have been to move a barricade that had been put in place to protect you know the – if they were underneath.
- Q. Well then you turn to the specifics of the damage in 7.2.1, .2 and .3 and .4, correct?
- A. Yes.
- Q. And so internal wall damage was the first one?
- A. Correct.
- Q. Cracking to reinforced block walls and cracking of unreinforced masonry brick work walls, and secondly repairs to reinforced block work walls and thirdly

repairs to unreinforced masonry walls. So you're expanding I presume on those two items?

A. Yep.

Q. And then the third one was the parapet damage as you've said?

A. Yes.

Q. Correct, so were you saying that, just leaving aside the parapet damage, were you saying that the first two repairs, the reinforced block work walls and the unreinforced masonry walls, they had to be repaired to ensure the immediate safety or not? Just trying to understand the – maybe it's just the language used, but –

MR HUMPHREY:

A. What I was alluding to there was the safety, was generally from the parapets falling. Repairs to the reinforced block walls and unreinforced masonry was internally, was a stability thing to bring it back to its pre-earthquake condition, but that wouldn't have affected the overall stability of the building as they were at the time, in my opinion.

Q. So they were to bring it back to the stability that it had before the earthquake?

A. Yes.

Q. That would imply that it didn't have the degree of stability after the earthquake?

A. No, it still had – no we didn't consider the stability to be compromised but we suggested some repairs to bring it back to its pre-earthquake condition.

Q. Which might have been 11 percent?

A. Yes.

Q. Before the earthquake.

A. Yes.

Q. Is that what you're saying?

A. Yes.

Q. So is that perhaps, or perhaps I've read it wrongly, they weren't essential to ensure the immediate safety of the occupants?

A. No. That's correct. Other than the parapets which were ordered off?

- Q. I understand, but they were things that should be done but they weren't. Without them being done you didn't consider the building was going to fall down?

MR BARNETT:

- A. No.

MR HUMPHREY:

- A. No.
Q. Leaving aside what happened in February?

MR BARNETT:

- A. Correct.

MR ZARIFEH TO MR BARNETT:

- Q. And I think I asked you in my letter how the safety of the occupants was at risk without the repairs having been completed and you've referred to various sections of your report in 7.1 and I think this is maybe the point you're making Mr Barnett, that the damage noted in the report had reduced the ultimate limit strength of the structural load resistance and that's got the potential to cause structural failure in a significant future earthquake. Correct?
- A. Correct.
- Q. Right, so in other words in a significant earthquake, future earthquake the building could still fail?
- A. Yes.
- Q. And as you said, you recommended that in the medium term the building should be fully assessed and strengthened as required to bring them under the council's new policy?
- A. Yes.
- Q. Did you have any further involvement in the building after – well you were involved after May, but after your report in December, in terms of effecting

repairs other than the parapet. Any of these recommended repairs to block work?

A. No there weren't.

MR HUMPHREY:

A. No.

MR ZARIFEH TO MR BARNETT:

Q. You said that to determine the – this is in paragraph 7.2 that to determine the full extent of the building damage, areas that could not readily be accessed and areas where the structure was covered should be opened up to allow full inspection assessment. Now I don't think that was ever done?

A. It wasn't done, no.

Q. But did the fact that that wasn't done, did that affect your ability to come to those conclusions, that didn't pose an immediate risk etc?

A. Our opinion that it didn't impose an immediate risk was based on what we could see and we wanted to complete the picture. We wanted those wall linings removed to complete the picture but there was no indication on the wall linings themselves or the joints in the wall linings that there was movement, so yes we wanted a more thorough inspection as part of the ongoing assessment of this work but at the time when we requested those wall linings to be removed there was no evidence to suggest that there was a problem. I don't know, Marc you might be able to ...

MR HUMPHREY:

A. No, no.

MR ZARIFEH TO MR BARNETT:

Q. So from your point of view and the assessments that have been made, did you have any difficulty as engineers with the building continuing to be occupied

post September and prior to February and leaving the parapet issue aside not to be any cordons or anything like that needed from what you'd seen?

A. Sorry I don't quite understand the question.

Q. Well from your assessment of the building in December, up to December, did you have any difficulty with the building being tenanted and continuing to be tenanted between September and February?

A. No difficulty. I think as we are now understanding these things take time and you know we make a recommendation in a report that wall linings are uncovered and that needs to be considered with both the owner and the insurers and we were expecting that instruction but I think the earthquake came before the instruction.

