



Canterbury Earthquakes Royal Commission
Te Komihana Rūwhenua a te Karauna

UNDER THE COMMISSIONS OF INQUIRY ACT 1908

IN THE MATTER OF CANTERBURY EARTHQUAKES ROYAL COMMISSION

Before: The Honourable Justice M Cooper
Judge of the High Court of New Zealand
Sir Ron Carter
Commissioner
Associate Professor Richard Fenwick
Commissioner

Appearances: S Mills QC, M Zarifeh and M Elliott as Counsel Assisting
D Laing for Christchurch City Council
N Beadle for Holmes Group
D McLellan for Opus
P Rzepecky for NAI Harcourts
W Palmer for Alan Reay Consultants Limited

**TRANSCRIPT OF HEARINGS ABOUT INDIVIDUAL BUILDINGS (EXCEPT CTV
AND PGC) WHOSE FAILURE RESULTED IN LOSS OF LIFE**

COMMENCING ON 12 DECEMBER 2011 AT CHRISTCHURCH

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JUSTICE COOPER:

Yes well, Mr Zarifeh.

MR ZARIFEH:

5 If the Commission pleases, in the February 2011 earthquake there were 42
deaths as a result of building failures other than the CTV building and the
PGC building. The names of those 42 people who were killed were read out
at the commencement of the Royal Commission's hearings on 15 October as
part of the 181 people who were killed as a result of the earthquake. I will not
10 name those people in this opening this morning but will do so when I open
each building hearing that we are about to commence on. Thirty-six of those
42 people killed were in the Central Business District. The other six were in
the suburbs. The Commission will hold hearings into the failure of the
buildings that caused those 42 deaths except for one building failure which
15 resulted in the death of a five month old baby, and this has already been
mentioned by His Honour Justice Cooper at the URM hearing in the week of
the 14th of November. That death was caused by the collapse of an exposed
brick internal chimney breast. Whilst it will not be the subject of a public
hearing it has been the subject of enquiry and will form part of the Royal
20 Commission's final report. The buildings that failed and caused the deaths of
the other 41 people will be the subject of the hearings that are commencing
today and which will occupy most of this week and most of the weeks of the
23rd and 30th of January next year. These are important hearings because all
but one of the buildings involved were older, unreinforced masonry buildings.
25 The Commission has already heard evidence at some length about the
potential dangers of these buildings. These hearings will graphically illustrate
these potential dangers which sadly were realised on the 22nd of February of
this year. What these hearings will also show is that the problems that
unreinforced masonry buildings pose are not solely a problem for the owner of
30 the building or the occupier of the building, rather they are a community
problem. Of the 41 deaths caused by those building failures, 36 of them were
as a result of the façade or the walls of these buildings collapsing outwards
and on to pedestrians or motorists or in some cases other buildings adjacent

to the building that failed and in three cases on to people who had been inside a building but had run out when the earthquake started. Thus over 80% of the deaths that were caused were to members of the public who were essentially going about their business oblivious to the danger that they were

5 in. Of those 36 people six were killed when an unreinforced wall from a neighbouring building collapsed and fell on to the roof of the building that they were in. Of the four people who were killed inside an unreinforced masonry building three of them were workmen who were assisting other workmen in the removal of a pipe organ at the Durham Street Methodist Church, Durham

10 Street North. The other one of those four killed inside a building was a woman who was at work with seven or eight work colleagues at the Christchurch Press on the top floor of the historic Press building. She died sheltering under her desk when the roof collapsed in the earthquake. I mentioned before that one person who was killed in the CBD was not killed as

15 a result of a building failure from an unreinforced masonry building. That person was a woman who was killed as she sat in her car talking on her cellphone. When the earthquake struck a six tonne concrete façade panel on a carpark building in Lichfield Street held by bolts, four bolts, fell to the ground crushing her vehicle. The fact that over 80% of the deaths caused by these

20 building failures were in relation to people outside the buildings, as I say in the main pedestrians, motorists, people as we know in a bus, highlights the issue of what we are to do about unreinforced masonry buildings and that it is a very real community problem. It also, in my submission, graphically highlights the futility of a territorial authority or local council having a passive earthquake

25 policy, earthquake-prone policy, which we've heard something of already, and the need to urgently implement throughout New Zealand at the very least policies that address the potential dangers that these buildings pose from collapsing façades, walls and parapets and the danger they pose to the public as a result. These hearings will also address other issues raised by the Royal

30 Commission's terms of reference including a number I will mention now. The inspection and assessment of buildings following a large earthquake, in this case the September 2010 earthquake. In particular the unreinforced masonry building failures highlight the need to look closely at the way these buildings

are assessed following a significant earthquake and the need to take into account the potential for collapse in a significant aftershock. Another issue that will come through in some of these hearings is the issue of cordons in front of a damaged building following a significant earthquake. In particular

5 the need to ensure the placement of such cordons provides protection for the public by blocking off footpaths and if necessary roads or parts of roadways in the event of a significant aftershock. Another important issue some of these hearings will address is the strengthening or retrofitting of unreinforced masonry buildings and the need for such retrofit or strengthening measures to

10 be able to provide protection, effective protection for the public and for occupants and for it not to fail in the event of a significant earthquake. Finally, an issue of communication will be highlighted. The importance of communication of potential dangers posed by a building after a significant earthquake such as we had in September, the importance of communication

15 to relevant authorities and to potentially affected neighbouring properties if a building is significantly damaged. Those are just some of the issues that will be highlighted. There are others that I haven't mentioned and most of these individual building hearings that we are about to commence on will highlight a particular issue or issues that in my submission will feed into the

20 Commission's work and its final report when considering in particular these unreinforced masonry buildings and how to best deal with them. The format, as I've indicated, is a number of individual hearings over the three weeks that I mentioned starting this week and in a moment I will turn to and begin the first hearing which is 593 Colombo Street, a building that was on the corner of

25 Colombo and St Asaph Streets. Just before I do, I want to mention just two witnesses who will feature in all of these hearings. Firstly, Stephen McCarthy who is a Christchurch City Council employee. He's the environmental and appeals manager for the Council and he has already given evidence before the Commission in relation –

30 **JUSTICE COOPER:**
Appeals or approval?

MR ZARIFEH:

Approval sorry, can't read my own writing, he's already given evidence in relation to the PGC hearing and the Commissioners will be familiar with him.

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- 5 He will give, as I understand it, evidence in most if not all of these hearings on behalf of the council as to events that occurred and its policies, and the other one I wanted to mention was a structural engineer, Peter Smith. He is a structural engineer in Wellington from a firm called Spencer Holmes Limited and he will be giving evidence in all of these hearings as well. He has been, effectively, commissioned by the Royal Commission to provide a report on the structural failure of the building in question and any other issues, relevant issues, that he can comment on and he will give – he's provided, will provide a written report in each case and will speak to that at the hearings. Rather than qualify him in each case I thought I would just highlight his qualifications now and avoid having to do that later.

- 15 Mr Smith has some 43 years experience as a structural engineer in private practice with a specialisation in the design of commercial and industrial buildings, design of retail facilities and also in the petro-chemical industry, as well in the assessment and strengthening of earthquake risk buildings and his considerable experience and knowledge of building compliance system and has had an active role in research. He is currently a member of both the domestic and commercial engineer advisory groups for the Christchurch Earthquake Recovery. His qualifications consist of a Bachelor of Engineering, Civil. He is a Fellow of the Institution of Professional Engineers of New Zealand. He is a chartered professional engineer and an international professional engineer and he's a member of numerous societies connected with engineering, structural engineering. I'll perhaps just mention two. He's a member of the Structural Engineering Society of New Zealand and a member of the Department of Building and Housing Structural Advisory Group. He's also held numerous, too numerous to go through, professional positions including the Deputy Chairman of the Chartered Professional Engineers Council and the Chairman of the Seismic Retrofit Research Board for the combined Auckland and Canterbury Universities and he has been a board

member of the Institution of Professional Engineers of New Zealand. As I say they're just a few to mention. So, unless the Commission has any issues I intend to turn now to the first of these hearings.

5 **JUSTICE COOPER:**

This is 593 Colombo?

MR ZARIFEH:

Yes, Colombo Street.

