

UNDER THE COMMISSIONS OF INQUIRY ACT 1908

**IN THE MATTER OF ROYAL COMMISSION OF INQUIRY INTO BUILDING
FAILURE CAUSED BY CANTERBURY EARTHQUAKES**

**KOMIHANA A TE KARAUNA HEI TIROTIRO I NGĀ
WHARE I HORO I NGĀ RŪWHENUA O WAITAHA**

**STATEMENT OF EVIDENCE OF STEPHEN JAMES MCCARTHY IN RELATION TO 91
CASHEL STREET**

DATE OF HEARING: 24 JANUARY 2012

INTRODUCTION

1. My name is Stephen James McCarthy. I am the Environmental Policy and Approvals Manager of the Christchurch City Council. I have worked for the Council since 1 May 2006. During the State of Emergency following the earthquake of 4 September 2010, I was one of the Building Evaluation Managers in the Christchurch City Emergency Operations Centre.
2. I have 36 years of experience working for local government, including 16 years in building control. I have a Degree in Applied Science and a Post Graduate Diploma in Management from Massey University and a Royal Society Diploma in Environmental Health from Wellington Polytechnic.
3. I have been asked to provide evidence to the Royal Commission relating to specific aspects of the Council's involvement with 91 Cashel Street before and after the earthquake of 4 September 2010 and the Boxing Day aftershock. I note that the property is referred to as 91A Cashel Street in the Council's records.

DOCUMENTS PROVIDED TO THE ROYAL COMMISSION

4. The documents relating to this building that have been provided to the Royal Commission are:
 - (a) the Building Permit/Building Consent file for 91/91A Cashel Street; and
 - (b) post earthquake files.

SCOPE OF EVIDENCE

5. My evidence will address the following matters:
 - (a) The Civil Defence Emergency Management Response in relation to the building after the 4 September 2010 earthquake.
 - (b) Council involvement with the building subsequent to the lifting of the state of emergency on 16 September 2010.

- (c) The Council's response in relation to 91 Cashel Street following the Boxing Day aftershock.
- (d) Information about any cordons/barricades around 91 Cashel Street following the 4 September 2010 earthquake.
- (e) Whether 91 Cashel Street was assessed as 'earthquake-prone' for the purposes of section 122 of the Building Act 2004.
- (f) The effect of any strengthening undertaken.
- (g) The application of the Council's earthquake prone policies of 2006 and 2010 to the building.

EVENTS BETWEEN 4 SEPTEMBER 2010 EARTHQUAKE AND 22 FEBRUARY 2011 EARTHQUAKE

6. On 6 September 2010, a Level 1 rapid assessment was carried out and the building received a yellow placard (**BUI.CAS91.0005.24**). The assessment noted that there was a fallen chimney.
7. On 10 September 2010, the placard on the building was changed from yellow to green (see **Annexure "A"**). An inspector with the initials "AJJ" (HG), who notes he is a private engineer, completed the placard form and noted that there was no risk from the chimney debris.
8. On 12 October 2010, a Level 2 rapid assessment was carried out by Paul Guile, a contract engineer working for the Council at the time, and the green placard was confirmed. The assessment noted that according to the occupant the chimney had been removed, but there was a hairline crack in the external wall and a structural engineers report would be required (**BUI.CAS91.0019.32**).
9. On 14 October 2010, a Level 2 rapid assessment was carried out by Martin Crundwell, an engineer contracted to the Council from Opus International Consultants Limited (**Opus**), and the green placard was again confirmed. The assessment noted that the chimney had been removed (**BUI.CAS91.0019.38**).

10. On 26 December 2010, a Level 1 rapid assessment was carried out (**BUI.CAS91.0019.57**). It appears that the “restricted use – yellow” assessment category was initially ticked on the form, but this was later changed to “unsafe – red” and a Building Act notice was issued on 27 December 2010 (**BUI.CAS91.0019.60**). A red placard was fixed to the building on 28 December 2010 as recorded in the photographs attached as **Annexure “B”**.
11. A copy of the notice, along with a cover letter dated 27 December 2010, was posted to the owner, West Mall Properties Limited (**BUI.CAS91.0019.58**).
12. On 31 December 2010, the Council received a CPEng certification from Alistair Boyce, an engineer for Opus. The Council, relying on Mr Boyce’s CPEng certificate, removed the section 124 notice for the building.
13. On 26 January 2011, a Level 1 rapid assessment form was completed and the building was assessed as “inspected – green”. The assessment noted that the chimney had been removed (**BUI.CAS91.0019.65**). It is unclear from the Council’s records why an assessment was carried out on 26 January 2011.
14. On 7 February 2011, an engineer contracted to the Council, Alan Nixon, re - inspected the building and noted that as the chimney damage had been removed down to roof level, the building was occupiable and no further investigation was required (**BUI.CAS91.0019.66**). It is again unclear from the Council’s records why a re-inspection was carried out on 7 February 2011.

Cordons


15. The Council has been advised by its sub-contractors that 50 metres of 1.8 metre high fencing was installed at this location on 29 December 2010. However, I understand that the Council cannot independently confirm the date of installation. This may be due to the fact that Cashel Mall was completely closed off after the Boxing Day earthquake and the sub-contractors were working directly with the Council engineers at this time to erect the appropriate cordons.
16. The Council does have a record of photos taken of the cordon on 30 December 2010 (**BUI.CAS91.0015.39-41**). The Council also has a map of the existing

cordons as at 4 February 2011, and it appears that the cordons had been removed by then (**BUI.CAS91.0015.42**).