Q. Well certainly became before you might have had the chance to do it?

A. Yes.

Q. But as I understand it that wouldn't have stopped you coming to the conclusion that it didn't pose an immediate risk?

A. That's correct. In our opinion, on the evidence we'd seen, we were of the opinion it did not pose an immediate risk and in the subsequent aftershocks and subsequent checking we didn't see anything that changed our opinion. We were, we wanted to be sure that we'd seen everything and that's why we were requesting or recommending that these wall linings were uncovered so that we had seen everything.

Q. Do you have any view on why the facades to 623 to 629 collapsed and the 617/621 didn't?

A. I believe that from the reconnaissance photographs, when you look at the facades 623 to 629 appears to be constructed as one block and perhaps 617, the corner block, is a different construction. Certainly the peeling of the façade from say 629 down to 625, it abruptly stops at that interface between, under 617. 617 parapets are intact and undamaged largely.

Q. So we can see on that photo?

A. I believe the building was strengthened as a whole which is why it's referred to as 617. As to why that failure didn't, I don't know why 629 failed in the first place but perhaps that transition between the block to the north of 617 and 617 itself that's what's perhaps stopped the progressing damage.

Q. Right, what so the facades, one façade peeling off has led to the others but it's stopped because they're not joined at 617?

A. Possibly, yeah.

1545

Q. And finally you heard Mr Smith talk about the 11 percent calculation. Have you got any comment about what he said about that?

A. Um, I agree with his comments that the IEP2 is a broad-brush tool and it's difficult to assess these old buildings. We were, however, in possession of the Council records at the time we did that report and we looked at the former strengthening report. There is a letter that we did get from Council records which we included in our report. It's on page BUI.COL617-625.0011.46.

Q. Back in 1994?

A. Yes and this is, Mr Smith was referring to the strengthening level back in 1994 and how that equated to his determination of 20 percent. I'll read from the fourth paragraph down – "It was stressed, during discussion, that provided there was no change of use to a high risk category, it would be satisfactory to remove hazards and ensure that the buildings can withstand earthquake forces relating to the seismic coefficient of 0.1g". Although the later reports did refer to 0.14G we conservatively took this to be the strengthening level and that's perhaps why our assessed NBS score differs from Mr Smith's.

Q. Okay so in reply you would say that you think the 11 percent is likely to be reasonably accurate given that it's an estimate because you had taken into account the more conservative figure that the Council (inaudible 15.46.58 – overtalking)

A. Yes we had, yeah.

JUSTICE COOPER ADDRESSES COUNSEL

DISCUSSION

COURT ADJOURNS: 3.48 PM

COMMISSION RESUMES: 3.57 PM

MR ZARIFEH CALLS

DAVID JOSEPH EHLERS (VIDEO LINK)

Q. Can you hear me Mr Ehlers?

A. Yes I can.

Q. Your name is David Ehlers. Have you got a middle name?

A. Joseph. David Joseph Ehlers.

Q. Thank you, and you are a solicitor residing in Dunedin?

A. Yes I am.

Q. And are you one of the owners or one of the shareholders perhaps would be more correct in a company that owns or owned a building that was at 617 to 625 Colombo Street?