10

JUSTICE COOPER:

So I'll just take appearances from other parties at this point who are interested in that particular hearing. Mr Elliott I note that you're here.

15 **MR ELLIOTT:**

Yes Your Honour.

JUSTICE COOPER:

I'm not sure if there has been any discussion about an order in which people will wish to proceed but Mr Laing are you –

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MR LAING:

Ms Daines for Christchurch City Council.

25 **JUSTICE COOPER:**

Thank you.

MR BEADLE:

Sir, Beadle for Holmes Consulting Group. Mr Seville and Mr Boys.

30

JUSTICE COOPER:

Thank you.

MR McLELLAN:

Good morning Your Honour and Commissioners. Daniel McLellan counsel for Opus International Consultants.

5 **MR RZEPECKY:**

Counsel's name is Phillip Rzepecky and I appear today for NAI Harcourts. I'll be calling the evidence of Mr Chris Chapman.

JUSTICE COOPER:

10 Yes now, is that an appropriate order in which I might call on the parties for cross-examination and that sort of thing, presentation of their cases or would you like to go at the end Mr Laing? There's no reason why you should I think but –

15 **MR LAING:**

Mr McCarthy is setting the scene for some of the evidence.

JUSTICE COOPER:

Yes.

20

MR LAING:

So I'm in the Commissioner's hands. It may be appropriate that he goes fairly well up the batting order.

25 **JUSTICE COOPER:**

Unless anybody feels strongly about it that seems to be a reasonable sort of order in which to proceed. The order in which you've announced your appearances. We'll stick with that and we can be flexible if needs be. Right Mr Zarifeh, thank you.

30

MR ZARIFEH:

The building as I said at 593 Colombo Street was on the corner of, there's some photos coming up, was on the corner of Colombo Street and

St Asaph Streets. It was a two-storied unreinforced masonry building constructed in the early 1900s and it had street frontages to Colombo Street, 593A and B and also on St Asaph Street, 187 and 189 St Asaph Street.

5 **JUSTICE COOPER:**

So which of those two photos should we be concentrating on at this point. Is it photo 8 or photo 9?

MR ZARIFEH:

10 Perhaps 8 or, well they're the both –

JUSTICE COOPER:

Both the same?

15 **MR ZARIFEH:**

They're both the same.

JUSTICE COOPER:

20 What I've found a bit confusing is, is the Adam and Eve sign rather suggests that that was the premises on the, on the corner.

MR ZARIFEH:

593A? It was vacant at the September earthquake.

25 **JUSTICE COOPER:**

Is, that's 593A is it?

MR ZARIFEH:

30 Yes and Southern Ink Tattoo which we're more particularly concerned with was 593B, so to the north of that but both fronted Colombo Street.

JUSTICE COOPER:

Well what about 593 simpliciter?

MR ZARIFEH:

593 is the, well that, Colombo Street frontage of that, of the building itself.

5 **JUSTICE COOPER:**

Yes.

MR ZARIFEH:

So the brownie coloured building is, that's shown in those photos –

10

JUSTICE COOPER:

So is the person who took this photograph in St Asaph Street or Colombo Street?

15 **MR ZARIFEH:**

In Colombo. So looking at photograph 8 that vehicle in the foreground is parked on Colombo Street.

JUSTICE COOPER:

20 Yes.

MR ZARIFEH:

And the intersection beyond is the corner of Colombo and St Asaph.

25 **JUSTICE COOPER:**

So the left-hand extremity of that building with the Adam and Eve sign ought to be 593. Is that right?

MR ZARIFEH:

30 Yes it's, the left-hand extremity is the very corner of the Colombo Street façade which is –

JUSTICE COOPER:

Yes.

MR ZARIFEH:

5 The Adam and Eve, was the Adam and Eve tenancy.

JUSTICE COOPER:

Well I'm still confused I'm sorry. It may be apparent to everybody else but I thought you said Adam and Eve was 593A?

10

MR ZARIFEH:

A and 593B is immediately next to it.

JUSTICE COOPER:

15 Yes.

MR ZARIFEH:

To the north of it. Not necessarily apparent.

20 **JUSTICE COOPER:**

So 593 itself, is it in the photo or not?

MR ZARIFEH:

No my understanding is it's split into the two.

25

JUSTICE COOPER:

I don't follow that either sorry.

MR ZARIFEH:

30 Well the problem is Your Honour that the, as I understand it, Mr Laing may be able to correct me if I'm wrong, but the numbering isn't always, on the council records sometimes the numbers are different and the building itself is being referred to as 593 but it's divided into a number of tenancies.

JUSTICE COOPER:

I'm looking at a very helpful, well up until now I thought it was helpful, photograph of Mr Smith's report at page 11 which looks like that.

5

MR ZARIFEH:

Well and that's got different numbers. That's got 593 and 593A.

JUSTICE COOPER:

10 Yes.

MR ZARIFEH:

Well on that diagram my understanding is 593A is the, ground floor would be Southern Ink and 593 would be Adam and Eve.

15

JUSTICE COOPER:

So on that photo Southern Ink is 593A?

MR ZARIFEH:

20 Yes Sir.

1020

JUSTICE COOPER:

All right, so in photo 9, if that could be magnified.

25

MR ZARIFEH:

Has it got a number?

JUSTICE COOPER:

30 What appears to be the word piercing, would that be –

MR ZARIFEH:

Sir, it may help, I'm just getting a better photo put up that Mr Beadle's handed me that he's got and it's a lot clearer in the sense of the two premises of the two tenancies. Not necessarily the numbers, but – just getting it put up now.

5

JUSTICE COOPER:

Okay, so that does clarify, thank you.

MR ZARIFEH:

10 And 595 is the Lotus Heart Cafe sign at the top of the light blue and to the right, or more. Following the September earthquake the buildings sustained some damage, particularly on the St Asaph Street frontage, certainly from an exterior inspection and was yellow placarded, while the Colombo Street frontage appears to have been green placarded immediately following the
15 September earthquake. Subsequently the building was inspected by the owners, or engineers instructed by the owner and via Harcourts' assistance on behalf the owner. They were Holmes Consulting, and two of the Holmes engineers visited the property, Mr Boys and later Mr Seville. Mr Boys firstly visited it and decided that it should be yellow placarded. He was going to put
20 a placard on the building and this is on the Colombo Street frontage, but his evidence will be that there was already a yellow placard there so he didn't need to put one on but he considered the building as a whole needed to be yellow placarded. As I say the building had been placarded immediately following the September earthquake on the 5th of September by a Simon Wall,
25 who was an engineer volunteer with the emergency operation that day and he placarded the building with different placards, as I say yellow on the St Asaph frontage and green on the Colombo Street, so there's a factual dispute if you like or some confusion anyway as to exactly what happened, because it appears that there was no further inspection by the council which resulted in
30 the yellow placard or certainly no record of it, but Mr Boys' visit was then followed by Mr Seville and Mr Seville in the end conducted an in-depth structural investigation which included getting a cherry picker and looking at the roof and cutting into some of the linings to check the building. Holmes as

a result ended up recommending temporary repairs, or repairs that needed to be done to effect occupation and other repairs that, if they were done would bring the building up to 67 percent of new building standard which was, as the Commission will be aware, a standard the council were then recommending following the September earthquake. Those plans splitting the work into those two categories were provided 11 February and no work was completed on the building, no structural work was completed prior to the 22nd of February earthquake. In the 22nd of February earthquake Matthew McEachen who was employed as a tattooist at Southern Ink was working that day in the shop. Southern Ink had remained in occupancy throughout in the prior to and following the September earthquake. Mr McEachen was last seen by a work colleague Matthew Parkin sitting at his desk in Southern Ink and it appears that Mr McEachen must have run out of the front door as his body was found in rubble from the collapse of the front of the building, that's the collapse of the front onto Colombo Street. The proposed witnesses are set out in that summary document that the Commission has and I've also mentioned the likely issues, application of council's earthquake-prone policy to the building which will apply to all of these, or most of these hearings. The assessment process to the building after the September earthquake including the separate placarding of tenancies in the same building, the issue of communication by owner / engineer of the findings in relation to the structure of the building to others including the tenants or council, and whether the cordons in front of the building were sufficient. There were cordons on the St Asaph Street side but no cordons in front of the Colombo Street frontage.

