

12 July 2012

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Mark Zarifeh
Counsel assisting Canterbury Earthquakes Royal Commission

Email to: mnz@raydon.co.nz

Dear Mr Zarifeh

RE: EARTHQUAKE COMMISSION

I refer to your email to Wayne Thomas of 13 June 2012. The CRC have asked me to review the information available and to reply accordingly.

The CRC has considered the information which is available to them now. That information suggests the actions of the CRC are unlikely to be seriously called into question.

There is no-one still at the Council who was involved with these issues at the time but CRC records are consistent with the information which you have already received from Richard Johnson, the former Chairman.

At the end of 1989 the CRC was leasing offices at 58 Kilmore Street Christchurch and looking to either buy or enter into long-term lease arrangements in respect of those premises. Robin Schulz of Schulz Knight and Peter Cook of Simes & Co were advising the Council's Reserves and Property Committee with regard to potential property acquisitions. David Stock then of Buddle Findlay was engaged also to assist the Council at that time. He was advising the CRC as to the lease arrangements.

CRC records show there was a meeting of the Property & Reserves sub-committee on 15 January 1990. A report from Schulz Knight was tabled with a report on 58 Kilmore Street. At the same time there was a recommendation from Schulz Knight that the Council should consider possible more advantageous arrangements either by purchase of 249 Madras Street or 58 Kilmore Street. It was agreed a sub-committee of Councillor Carter, Mr Schulz and the solicitor David Stock of Buddle Findlay should proceed with negotiations over both Kilmore and Madras Streets.

CRC records indicate Mr Stock was endeavouring to negotiate with KPMG, the Receivers of Prime West which owned the Madras Street building. Mr Stock advises that his recollection is that despite these tentative negotiations the focus was always on acquiring Kilmore Street.

Although CRC did not have a copy, we know from the documents you supplied to CRC on 19 June 2012 that Holmes provided a report to CRC on 249 Madras Street at the end of January. The CRC have carefully checked all the records now available to them, including archived files. That material does not include correspondence which might have been on previous files not stored electronically. There is no available record which confirms that the Holmes report was provided to the Council, senior executives or the Property & Reserves sub-committee. This does not necessarily mean those parties were not aware of the report. It appears from the report itself it would have been provided to Mr Stock and Mr Schulz.

Buddle Findlay's file relating to Mr Stock's work in relation to all of this is no longer available. It is however apparent from the letter from KPMG, the Receivers for Prime West which owned 249 Madras Street that the potential problems identified by Holmes Consulting had been brought to the attention of the Receivers, and the original engineer for that building, Alan Reay. There was agreement appropriate remedial work would be carried out in consultation with Holmes Consulting and Mr Stock had been advised that the remedial work was to be carried out "forthwith".

We note the Holmes report also refers to their having spoken to Brian Bluck, the building's control manager at the Christchurch City Council to discuss any concerns relating to the building permit and construction process.

The CRC has no information or documents to indicate that the potential problems identified by Holmes Consulting were a factor which they considered after the end of January. This may have been because the information provided to Mr Stock indicated any potential problems were going to be rectified forthwith or it may have been because the Council's focus remained the acquisition of Kilmore Street. Mr Stock's recollection is that although Madras Street was to be considered as a possibility this was more to ensure the Council had some leverage in negotiations over 58 Kilmore Street. The focus was always on 58 Kilmore Street. The record shows the negotiations over Kilmore Street were significantly more advanced in terms of the detail of possible transactions than with 249 Madras Street. Its interest in Madras Street was only to give it some leverage in continuing negotiations over Kilmore Street.

There are Minutes of a Special Meeting of the Canterbury Regional Council on 2 February 1990. The Minutes record that Mr Stock, Mr Schulz and Kerry Mason (architect) reported to the meeting -

"Mr Stock gave details of the negotiations that had been carried out with NZ Meat Nominees in respect of the Waitaki building (Kilmore Street) and the Receiver of the Prime West building in Madras Street. He advised that a proposal had been put to NZ Meat Nominees. They were not prepared to give any concession, but were prepared to discuss valuations and agreed to have a third valuation.

Members discussed with Messrs Stock, Schulz and Mason various aspects relating to the two buildings."

There are also Minutes of a Special Meeting of the CRC on 9 February 1990. The meeting was adjourned to enable an inspection of the building in Madras Street. The meeting adjourned at 5.30pm and resumed at 6.12pm. The length of the adjournment for the visit is consistent with the Council's focus being primarily on the Kilmore Street property. Minutes for the meeting which was in private indicate the Council had a letter from the owners of Kilmore Street setting out the terms on which they were prepared to sell that property. The Minutes record that "members considered in some detail the comparisons and merits between the two buildings". The Council resolved to purchase Kilmore Street "subject to satisfactory negotiation by the sub-committee".

The CRC had no involvement in the Madras Street building after deciding to proceed with the purchase of Kilmore Street. At the time the Council and its senior staff would not have considered it was under an obligation to ensure the City Council was aware of any particular problems that might have been identified with a privately-owned building in Christchurch. That would have been particularly so where information available to the Council would have indicated that appropriate professional engineers were dealing with any potential problems and they were being immediately rectified. The Regional Council would have considered any responsibility with regard to that work would have lain with the engineers and the City Council to the extent any structural work with a building might have been required.

With the documents you have made available to the CRC, and with what is available to them now, the CRC do not anticipate that they will need to be separately represented at the present hearing or that any issue is likely to arise on which they would need to be represented as an affected party.

Let me know if you would like to discuss this further.

Regards,

A handwritten signature in black ink, appearing to read "G H Nation". The signature is written in a cursive, slightly slanted style.

G H Nation
Partner