A. Yes that's correct.

Q. And the company I think is called Best Little Law House Limited?

A. It's The Best Little Law House Limited.

Q. The Best?

A. Yeah.

Q. Thank you and I think there's a number of shareholders and you're one of them?

A. Yes that's correct.

Q. A group of lawyers, is that correct?

A. Yes, yes that's correct.

Q. How long have you owned or had you owned the building prior to September last year?

A. I think it was approximately five years.

Q. And in that time prior to September had you effected any structural strengthening as owners or not?

A. No we hadn't. I, I think you're aware that there was some strengthening of the building done by a previous owner.

Q. Right and we've heard that was in 1994 and then stage 2 in, in the year 2000.

- A. I wasn't sure, I'm aware of the 1994 alterations but I wasn't aware of the 2000 alterations. I think there was some tenancy work done from time to time but that's, I wasn't aware that it was another strengthening exercise.
- Q. Prior to the September earthquake were you aware of the Christchurch City Council's earthquake-prone policy?
- A. No, no. I was aware that they had a policy but not the detail of the policy.
- Q. And you weren't aware of how it applied to that building that you owned?
- A. No I mean we hadn't had any contact with them or any reference to it.
- Q. All right. Do I take it from that then that you didn't have any understanding of whether your building was earthquake prone or not as under the, the Building Act?
- A. What I knew, I knew that it was an older, obviously an older building. I knew that there had been some strengthening work done but by, just by general knowledge I was aware that, it's obviously not as good as a brand new building.
- Q. We've heard from Mr McCarthy from the council a short time ago and he referred to the earthquake strengthening that had been done in, prior to 2000 and then to legislative changes in 2005 which would have meant that the strengthening work that had been done because of the increase if you like in the levels of requirement would mean that the building was likely earthquake prone but you weren't aware of that or the particulars of that?
- A. Well not in the particulars. I mean I had assumed that if, if we were going to carry out any structural work on the building then we may have had some strengthening or upgrading work to be carried out if that was the case. I mean I don't, am aware from general knowledge of buildings down here and the like.
- Q. Mr McCarthy referred to, from the council records, a proposal for a new kitchen facility in 2009. That's presumably in one of the tenancies. Were you aware of that?
- A. No that would have been, yes that was probably the Silk Road tenancy.
- Q. Right and he said that because the value of the work was less than 25% of the value of the building it didn't require structural or strengthening work to be completed. Were you aware of that or not?

- A. Just to explain, the, I'm trying to recall the, the building was managed by Colliers and any correspondence or, the council, was really done by them. I'm just trying to recall in terms of that tenancy there was a, the tenant was largely driving it. I think we had some involvement in, in doing that work, around that work. We, I can't recall now who lodged the consent even quite, quite honestly.

JUSTICE COOPER ADDRESSES MR EHLERS – NEITHER SWORN OR AFFIRMED

JUSTICE COOPER:

- Q. Do you promise that the evidence that you will give to this Commission will be the truth, the whole truth and nothing but the truth?
- A. I do Sir.
- Q. And do you also swear that that is the case in respect to the evidence that you have already given?
- A. That is correct Sir.

EXAMINATION CONTINUES: MR ZARIFEH

- Q. Mr Ehlers I think you said in a reply to the Commission, a letter from the Commission that the heritage status of the building had been lifted some years ago. Was that your understanding?
- A. That was my understanding, yes.
- Q. Because the council, Mr McCarthy from the council, wasn't sure of that but is that something that was done in the time you owned the building?
- A. My recollection is that, I think shortly before we purchased the building the, there was a, there is a status on the, on the façade but it had been lifted prior to our purchasing the building.
- Q. Now I want to ask you about events after the September earthquake. We've heard evidence from two witnesses from the structural engineering firm Beca, Beca Carter, that they were asked to by the owners, via Colliers, to inspect the building after the September earthquake. You're aware of that?

- A. Yes I am, yep.
- Q. And that they did so and they completed some, what are called rapid assessment forms. The building we've heard had been green placarded by council overseeing inspections shortly after the earthquake but that Beca completed a fairly detailed structural assessment of the building that culminated in a report of 10 December 2010. You've got, you've had a copy of that?
- A. Yes I have.
- Q. Can I ask you, firstly, in accepting that you're not an engineer but a lawyer but as a non-engineer but owner of the building what did you conclude in general terms from that report?
- A. Largely that the building was, withstood the earthquake reasonably well for its age. I was aware that there was some cracking in 625 and that we were in time going to have to get some further assessments of what work actually needed to be done to, to bring the building, well to get it right again but that at that point in time the, the building was fine to be occupied and that there wasn't any immediate danger to any of its occupants or others.
- Q. Right. So I've referred the, Mr Barnett from Beca to a paragraph in the executive summary where it said, "The buildings do not pose an immediate risk to their occupants. However repairs will be required to the damaged walls and to prevent further collapse of the masonry parapets." That was in the executive summary. Do you recall reading that?
- A. Yes, yes I do.
- Q. And Mr Barnett also was referred to paragraph, paragraph 7.2 of the report, 7.1 and 7.2 and in 7.2 he had, Beca had referred to structural damage and repairs that were required. Do you recall that? You've got it in front of you haven't you?
- A. Yes repairs to reinforce concrete block walls et cetera.
- Q. Yes if you look at 7.2, the paragraph that starts as mentioned above, under Structural Damage, 7.2.
- A. Yes, yep.
- Q. It says, "As mentioned above when the repairs to the current damage listed below are carried out the building will still not comply with the current council's

policy requirements for lateral load capacity.” Did you understand that the council’s then requirements had been increased following the September earthquake?