25

JUSTICE COOPER:

So that last point, if we could go back to the photograph that was previously displayed which we have courtesy of Holmes Consulting Group, which is BUI.COL593.007A.4A. That looks like it's a photo taken between – sometime between September last year and February the 22nd this. Am I right about that Mr Beadle?

30

MR BEADLE:

Sir it was taken on the 4th of October.

JUSTICE COOPER:

On the 4th of October. So perhaps there may be an inference that that is the
5 state of the barricading or the arrangements which were in place for safety
purposes, down to the 22nd of February.

MR BEADLE:

Well so far as my client's concerned their last inspection was in late
10 November Sir, but it certainly is the state of play in October.

JUSTICE COOPER:

Well perhaps if people can turn their mind – others may know the answer to
that, but Mr Zarifeh that illustrates I think what you've just been telling us does
15 it not?

MR ZARIFEH:

Yes Sir, and there's another photo attached to the report of Mr Smith that
shows it as well, page 14 of his report. That shows the St Asaph Street
20 frontage.

JUSTICE COOPER:

Oh I see, yes, so that is taken from the other street. All right thank you.

25 **MR ZARIFEH:**

So Your Honour I'll turn now and call Mr Smith the first witness.

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

Q. Mr Smith, you heard my introduction, my opening introduction to yourself and your qualifications, was I correct in my summary?

5 A. Yes.

Q. And you have been commissioned by the Royal Commission to provide reports on the number of buildings including the buildings that we're dealing with in these hearings?

A. That is correct.

10 Q. In relation to the building that we're referring to as 593 Colombo Street, you prepared a report that's dated November 2011?

A. Correct.

Q. And that's before the Commission and I think on it will be on the website. That's your report on this building?

15 A. Correct.

1030

Q. I don't want to get you to read the report. I thought rather I'd take you through some of the salient points and you can be taken to others if that's necessary and where something is important I might get you to read from the report. Can I firstly get you to confirm that as I've said in opening, this was a two-story unreinforced masonry building and we've heard a bit about unreinforced masonry buildings before but in terms of structural strength where do they gain their strength from?

20

A. Well the problem with unreinforced masonry is that the weight of the building is in the walls and they have timber floors and relatively weak roof diaphragms. So the strength of the buildings is in the walls which can takes the loads in plane and some of those if you look at the street frontages are very weak. They are particularly weak also in the direction out-of-plane, in other words perpendicular to the wall.

25

30 Q. Right so in-plane is parallel to the wall, out-of-plane if perpendicular?

A. Yes.

Q. And when you say they're weak on the frontages why is that?

A. Because shop fronts generally like to have a large clear display area and the buildings were originally constructed with very large open façades but also some buildings had been subsequently opened up further to provide better façades.

5 Q. So pieces of the wall removed?

A. Yes.

Q. To achieve that. Okay, and that building we can see is on the end of what is a row of a number of buildings between St Asaph and Mollett Street on the west side of Colombo, correct?

10 A. That's correct, yes.

Q. Is there any significance in terms of earthquakes to the end building?

A. Yes there is. The, that row of buildings because they are still very much in original condition tend to act as a single unit but not a particularly well tied together one. Probably the best similarity is that the string of balls you get, I know people have seen them where they hang on strings and if you lift the end ball and drop it the far ball bounces off so there's a sort of a transfer of energy goes on in an earthquake from the row of buildings into the end building and it hasn't got a building to lean against.

20 Q. Now in relation to that particular building had it have any, did it appear to have had any structural strengthening in the past prior to the Canterbury Earthquakes?

A. Not to my knowledge.

25 Q. I just want to ask you about the failure mechanism and that's in the 22 February earthquake. I think on page 6 of your report. I'll get you perhaps to read that first paragraph out, "The first floor façade"?

WITNESS REFERRED TO PAGE 6 OF REPORT

30 A. "The first floor façades of the building failed by an outward rotation of the façades above the first floor support in the severe shaking of the 22nd of February 2011 earthquake. These walls separated from the internal walls, party walls and adjoining façade with near vertical cracking near the junction between the walls".

Q. Okay. So just put that in lay terms for us what happened?

A. Essentially the, if you look at that façade in the picture we're all looking at, that frontage towards Colombo Street just rotated outwards, it separated from what connection it had to the return walls and to any roof framing and floor framing, or in fact it actually rotated above the floor. If you look at the photographs after the event you'll see that, those horizontal lines which seem to be some form of planking on the façade. It was still in place so it really rotated above that level of the façade and I think almost certainly there will have been some steel beams spanning the openings to the street frontage at about that level.

5
10 Q. Okay and perhaps if we look at a photograph after the February earthquake which is BUI.COL.593.0051.3. Right at the end of the documents in the chronology.

WITNESS REFERRED TO PHOTOGRAPH

Q. And we see in that photo the result?

15 A. Yes you can. You can see there the, that horizontal planking, whatever was on the façade is left in place and the wall above that has bowed outwards both on Colombo Street and St Asaph Street.

Q. So the wall above being the first floor?

A. Yes.

20 Q. Now you say under the structural failure section in your report that you talk about the figures relating to ground acceleration from the February earthquake?

A. Correct.

25 Q. I won't go into what those figures are – someone else may want to – but you comment that these figures demonstrate that the façades may not have survived the Canterbury Earthquake sequence had the façades been adequately secured at roof level?

A. That's correct.

30 Q. Firstly, the problem that you're highlighting is an inadequate support securing at roof level?

A. What I'm really highlighting is that the, that particular earthquake was, was particularly severe.

Q. The February one?

A. The February one and that under that earthquake even if there'd been, the building façades had been secured at roof and first floor level in accordance with what the code required it may not have survived that.

Q. Right so you say "may" –

5 A. The –

Q. – obviously we don't know?

A. There are a lot of uncertainties.

Q. It would depend on the level of securing?

10 A. It would depend on that. It would depend on to some extent some of the, the nature of shaking at the site as to the extent of vertical accelerations. I think one of the issues that's come out of the, that earthquake is the façade, the failure of the upper level façades of many buildings, and we suspect that the vertical acceleration was a significant factor in that.

15 Q. Okay. Right now I want to turn to another issue that you raised and that's this issue of the rapid assessments following the September earthquake and page 7 of your report under "Rapid Assessments".

WITNESS REFERRED TO PAGE 7 OF REPORT

Q. Can I get you to read please the first couple of sentences?

20 A. "Our understanding of the rapid assessment process is that a building and not individual tenancies were to be assessed and that once the building had been assessed the entry to each tenancy on the ground floor and entry to all other floor level tenancies would be assigned a placard. The assignment of a yellow placard to the tenancy
25 187 St Asaph Street should have resulted in a yellow placard to all other tenancies in the building, 593 Colombo Street that should have resulted in the entire building 593 Colombo Street being unoccupied".

Q. Okay. So just firstly when you say "our understanding", can you just explain to us what's that based on?

30 A. That was based on an experience I had in the rapid assessment process following the 4th September.

Q. And what was that?

A. That was, we were assessing an area of the CBD outside Colombo Street.

Q. Right and did you attend any training?

A. Yeah.

5 Q. Sessions?

A. There was a briefing given prior to the teams going out to do the assessments.

Q. Who, who was giving the briefing?

A. I can't honestly remember.

10 Q. Okay. And was there anything included in that briefing about this issue of separate placarding or not?

A. Yes there was, and that was where we understood the basis of placarding.

15 Q. Right and your comments in the report that you've just read, are they based on that briefing?

A. Indeed.

Q. Right. Are you aware of any other, of any other buildings in the ones that you've looked at being separately placarded? Various tenancies in the same building?

20 A. I think there was one other building that essentially had different placarding.

Q. At the bottom of page 7 and the top of page 8 you refer to, the paragraph starting "Significant feature". Can I ask you to read that to the, two lines over the page please.

25 **WITNESS REFERRED TO PAGE 7/8 OF REPORT**

30 A. "A significant feature of the collapse of most unreinforced masonry buildings was the outward collapse of the exterior façade of the other floor rotating about the supporting structure at the upper floor. The failure involves a separation from the roof structure and the tension tear of any return or party wall. Should the connection between the façade and the return walls slash party walls be damaged in an earthquake the damage cannot be inspected from the exterior of the building".