APPLICATION OF RELEVANT LEGISLATION AND THE COUNCIL'S EARTHQUAKE PRONE POLICY

17. The Council's records note the building as earthquake prone in terms of the definition in Section 66 of the Building Act 1991. It appears that this status continued to apply when the Building Act 2004 was introduced.
18. After the commencement of the Earthquake Prone Building Policy in 2006, if a building consent application for a significant alteration had been received the application would have been dealt with in accordance with the Policy (see in particular section 1.7). However, no building consent applications were received after the introduction of the Policy. It appears that no earthquake strengthening was carried out on the building.
19. I understand that there have been no assessments of the building in terms of the Policy. However, in 1992 a Hazardous Appendages survey was carried out, which noted that the building was not earthquake prone but its chimneys were hazardous appendages. The basis for the comment that the building was not earthquake prone is unclear.

DATED *13th Day of* January 2012



Stephen James McCarthy



GREEN

INSPECTED

NO RESTRICTION ON USE OR OCCUPANCY

This building has received a brief inspection only. While no apparent structural or other safety hazards have been found, a more comprehensive inspection of the exterior and interior may reveal safety hazards.

This facility was inspected pursuant to the Civil Defence Emergency Management Act 2002.

- Exterior Only *changed from yellow*
- Exterior and Interior *(no risk from chimney doors)*

Inspector ID: As (M) [Signature]

Acting under the authority of the Civil Defence Emergency Management Contractor

Facility/ Tenancy Name and Address
The 1, 2, 3 shop

Date: 10/10/10
Time: 9:10

Please ensure the owners are advised of this notification. Owners are encouraged to obtain a detailed structural engineering assessment of the building as soon as possible. Report any unsafe conditions to the Territorial Authority. Subsequent events causing damage may change this assessment. Re-inspection may be required. Secondary damage (partitions, windows, fittings and furnishings) may be hazardous. Electrical and mechanical equipment, gas connections, water supplies and sanitary facilities have not been inspected.

Contact for information: ph: (03) 641 8888
or
TXT: 021 02060178 with following details: Address, Placard colour, contact name, contact phone number

Do Not Remove this Placard. Placed on Behalf of the Civil Defence Emergency Management Contractor Under the Authority of the Civil Defence Emergency Management Act 2002

"A"

SURV
4 HOUR

"B"



Notice under s128(1)(b) of the Building Act 2004 (as amended by the Canterbury Earthquake Recovery Act) Order 2013 for banning or restricting entry to a commercial or residential building.

DO NOT APPROACH OR ENTER THIS BUILDING

THIS BUILDING IS A DANGEROUS BUILDING UNDER SECTIONS 121 AND 124 OF THE BUILDING ACT 2004

USING OR OCCUPYING THIS BUILDING IS AN OFFENCE PURSUANT TO SECTION 123 OF THE BUILDING ACT 2004

Contact the Christchurch City Council Building Recovery Office for approval of any proposed action to remedy the danger before or following the construction of a structural Ground Floor Civic Offices, 63 Hartford Street

DO NOT REMOVE THIS NOTICE

Placed by the Christchurch City Council pursuant to s128(1)(b) of the Building Act 2004

ISSUED ON 25/04/2013 At this notice remains in effect unless removed or altered (construction.com 2004/13)



CHRISTCHURCH CITY COUNCIL NOTICE

UNDER SECTION 121 & 124 OF BUILDING ACT 2004 (as modified by the Canterbury Earthquake Recovery Act) Order 2013

Three Star Properties Limited
70 Box 2308
High Street
Christchurch 8142

THE BUILDING

Site: 63 Hartford Street
Legal Description: Pt Lot 100 From Certificate of Title No 112/04 (part of)

PARTICULARS

Issued under section 128(1)(b) of the Building Act 2004 (as amended by the Canterbury Earthquake Recovery Act) Order 2013, or in pursuance of the Building Act 2004, or in pursuance of the Building Act 2004, or in pursuance of the Building Act 2004.

- 1 The building is a dangerous building.
- 2 The building is a dangerous building.

TO REDUCE OR REMOVE THE DANGER (S123) MUST:

- A Comply with any notice attached to the building prohibiting the use, occupation or entry of the building or any part of the building.
- B Keep persons away from the danger part of the building.
- C Carry out work on the building in relation to the danger.
- D If the person takes a building consent to carry out any remedial work on the building, they must contact the Christchurch City Council Building Recovery Office by telephone on 03 379 4767 or by email at buildingrecovery@ccc.govt.nz or in person at the Ground Floor Civic Offices, 63 Hartford Street, Christchurch.
- E If the person taking work in relation to the danger or the building is a person who is not a registered contractor or tradesperson, they must also apply for a Building Consent from the Council.

This notice is issued pursuant to section 128(1)(b) of the Building Act 2004 (as amended by the Canterbury Earthquake Recovery Act) Order 2013. It is intended to provide notice of the danger to the building and the requirement to take action to reduce or remove the danger.

Approved by the Council on 25/04/2013. Signed: [Name] Mayor of Christchurch





KURT LANGER
PHOTOGRAPHER
91 Cashel Mall



DO NOT APPROACH OR ENTER THIS BUILDING
This building is a secure facility and access is restricted to authorized personnel only.
Unauthorized access is strictly prohibited. Any person found entering this building without proper authorization will be subject to disciplinary action.
If you are unsure of the proper protocol, please contact the appropriate authority.



PULL