1607

A. I, well I understood subsequently that there were changes and I wasn’t absolutely clear what those changes were. My understanding is that there was some discussion from, at one point of time where Council was saying it would go to 66 percent of current code and then, um, in February, in days before the February earthquake when the insurance assessors said well we can now get on and start to look at the repairs on this building I was told that they were back at 33 percent so there was yeah some, it wasn’t, you know it wasn’t a clear statement but I understood that immediately following the earthquake naturally they were going to be saying well we need to be looking pretty closely at what we’re doing.

Q. And the next sentence says “Some repairs are essential to ensure the operation and immediate safety of the buildings and their occupants so should be carried out as soon as possible.” See that sentence?

A. Yes.

Q. What did you understand by that?

A. There was some, there was some cracking around, I think the major concern was around 143 Tuam Street around the parapets in 143 Tuam Street. There was some cracking there and, in fact, we, and may still be there. We undertook some temporary repairs to secure the corners of that building. The other repairs that were done were repairs on the Silk Road building to get that back operational and my understanding is that Council were quite happy with those repairs.

Q. The Council or Beca? Were Beca involved or not?

A. As I understand – sorry?

Q. Were Beca involved in overseeing that or not?

A. I can’t recall. Not specifically at that point in time I don’t think. They weren’t structural repairs as such. The position was that we were still having the, trying to get assessments out of the insurance assessors and we would, yeah

in terms of getting approval to go ahead and price and have designs done we were still waiting on those clearances.

- Q. Right, well I was going to ask you about that so if you look below where I was getting you to read, look at that sentence - 7.2.1, .2, .3 and .4 – they list the areas of damage that they're referring to, correct?
- A. Yep.
- Q. So, apart from the parapet damage which you mentioned had been repaired, had the others been repaired or not? 7 point –
- A. No they hadn't. There was some minor repairs to 625 that were carried out to comply with health and safety requirements.
- Q. Okay but the structural matters set out there hadn't been?
- A. No, not at that point no.
- Q. But you mentioned before that you'd started to progress that with the insurance, just tell us about that, that process.
- A. Well the building was insured with Western Pacific, which you'll be aware, and we had lodged claims, given them the insurance, the engineers' reports and wanted to progress those matters but, well in hindsight perhaps the reason why they weren't rushing to do some of these things may have been monetary but we were very much in their hands as to what we could do and what we couldn't do. In fact, at one point in time, we were told by Western Pacific to stop getting engineering reports and not to get any further reports without their authority, express authority.
- Q. Was that in relation to this building?
- A. Yes. That's the only building we've got. When I talk about the building I talk about the complex of three buildings.
- Q. And when you read that sentence at the bottom of page 26 under 7.2 – "To ensure the operation and immediate safety of the buildings and their occupants" – did you consider that had to be done as soon as possible?
- A. Well if you go to the beginning of the report where it says that the building was safe for occupants and could be re-occupied, then in terms of an immediate should I do it tomorrow, no I didn't think that was the case at all.
- Q. So you thought they had to be done at some stage but there was no, nothing to worry about at that stage.

- A. There was no immediate urgency. We undertook the parapet repairs that had been identified as being urgent and put those in place. The rest was a case of, well obviously there'd been a significant earthquake and there were a lot of people trying to get things done and it wasn't straightforward to get things done. We simply undertook, as I said, some of those works, those urgent, what we regarded as the urgent works without really getting the authority of the insurers and simply did those but in terms of a detailed assessment of the total building and going through it and identifying all the issues that needed to be dealt with no we hadn't been able to get to that point and, as I said, it was three days before the February earthquake that they came to us and said well we can now get started on this.
- Q. Right and in the report Beca also recommend getting a detailed, a more detailed engineering evaluation to look at structural strengthening. You presumably hadn't started that or thought about that at that stage.
- A. No, no.
- Q. So, just finally, after receiving the report and digesting it in December what was your understanding as an owner and a landlord as to the safety of people in or around the buildings in that post-September period?
- A. My understanding was that the building didn't pose an immediate threat to anyone, that it was going to need some work done on it and it, we had secured the parts that were identified as an immediate risk and we could move forward to get those repairs done as soon as we were able to but, as I say, at that point the immediate repairs had been completed and we were then having to wait for the insurers to authorise the next level of repairs.

CROSS-EXAMINATION: MESSRS ELLIOTT & LAING – NIL

QUESTIONS FROM THE COURT : COMMISSIONERS FENWICK & CARTER – NIL

QUESTIONS FROM THE COURT : JUSTICE COOPER - NIL

MR EHLERS:

Sir, there was one point, if I may raise, I was watching the live feed earlier in the day when I believe the, is an engineer Peter Waltham was giving evidence shortly after, if I've got the right, correct name –

JUSTICE COOPER:

I don't think so.