1040

- Q. Okay I just want you to put that in lay terms and explain firstly what you mean by the return wall and the connection.
- A. If you imagine the plan layout of those buildings. The façade was built integrally with the party wall between that building at 593 and the adjoining building and the façade which returned along St Asaph Street. There is some strength in those connections as long as they are undamaged. Unfortunately from the exterior of the building it is virtually impossible to determine whether there is damage to those connections. There would be on the St Asaph Street side because after all you can see that but on the return wall of the common party wall it's virtually impossible to tell.
- Q. Can you tell that from the interior?
- A. Yes, you should be able to. It may be necessary to remove linings but, yes, you should be able to.
- Q. Right in the form of cracks or –
- A. Yes in the form of a crack.
- Q. - façade leaning out?
- A. Probably both.
- Q. Possibly both, right. But a level 1 rapid assessment that we've heard of where it's an exterior inspection, that's unlikely to observe cracks that in an internal return wall might be indicative of that?
- A. It's quite unlikely.
- Q. Now the other issue that you touch on, on page 8 under "Owner's Responsibility for Public Safety," and it's the second to last paragraph where you say, "In the interests of public safety it is important that owners and owners' agents notify the controlling authority if the condition of the building differs from the placard assigned to the building."
- A. Yes.
- Q. And just tell us in relation to this building what you're referring to?
- A. Because this building had, I think in any building but particularly this one which had a yellow placard to the 187 St Asaph Street tenancy and green placards to the tenancies along Colombo Street. If in fact the

assessments by the owners' engineers identified that there was damage to the building which would have justified a yellow placard to the Colombo Street tenancies there does appear to be a communication gap which occurs which in public safety needs to be addressed.

5 Q. I think you're aware aren't you that there's a factual issue about whether, which placard was on the building –

A. Yes.

Q. – and the knowledge that engineers coming later and inspecting had of that?

10 A. Yes.

Q. So you're talking in general terms?

A. In general terms.

Q. All right, and what about communication to people like tenants if they're in a building and a conclusion's drawn that the building should be yellow placarded or with what follows from that yellow placarding. What about the communication of that?

15 A. I think the primary communication there is the placard, because that should be on the premises, but you would expect an owner to communicate with the tenants if that eventuated.

20 Q. Right and you talk about owner or owners' representative. What about an engineer?

A. I would class an engineer as an owner's representative.

Q. The final issue I wanted to cover with you is this issue of, you've called it barriers or cordons, on the final page and you have in your last paragraph recommended that the territorial authority should maintain barriers to the full extent of the fall zone of unreinforced facades of unstrengthened, unreinforced masonry buildings and restrict access to buildings until a strength assessment to an acceptable minimal standard is prepared by a CPEng engineer. Correct?

25 A. That is correct. That recommendation is made on the basis of preventing a repeat of what happened in Christchurch.

30 Q. Okay. I was going to ask you about that. It's not, it's not necessarily a recommendation made on the facts of this case in particular?

A. No.

Q. Or on the damage that had been, was apparent after September but it's one in hindsight. Is that correct?

5 A. It's, yes a comment made in hindsight to address the risk to the public of these unreinforced masonry buildings should a aftershock have more severe ground shaking than occurred in the initial earthquake or certainly ground shaking approaching that level.

JUSTICE COOPER:

10 Q. I wonder if we could just go back to the photo BUI.COL593.007A.4A.

WITNESS REFERRED TO PHOTOGRAPH

15 Q. Just looking at that photograph and the second paragraph on page 9 of your report where you say, "While the Christchurch City Council provided barriers to prevent the public from the failure of the damaged St Asaph Street façade the barriers did not extend sufficiently out into Colombo Street to protect the public in Colombo Street from a failure of the Colombo Street façade." I just don't quite follow the language you used there about the barriers not extending sufficiently out into Colombo Street. Are you saying they should have turned the corner?

20 A. Yes, they should have come across the Colombo Street frontage, yes.

Q. So they should have turned at right angles and gone up Colombo Street in your –

A. In the benefit of hindsight to protect the public that would have been necessary.

25 Q. And the comment made in your report is based on the photographic record such as, as the photo now displayed is it?

A. Sorry I'm not sure, make sure I understood.

30 Q. Not sure if you understand the question. You obviously didn't see the building prior to the 22nd of February. Your comment about the extent of the barriers is based on consideration of photographs?

A. Yes.

Q. Was this one of the photographs that you considered?

A. It was one, yeah.

Q. Do you recall whether you've seen something, a photograph –

A. I don't believe we've seen a photograph with barriers in the front of the Colombo Street frontage on this property.

Q. What I was going to ask you was whether you have seen a photograph
5 taken closer to the 22nd of February than this one which we're told was taken on the 4th of October 2010?

A. I don't believe so.

JUSTICE COOPER:

10 Mr Laing, sorry Mr Elliott. Sorry Mr Laing.

CROSS-EXAMINATION: MR ELLIOTT

Q. Mr Smith you've provided a number of reports to the Royal Commission
about some of these buildings that we're dealing with this week and next
year and you make the same comment in some of those, if not all of
15 those reports, and I just want to deal with some of those comments now
and then I won't deal with them again in other hearings. Firstly, in this
report and others you've said something along the lines of, "It is
assumed that the building complied with the requirements of the
Building Act 1991 due to the building pre-existing the Building Act and
20 all alterations being undertaken to the satisfaction of the Christchurch
City Council." I just want to clarify that comment. All of these buildings
you looked at were built well before 1991 weren't they?

A. Certainly these ones were, yes.

Q. In fact many decades before 1991?

25 A. Indeed, indeed.

Q. A building of this type could not have been constructed at all under the
1991 or 2004 Building Acts could it?

A. Certainly not under the Building Codes, definitely not.

Q. And the 1991 Act deemed buildings constructed of unreinforced
30 masonry as earthquake prone subject to certain conditions being met.
Is that right?

A. The Building Act really brought in a whole new basis for legislation of building work in New Zealand. It didn't require existing buildings to be upgraded. It simply allowed those buildings to remain in use as long as in the future if they were altered or if there was a change of use certain provisions applied.

5

Q. So it's not right to say that these buildings complied with the 1991 or 2004 Building Act requirements is it?

A. I believe, I believe it is correct, talking about the Building Act not the Building Code. Clearly they didn't comply with the Building Code which was a much more advanced set of rules and regulations but in terms of the legislation they were in compliance with the Building Act at least at the time of the earthquake.

10

1050

Q. Where an owner may have been entitled to apply for a building consent to do work to a building, that alternation work would have needed to have complied?

15

A. Absolutely.

Q. And no such strengthening work was carried out on this particular building as far as you've identified?

20

A. Correct.

Q. Another comment you've made in I think all of your reports says, "Undoubtedly the Christchurch City Council's attitude to earthquake risk buildings was influenced by the perception that Christchurch was a low seismic hazard zone." Did you speak to any current or previous mayor or councillors of the Christchurch City Council about what their perception of earthquake risk might have been?

25

A. No I did no.

Q. You've seen that the council carried out seismic risk surveys on a number of files in about 1991?

30

A. Correct.

Q. And that would indicate some awareness of seismic risk at that time?

A. Indeed.

- Q. And are you aware that the Christchurch Council's 2006 earthquake-prone policy said, "That the city lies in an intermediate seismicity zone some distance from a zone of high activity associated with the alpine fault. However known earthquake sources in particular the Ashley, Springbank and Pegasus fault zone exist within the region and are large and close enough to cause significant damage throughout the city." Would you accept that that's a better source of what the council may have perceived the earthquake risk was at that point?
- 5
- A. I think it was in 2006. I think if you go back to when the first earthquake risk building legislation came in in 1968, the council didn't perceive there was an urgency to address their building stock compared with the likes of Wellington which took quite a proactive action.
- 10
- Q. That's your assumption, your personal assumption?
- A. Yes.
- 15
- Q. Another comment that you make is that and Mr Zarifeh's already asked about this to some extent, the above figures demonstrate that the facade in this case may not have survived the Canterbury earthquake sequence had the facade been adequately secured at roof level. Have you had the opportunity to read Associate Professor Ingham's report to the Royal Commission on the performance of earthquake strengthened URM buildings in the CBD in the 22 February earthquake?
- 20
- A. Yes I have, yes.
- Q. So are you aware there of some particular findings that for example 48 percent of restrained parapets suffered no or immediate damage and 46 percent of restrained gables suffered no or moderate damage?
- 25
- A. Yes.
- Q. So would you agree that although it is speculative, facades that had been strengthened in some ways may have survived the 22 February earthquake despite the strength of the earthquake?
- 30
- A. Absolutely, a facade which has been secured has got a much better chance. I think to some extent it depends on the quality of the masonry.
- Q. Turning to photograph BUI.COL593.0041B.7, just the top photograph, no in fact both are fine, you've made a comment about the rotation of

the wall and these photographs indicate where masonry ended up although it might be difficult to know where that might have been after the earthquake, because it may have been moved at some point, so just a question about the rotation of the walls. When walls rotate in the way
5 you described, would the top have rotated right out so that the top may have ended up not at the base of the building but some distance out from the building?

A. Yes I think, certainly the photo was taken after some disturbance of the debris had taken place, but looking at the widespread of debris in the
10 photos I suspect that it did rotate outwards, the top ending up furthest from the building.

Q. So there's a danger potentially from such buildings, not just immediately below but right out -

A. Absolutely.

15 Q. – potentially into the street?

A. Absolutely.

Q. Just go to photograph BUI.COL593.0007A.4A. I'm going to show you two photographs that Holmes Consulting have produced, but just so that we can orientate ourselves can I firstly ask you just to note the top right-
20 hand area of the photograph where 593 seems to end and then the building becomes blue, at the Blue Lotus, and secondly if you can just note the top left-hand area of the parapet on that frontage of 593, so turning now to photograph BUI.COL593.0007C4 and could the bottom right photograph be highlighted please. Holmes Consulting can confirm
25 this but that appears to be a crack in the parapet, just at that area of blue that I pointed out firstly. I'm going to ask you to comment on that crack in a moment, and I'll show you another one now. BUI.COL593.0007C.3, and if we could highlight the bottom left. I'll ask you just to look at that one and then to look at the top right. Holmes
30 Consulting will be able to confirm this but that appears to be - the wall on the right appears to be the one out onto St Asaph and the one on the left appears to be looking over Colombo.

A. Be my interpretation.

- Q. So those cracks that I've just indicated, do they indicate areas of failure of the parapet which were evident after the 4th of September, if that's when the photos were taken?
- 5 A. They probably would be described I think as areas of distress rather than necessary failure but they certainly indicate a failure mechanism developing.
- Q. And do you think that those areas of distress would have been likely to worsen in the 22 February earthquake and contribute to the total failure of that frontage on 593?
- 10 A. I think the vertical crack in the – between in the corner possibly did, it's hard to tell whether the diagonal crack actually would have contributed.
- Q. By the vertical crack you're referring to the first one on the blue section?
- A. No, sorry –
- Q. Or are you looking at just this photograph?
- 15 A. Yes just the one photograph yes.
- Q. And do you have a comment about the other one I showed you?
- A. Yeah, on the other photograph, is it possible to bring it back? No, I think it's the –
- Q. You're looking for –
- 20 A. Probably that photograph will do.
- Q. The bottom right-hand corner there?
- A. There's two things that I note on that photograph. It appears to be a crack in the adjoining building, not 593. It also appears to be aged, if you look at the very top you'll see there's paint on the vertical face of a crack within the crack, so it would appear that that is an old crack, it's
- 25 difficult to say from that photograph whether it got worse as a result of the recent earthquake.
- Q. So that's an area of distress which you think based on that evidence may have been there before the 4th of September?
- 30 A. That's in the photograph, that would be my interpretation, it will also appear to be in the adjoining building.
- Q. What might have caused that sort of distress before?
- A. Probably an earthquake.

Q. Previous earthquake?

A. Mmm.

CROSS-EXAMINATION: MR LAING

5 Q. Good morning Mr Smith. I too are going to be asking you some questions today which hopefully I won't need to repeat again, so if you just bear with me for a while. Amongst your many qualifications I don't think your membership of the New Zealand Society of Earthquake Engineers is mentioned. You're a member?

A. Yes I am.

10 Q. Did you have any involvement in the preparation of the building safety evaluation guidelines?

A. No I didn't.

Q. You are familiar with them though aren't you?

A. Yes.

15 1100

Q. So do you accept that it was appropriate for the civil defence authorities in September to use those guidelines?

A. Yes I do.

20 Q. And so the issues that you are now commenting on are very much hindsight issues, issues for improvement?

A. A lot of them are. I think there's no question that those, that that document, given the historical events when normally you have an after – a major or significant earthquake then aftershocks are generally of lesser magnitude. The basis of that document is quite appropriate.

25 Q. Yes but you would obviously like to see some changes, modifications to the guidelines?

30 A. I think consideration needs to be given to what happened in Christchurch. I personally think that that earthquake on the 22nd of February was perhaps abnormal. Sadly it was very severe shaking locally. It is something which may or may not repeat itself in the future. We only have these sort of significant earthquakes fortunately once

every 80 years or something close to that. So I think it's important to, to consider very carefully what we should be doing in the future.

Q. Yes. You mentioned the potential need for a level 2 assessment for URM buildings.

5 A. Yes, indeed.

Q. Do you have any other suggestions for changes to the guidelines?

A. Certainly I think that for the unreinforced masonry buildings level 1 really is not an adequate public safety inspection. I certainly think that needs to be - an inspection from the interior. I think otherwise the inspection process, I don't think I can think of anything else that we raised.

10

Q. Yes thank you. I think you indicated in a previous question that you were involved in the post 4 September response?

A. Correct.

Q. How long were you involved for?

15

A. Only a matter of days.

Q. Yes but you did go out in the field and carry out a number of assessments?

A. I did, yes.

Q. At the time were you conscious of the fact of aftershocks?

20

A. Yes I also had some experience in Gisborne after the Gisborne earthquake and it, when you enter these old buildings you certainly are conscious of an aftershock.

Q. And do you think that would apply to the other people you volunteered with, the other engineers?

25

A. I'm sure it did but I think, it's very important that the, I think the engineering profession generally would expect an aftershock of lesser magnitude than the original one.

Q. Do you recall what was said about aftershocks at your briefings?

A. Yes.

30

Q. It was mentioned?

A. Yes it was mentioned, yes.

- Q. I assume when preparing your reports you've had access to the council's own files for the various buildings that we're going to hear about this week?
- A. They were made available, yes.
- 5 Q. Did you review any other records of other buildings, any other URM buildings or anything like that?
- A. We have looked at quite a lot of buildings, yes.
- Q. Did you carry out any specific investigations into the number of buildings that might have been strengthened in the last sort of 30/40 years?
- 10 A. No we didn't.
- Q. So there's no point in asking you questions of that nature at the moment?
- A. No, no.
- Q. Just turning to your written report at page 2. You say that it appears the council adopted a passive approach to the upgrading of earthquake risk prone buildings. You say that though without any knowledge of what happened, what steps the council took after 1968. Is that correct?
- 15 A. We only judged, that was the comment made after reviewing the action council had taken in respect of unreinforced masonry buildings from the inspection of records we went through.
- 20 Q. So that, sorry just to be totally clear about this, that observation's made based on the records that you viewed not on some wider –
- A. That's right.
- Q. – review of –
- 25 A. No.
- Q. – council records.
- A. Absolutely.
- Q. And you're not suggesting are you that the council took no steps after 1968 in relation to unreinforced masonry buildings?
- 30 A. No I, we've set out what I believe we noted of council records in our reports.
- Q. Yes, no thank you for that. Can we now turn to page 7 of your report and it's under the heading of "Upgrading unreinforced masonry

buildings” and I’d like to take you to the first large paragraph on page 7 which starts with, “Improved public safety.”

A. Mmm.

5 Q. You say in the second sentence there, “The delay in the Christchurch City Council implementing a policy on earthquake prone buildings may or may not have contributed to the damage,” et cetera.

A. Mmm.

Q. Which policy are you talking about?

10 A. I’m talking about the ability I guess of the Christchurch City Council to have implemented a policy after ’68 as, for instance, Wellington did and reflecting on the, the likely outcome of what was a lower level securing that occurred to most unreinforced masonry buildings in Wellington as a result of that policy.