MR EHLERS:

Shortly after 2 o'clock.

JUSTICE COOPER:

No. Peter Smith?

MR EHLERS:

Oh, could have been, Sir. He was an engineer and you were having some concerns over the identifying the buildings and it seemed at one point that it was suggested that 627 and 629 may have been strengthened at the same time that this building was strengthened.

JUSTICE COOPER:

Yes, I think what was said was that, if I get this right, that 617 to 629 were all strengthened at the same time.

MR EHLERS:

That's not my understanding of it, Sir. The ownership of the building went from 617 through to 625 and it's only those buildings that were strengthened at that time and I think there's a reference in the Beca report to some damage to one of the party walls, the party wall between 625 and 627 as having some cracking in it that was going to need some work to be done on it and I have some photos of the, undertaken by, taken by the contractors at the time which indicate that the strength of the work that they were doing was only as far through as 625.

JUSTICE COOPER TO MR EHLERS:

Q. I see, thank you very much. Do you own beyond 625?

A. No sir, 627 and 629 were in separate ownership.

Q. And they are still?

A. Yes as far as I'm aware sir.

Q. Well that's very helpful thank you.

A. Thank you.

WITNESS EXCUSED

1617

MR BARNETT AND MR HUMPHREYS RE-CALLED (BOTH ACKNOWLEDGE OATH AND AFFIRMATION)

CROSS-EXAMINATION: MR ELLIOTT

Q. You'll appreciate that engineers obviously play an important role in the post-earthquake environment and will hopefully continue to play that role in future in assessing buildings in the post-earthquake environment and I just want to ask you a question or two around the advice that you gave the owner here. So your advice was, or one part of it was the buildings do not pose an immediate risk to their occupants and I take it that one of the considerations you're using in arriving at that advice was your assessment of the 11 percent NBS. Is that right?

MR BARNETT:

A. That's correct.

Q. Can I just ask for BUICOL617-625.0010.28 and just for the graph to be enlarged please. So is this an extract from your report dated 10 December 2010 to the owner?

A. Yes.

Q. And you've attached this or included this response spectra?

A. Yes.

Q. Does that relate to horizontal accelerations?

A. Yes that one does.

Q. So your own IEP calculation which you've said is an approximation resulted in an assessment of 11 percent NBS?

A. Yes.

Q. And have you identified on this graph 15 percent of NBS in the green down the bottom left-hand corner?

A. Yes.

Q. And you've nominated a period for this building of .4?

- A. Yes.
- Q. And so the green line extends down there at .4 seconds, so at 15 percent of NBS would that mean that the building would be capable of bearing horizontal accelerations of about .1G?
- A. Yes.
- Q. If the horizontal accelerations were greater than .1G, would that mean the building could suffer damage and possible collapse depending upon how great they were?
- A. Yes.
- Q. So in saying that the building did not pose an immediate risk isn't there an underlying assumption that it wouldn't be exposed to horizontal accelerations greater than .1G?
- A. I think the assessment under strengthening that was undertaken in 94 based it around the .1G figure which is what we've used there. It was clear though from September and from that graph that the accelerations exceeded that level on the 4th of September and yet the damage, even there were some damage, but it didn't suffer collapse, you know, this assessment tool isn't an exact science. The building has borne out larger accelerations than .1G. At what point it collapsed I don't know.
- Q. So I'm not going to seek to direct criticism at you here, and I just want to look at the way the engineers might give this type of advice in this type of environment. Mr Smith tells us that in February horizontal accelerations were .9G which is well and truly –
- A. Mmm.
- Q. – above code, and you've identified September 4 have you at 80 percent of code, about .5G. Is that right?
- A. That's about right, yeah.
- Q. So were you anticipating if at all if anything that an aftershock could produce something less than .5G?
- A. Presumably yes. We were assuming and operating under the assumption that the aftershocks would be less than the initial earthquake and they would diminish.

- Q. Wouldn't that mean that aftershocks could still exceed .1G, the building's capacity, even if they were less than .5G?
- A. Yes.
- Q. Is that sort of thing something engineers might take into account in carrying out similar assessments and giving advice in future?
- A. It's possibly something we should look at.

CROSS-EXAMINATION: MR LAING – NIL

QUESTIONS FROM THE COURT : COMMISSIONERS FENWICK & CARTER- NIL

QUESTIONS FROM THE COURT : JUSTICE COOPER - NIL

WITNESS EXCUSED

COMMISSION ADJOURNS: 4.24 PM