15 Q. So just to be clear about this, are you saying that the council did not have any policy after 1968?

A. They did not have a formal policy is probably ...

Q. And what does, what evidence is that observation based on?

20 A. On the fact that, firstly, there was no written policy that we’re aware of that was made public. There was no requirement for strengthening and upgrading that was a public policy.

Q. So if evidence was to be given that the council had a policy as from September 1970 you couldn’t comment on that?

A. No.

25 Q. Just turning to “Lessons to be learnt” and I’m just going over to page 8 of your report. I think you’ve already indicated that you would recommend that the rapid assessment process be reviewed and then I think you said that was probably the main issue, the lack of a rapid assessment process for some buildings is obviously an issue?

A. Yes.

30 Q. Isn’t there also a wider issue around the ability of territorial authorities to actually compel owners to obtain reports?

A. I think, my understanding under a policy they are able to require that but obviously there’s been a problem in Christchurch obtaining such reports.

Q. Yes.

A. Certainly within a reasonable time after this earthquake.

Q. So if we look at, if we look at what happens after the earthquake, we have the state of emergency which only lasts a very short period of time and then we, the council then has to deal with the matters in terms of its dangerous buildings, earthquake prone policies et cetera but from your, wearing your hat as an experienced engineer, isn't it very important that there is some means of forcing owners to obtain reports?

A. Yes I would agree that often one, especially after a building's given a green sticker the owner is often aware of information which really is of public significance and potentially could affect public safety.

Q. Yes. Just finally I'd like to take you to page 9 if you could Mr Smith and you, in your last paragraph there you talk about the need to extend barriers and you refer to hindsight which I think we're all very painfully aware of now but just to clarify this for me are you saying that if a building is unreinforced, is an unreinforced masonry building and there is any earthquake that building should not be reoccupied and the street cordoned off?

A. I think in the event of a significant earthquake, and obviously that needs to be defined, I think it's important when engineers are making assessments of buildings, firstly, that they have a brief which is consistent.

Q. Yes.

A. And I don't think engineers are necessarily the best people to judge the strength or likelihood of an aftershock. I believe that there are other parties and, that can make that decision and guide engineers on the level of strength that a building should have or the assessment that they would then undertake.

1110

Q. Yes, so you're not saying that because there is any form of earthquake however minor?

A. No.

Q. – you'd close –

A. It's got to be a sig – no.

Q. – all of CBD off?

A. Absolutely not. It needs to be a significant earthquake and there needs to be a reasonably significant chance of an aftershock.

5 Q. But there is a tension isn't there between the need to close off streets, put cordons round buildings and the need to keep a city moving isn't there?

10 A. Understandably, and I think Christchurch is an unusual event in that sense, is my perception of it. It is very rare indeed to have a more significant, event of more significant shaking affecting a commercial centre as the result of an aftershock. The magnitude of the earthquake wasn't larger, it was just right underneath the city, and I think we've got to try and get some balance going forward in terms of exactly the point you raised.

15 Q. So when you're out in the field after the earthquake I assume from your previous comments that certainly you didn't anticipate an aftershock of the proportion it was in February?

A. No.

CROSS-EXAMINATION: MR BEADLE

20 Q. Good morning Mr Smith. I just have a couple of questions for you. When Mr Zarifeh was enquiring and asking questions of you, he identified that there's a factual issue here over 593 Colombo Street being a green-stickered building on the 5th of September but being already a yellow-stickered building by the 24th of September when
25 Holmes inspected it, and so you made the appropriate point that as a matter of general course your recommendation about notifying the council by third party engineers as a general point rather than one arising from this particular case?

A. Yes.

30 Q. Given that 187 St Asaph Street, which is essentially part of the same building as 593 Colombo Street isn't it?

A. Yes.

- Q. Yes. Given that was yellow as at 5th September, and given what you've said about the nature of the building as a whole, and to the whole street and the way that the building would have to absorb energy from the entire street. I suppose it's not that surprising that Colombo Street would be – 593 Colombo Street would be yellow is it?
5
- A. I just think there needs to be a consistency of a building and placarding and I think that's the intent of the rapid assessment process. I don't think it - the rapid assessment process does not consider the adjoining of buildings as you do have on Colombo Street, it does concern each individual building between party walls but where a building which is 593 and 593A is essentially is one construction I suppose a better way of putting it, then that should be treated as a building.
10
- Q. The factual issue that we have to deal with which is how something became green on Colombo Street to becoming yellow arrive - is of importance because if it was green then the council wouldn't look at it again. That's correct isn't it?
15
- A. If that's what it highlights, I think –
- Q. Other than protocol, whereas if it was already yellow and the council already knew, they would then have a system to deal with it.
- A. As soon as a building is green and it's discovered that there is some damage internally and there is no formal mechanism for the council to be advised.
20
- Q. So the issue we've got here in terms of something turning from green to yellow is really about, there may be something in the system of the rapid assessment and in terms of control of that information by the Territorial Authority and who's doing what, when.
25
- A. There is also an issue I think that if an owner's representative identifies that there is damage to a building which means that the placarding is no longer appropriate, then it seems to me that that should be drawn to the Council's attention.
30
- Q. Yes, but in this case Holmes' position is that it was already yellow and therefore there was no effective change.
- A. That's the case.

CROSS-EXAMINATION: MR MCLELLAN

- 5 Q. Good morning Mr Smith. Could you have a look at BUI.COL593.0007A, and it's a collage of, I think it maybe A.5. A.6 is the next page, and could you zoom on the top right-hand photograph? Have you paid any particular attention to this part of the 187 St Asaph Street property?
- A. Yes I have.
- Q. Now are you aware from the re-inspection report of Mr Ryburn on the 14th of February that this was an area of concern for him?
- 10 A. I believe this was the primary concern of the building following the 5th of September.
- Q. And are you aware from his report that there'd been no work to secure that area since the 12th of October?
- A. Yes.
- Q. Do you know what happened on the 12th of October?
- 15 A. I'd have to refresh my memory.
- Q. It seems to me to be an inference from Mr Ryburn's report that some action had been taken anyway to require securing works for that parapet for that part of the –
- A. Yes.
- 20 Q. Structure and Mr Ryburn recommended that the area beneath that can be seen in A.5 please, and expand the bottom right photograph. So that is the far left-hand corner of 187 St Asaph isn't it?
- A. Correct.
- Q. And to the left of that there's an access, pedestrian or vehicle access way that runs down the side of the building?
- 25 A. Yes.
- Q. And since the 12th of October that access way was not cordoned off I think. Is that your understanding?
- A. There were certainly issues surrounding the closing off of that access way and the danger from the adjoining building also.
- 30

JUSTICE COOPER:

Q. But do you know whether it was closed off or not? The question was whether you knew whether it was closed off or not?

A. Oh sorry, no.

5 Q. Could you answer that?

A. As at that date I wouldn't be certain.

CROSS-EXAMINATION CONTINUES: MR MCLELLAN

Q. I'm sorry what was the answer?

A. As at that date I wouldn't be certain.

10 Q. I think Mr Ryburn will say that it wasn't, that access was still able to be gained to that lane running down the side and he recommended that the cordoning be increased to fence off that access way because of the risk posed by the cracking that we saw in the earlier photograph. Do you agree that that was an appropriate response to that cracking and the
15 fact that no works had been done to secure it since October?

A. Yes I would.

Q. Mr Ryburn also changed the yellow placard on 187 St Asaph to a red placard. Are you aware of that?

A. I don't believe I was, but – oh yes, sorry I was, yes.

20 Q. So again you'd agree –

A. Wait a minute, sorry, beg your pardon. I don't think I was aware, that's prior to the 22nd of September?

JUSTICE COOPER:

25 Q. Well I'm not sure what you're saying, the 22nd of September?

A. Sorry, I wasn't aware I don't think that the building had been red placarded.

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CROSS-EXAMINATION CONTINUES: MR MCLELLAN

30 Q. You are not aware that it had been red placarded?

A. No.

Q. You mean prior to the 14th of February re-inspection report by Mr Ryburn?

A. Until the...

Q. Yeah I've got it.

5 A. Sorry you're right it had been red stickered.

Q. Yes it was red stickered on the 14th of February.

A. Yes.

Q. Wasn't it?

A. Ah, going back to October I think it had been recommended, had it not?

10 Q. I'll just take you to Mr Ryburn's re-inspection report which is BUI – thank you it's already...

WITNESS REFERRED TO RE-INSPECTION REPORT

Q. You will see in the box towards the foot of the –

A. Yes.

15 Q. – you're familiar with these reports I expect?

A. Yes.

Q. You can see it's got a, it's been given a red placard then?

A. Yeah it actually records it in the written text too doesn't it?

20 Q. Yes. But you're not aware from the records you viewed as to whether it was previously yellow placarded?

A. Certainly I knew it was yellow placarded.

Q. You were, very well. So it was yellow placarded up to the 14th of February, is that your understanding?

25 A. I'm not absolutely sure that it wasn't the 12th of October but I'd need to go back over the records.

Q. I don't think – I'll ask Mr McCarthy about this but Mr Ryburn's evidence is, is to be that it was yellow placarded when he re-inspected it on the 14th of February and he changed it to a red placard?

A. Yep.

30 Q. On that date, so you would agree would you that that again was an appropriate response to the damage at 187?

A. I think it's an appropriate response to the lack of action to the damage. I think the yellow placard probably was a reasonable assessment of the level of damage.

5 Q. Right so the fact that two or three months had gone by without the required works being done –

A. That would seem appropriate.

Q. – was appropriately recognised by red placarding?

A. Yes.

CROSS-EXAMINATION: MR RZEPECKY

10 Q. I think you've said in evidence that the primary notice to occupiers following the 4th September earthquake was the placarding system?

A. Mhm, correct.

Q. And in your experience was that commonly known by occupiers and members of the public in Christchurch?

15 A. Yes I believe it was.

Q. So the notice with shops like Southern Ink would be to its customers as well?

A. Sorry the?

Q. The notice would be to customers not just to tenants?

20 A. Yes.

Q. Generally –

A. For general public safety.

25 Q. So in your experience any member of the public or occupier having a green sticker on the door would feel comfortable enough to enter the building?

A. Yes.

30 Q. And I think it was your evidence that the entire building should have been yellow stickered. In that respect are you saying that each separate tenancy should have had a placard designating the suitability for occupancy?

A. Yes.

Q. Could the witness, could Mr Smith please been shown the photograph at 5930007A.4A please.

WITNESS REFERRED TO PHOTOGRAPH

5 Q. You know I think that your evidence is that this, this frontage into Colombo Street had been green stickered with the first rapid assessments after the 4 September earthquake?

A. That's my understanding.

Q. And round the corner in St Asaph was yellow?

A. Yes.

10 Q. So the Southern Ink tattoo people for example with the green sticker would have been, it would have been quite appropriate for them to reoccupy –

A. Yes.

15 Q. – and start business. Now I think in the, underneath the word “Southern”, you’ll see there's a doorway there?

A. Yes.

Q. In the photograph, it’s pretty much at the centre of the photograph. And there's a notice on the door?

A. Yes.

20 Q. Is that familiar to you that notice at all?

A. Well it probably is, it’s very hard to...

Q. Yes, it’s not very clear. But if that was a yellow placard?

A. Yes.

25 Q. That would be a placard for that particular tenancy in the building wouldn't it?

A. Yes.

Q. So unless Southern Ink also got a yellow placard they’d continue working under the basis that they’d been green stickered? Is that, is that what would normally happen on your experience?

30 A. Sorry, I take it the other door entry is the one behind the 30k sign is that right?

Q. Yes underneath the SOU of southern?

A. That's one entry.

Q. Yes.

A. That's the Southern Ink one is that right?

Q. Well if you look on the right underneath Tattoos –

A. Is an open –

5 Q. – you'll see a, the door with "Open" on it?

A. Right okay, yeah if that, if there wasn't a notice on that door it would be possible for them to assume that...

Q. Yes. So that there's some, the fact that there was some stickers in some places, not in others and they were different colours possibly confusing?

10

A. Certainly if the sticker's missing it would be confusing.

Q. And in your experience would the fact that St Asaph Street was barriered but Colombo Street wasn't. Would that tend to give the message that Colombo Street was safe but St Asaph wasn't?

15

A. That certainly could give that message, yes.

Q. Yes, so for customers coming and going from Southern Ink they wouldn't have the comfort of seeing barriers to warn them that there was a potential problem?

A. Correct.

20 **RE-EXAMINATION: MR ZARIFEH - NIL**

QUESTIONS FROM THE COMMISSION: COMMISSIONER FENWICK - NIL

QUESTIONS FROM THE COMMISSION: COMMISSIONER CARTER

Q. Yes Mr Smith could you just tell us what direction the earthquake was on the 4th of September and what direction the earthquake was on the

25

22nd of February?

A. Certainly if people can turn to page 12.

WITNESS REFERS TO PAGE 12

A. The property at 593 you can see on the corner of St Asaph and Colombo. That page has north painting going to the left. The first

30

earthquake on the 4th September came from the bottom of the sheet

which was sort of westerly direction on to the property. The 22nd of February came from a south-eastern direction on to the property.

Q. So the failure of these façades was a falling outwards which resulted from the earthquake applying a vibration or an oscillation that that particular façade was weak in respect to and so the two earthquakes attacked different faces of the building?

5

A. They did. I understand that the 22nd of February earthquake was, the scratch plate results for that indicated a very disturbed pattern in the CBD whereas the first earthquake was more directional.

10 Q. Thank you. The other question I would just like to hear your, your description from is was the briefings and I think you've already told us that the briefings drew attention to the fact that the aftershocks were likely to continue. Was there any suggestion that the aftershocks could be from different directions and therefore when inspections were carried out they should be conscious of the fact that, that the aftershock may not be in the direction of the earthquake that has just occurred?

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A. I don't recall that Your Honour.

QUESTIONS FROM THE COMMISSION: JUSTICE COOPER

20 Q. Can you just for my benefit Mr Smith go to page 11. The different plan which I find it easier to work with, am I right in thinking, or different aerial photograph sorry, am I right in thinking that in this case on page 11 north's at the top of the page?

A. Yes. That's correct.

25 Q. Right. So that the façades that fell on to Colombo Street fell to the east?

A. East and to the south on to Colombo Street.

1130

Q. Yes.

A. East.

30 Q. Yes because St Asaph Street's to the south.

A. Yes.

FURTHER QUESTIONS FROM THE COMMISSION: COMMISSIONER CARTER

5 Q. Just one, one last question if I may. I think you've mentioned that buildings should be looked at as a whole and not, not as far as tenancies are concerned. Can I just draw your attention to the façade that we've looked at often and that is the façade to Colombo Street which shows a building painted blue and another alongside it of natural brick colour and the, they have different parapet heights, different window forms above the, above the canopy. Do you think it would be 10 reasonable in the, in the rush of this sort of urgent inspection process that's going on a day or two after the earthquake that the inspecting person would recognise that those were two, that they were both one and the same structure and not two separate buildings. I'd just, just like your observation about the reasonableness of the inspectors in 15 assessing them as two separate buildings?

A. I would, I would think that looking at those two facades it's reasonable for an engineer to assess them separately. So the –

Q. Thank you.

20 A. – the mushroom coloured building would be looked at as one building which is 593 and 593A and the adjoining building separately. I think if you stripped off that horizontal planking on the front of the mushroom-coloured building you would expose windows very similar to the adjoining building.

COMMISSION ADJOURNS: 11.32 AM

25 **COMMISSION RESUMES: 11.51 AM**

MR LAING CALLS

STEPHEN JAMES MCCARTHY (SWORN)

30 **JUSTICE COOPER:**

We are thoroughly familiar with Mr McCarthy of course although others may not be I suppose.

MR LAING ADDRESSES JUSTICE COOPER

5 EXAMINATION: MR LAING

Q. Is your full name Stephen James McCarthy.

A. Yes it is.

Q. And you're the Environmental Policy and Approvals Manager at Christchurch City Council?

10 A. Yes I am.

Q. Could I ask you to start reading your evidence at paragraph 6 please Mr McCarthy?

A. Certainly. 593 to 599A Colombo Street. At 1.00 pm on 5 September 2010 a level 1 rapid assessment was carried out for 593, 599A
15 Colombo Street. The building received a green placard. The council has no record of any further inspections or assessments being carried out in relation to 593 Colombo Street as a green placard has not, had been issued for the address. It was not the council's general policy or practice after the 4th of September 2010 earthquake to undertake further
20 inspections in such circumstances.

187 St Asaph Street. On 5 September 2010 at 12.50 pm a level 1 rapid assessment was carried out in relation to 187 St Asaph Street. Due to a parapet that was badly cracked and a risk of further collapse the building was yellow placarded. The council does not have a record of
25 187 St Asaph Street being a separate address on its system. It appears that 187 St Asaph Street is not a separate building to 593 Colombo Street. However, it is clear that two separate rapid assessments were carried out on the building. It appears that both assessment forms were completed by Simon Wall, who is a CPEng engineer. Mr Wall is not an
30 employee of the Christchurch City Council. I cannot provide any specific details about why two inspections were undertaken when 187 St Asaph Street and 593 Colombo Street are the same building. It is

noted, however, that the buildings have shop fronts on both the St Asaph Street and Colombo Streets and so it may have appeared to the assessment team that they were separate buildings. As noted above an issue was identified with the parapet on a south-west street front of the 187 St Asaph Street.

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On 13 October 2010 an assessment was carried out by the council's building evaluation transition team for 187 St Asaph Street. An existing yellow placard was confirmed. The assessment form refers to a crack in the corner of the front parapet. The box relating to barricades was not ticked but it records that, "Front footpath fenced off. Access at side open." A Christchurch City Council Enforcement Team notice's cover sheet dated 13th of October 2010 notes in relation to 187 St Asaph Street that engineers are to provide a report on the safety of the building and refers to a notice to fix. A notice to fix is a document issued under s 165 of the Building Act 2004. It is not clear whether this form of notice is being referred to or some other form of notice such as a dangerous building notice under s 124 of the Building Act. The council does not have a record of any Building Act notice being issued and it has no further details or documentation concerning this matter.

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Mr Mark Ryburn, an engineer, contracted to the council from Opus, completed a re-inspection report on 14th of February 2011 for 187 St Asaph Street. He noted that there had been no work done on the building since 12th October 2010. The re-inspection form stated that protection fencing was required and under details stated, "Fencing beneath overflow and the chimney next to the building at 185 where the wall has collapsed." Following the re-inspection, discussions were held with the property manager about the state of the building. This is referred to in the Christchurch City Council Enforcement Team investigation activity job sheet dated 16 February 2011. The property manager advised the Building Recovery Office case manager that a structural engineer had designed repair options and that these had only just been submitted to a contractor for costing. The job sheet goes on to say, "He is working on a report that will discuss the work that needs to

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be done to bring the building up to 67%.” The majority of the building will remain untenanted for the long term. After the pricing has been done it will be up to the owners and the insurers whether they want to repair or demolish. No documentation was received from the building owner in relation to this building.

5

The application of the relevant legislation in the council’s earthquake-prone policy, the building was noted as possibly earthquake prone in the council’s records. The building would have been deemed to be earthquake prone under s 66 of the Building Act 1991 and so it appears that there was no earthquake strengthening was carried out on the building, it would have continued to be regarded as possibly earthquake prone on the introduction of the Building Act 2004 and for the purpose of the earthquake-prone buildings policy 2006. After the commencement of the earthquake-prone buildings policy 2006, in May 2006, if a building consent application for a significant alteration had been received the strength of the building structure would have been assessed and the application would have been dealt with in accordance with the policy. However, no applications were received.

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CROSS-EXAMINATION: MR ZARIFEH

20 Q. Mr McCarthy, firstly, can I ask you about this issue of placarding and separate placarding of tenancies of the same building?

A. Yes.

Q. Can you help us with that, that area?

A. I, I, I think I have to say that Mr Smith’s understanding would be correct.

25

Normally it would be the whole building that would be placarded and it would be one colour. However, having said that clearly the damage to this particular building after September was relatively limited and it was limited to that south, south-west corner so I imagine that is why the, the focus remained on that corner.

30

Q. And Mr Wall will tell us about that when he gives evidence as well.

A. Yes he will.

- Q. But in terms of a policy or a, in terms of training at these briefings can you tell us about that. What was, what was said by the council or civil defence emergency authorities in relation to this issue?
- 5 A. It was, it was definitely placard the whole building and then go and placard each of the tenancies as well.
- Q. And with the same placard for the tenancies?
- A. It would be normal for it to be consistent, yes.
- Q. Are you aware of any other buildings in the CBD that were placarded different colours for different tenancies of the same building other than this 593?
- 10 A. No I'm not aware of any others.
- Q. And I take it the council wouldn't have had a written policy on it but it would have been something that was brought up at the briefings as Mr Smith said?
- 15 A. Yes they were quite comprehensive briefings.
- 1201
- Q. The other thing I want to ask you about was the 13th of October, that cover sheet which you referred to –
- A. Are you going to bring it up on the –
- 20 Q. It's 0048.1, tab 8 in the chronology. It'll come up in a moment but I'll start asking you if I can. That recorded that there was an engineer to provide a report on the safety of the building?
- A. That's correct.
- Q. CPEng registered?
- 25 A. Yes.
- Q. And also referred to this notice to fix for work relating to the façade. That's obviously the St Asaph Street side?
- A. Yes. Can I just clarify please that the CPEng, the report from the CPEng engineer, one would expect that that is coming from the owner.
- 30 Q. So just help us out then. There's someone who obviously goes to the building, presumably on that same date. There's a level 2 of St Asaph Street. We know that from the level 2 rapid assessment form and then

this cover sheet's completed presumably on the same date. They're dated 13 October?

A. Yes.

5 Q. So this is a cover sheet for action to follow that inspection. Would that be a reasonable inference?

A. Yes it is.

Q. You said in your brief that there's no, there was no notice to fix or Building Act notice or anything of that kind sent?

A. That's correct.

10 Q. How would the owner be notified then of the requirement to provide a CPEng report on the safety of the building?

A. There were a number of interactions between engineers and our offices but there were also some letters sent subsequently.

Q. Subsequent to?

15 A. Subsequent to this, this inspection.

Q. Right.

A. Rather later I think in November/December.

Q. And have you, is there any copies of those or records of those on this property?

20 A. I think they were submitted.

Q. For this property?

A. Mmm.

Q. Can you just direct me to those?

A. I'm sorry. I may have been mistaken. I'm, I'm –

25 Q. That's all right. I just wonder if –

A. These, these are adjacent premises that I, I was alluding to.

Q. I presume there aren't any because you say in paragraph 11 that the council does not have a record of any building notice being issued and has no further details or documentation concerning this matter.

30 A. (No audible answer 12:04:40).

Q. Okay, so I imagine at the time there were a lot of buildings to be dealt with?

A. Yes.

Q. And was it the case that not every level 2 and then cover sheet notice was followed up?

A. I think there were priorities set and, and where it was scheduled it would have eventually got done, I have no doubt.

5 Q. It would appear that the next thing from the council records after the 13th of October was Mr Ryburn's inspection on the 14th of February from the council point of view.

A. Yes.

10 Q. And he noted that nothing had been done since the 12th or 13th of October.

A. Correct.

Q. No work since the 12th of October which was the level 2, but we can, we can infer that there would have been no notice to the owner from what you've said about there being no record of a letter being sent?

15 A. That's correct.

Q. Is that something that, obviously the Commission's concerned with looking into the future in terms of possible holes in the system or improvements. Can you make any comment on this particular case and how it might feed into that?

20 A. I think there's an obvious need for owners and owners' engineers to interact with the council right through the process. We're aware now that a lot of work had gone on assessing this building and coming up with plans but of course the council wasn't a party to those and we would have, it would have given us greater confidence that the work was proceeding.

25 Q. So we know, or you know now as you say that the owner had got through Harcourts, had got Holmes Consulting to inspect and that it seems a reasonably thorough inspection was being done around that time but no contact at all with the council at any stage other than that file note in February with the, Mr Chapman from Harcourts?

30

A. That's correct.

Q. So how do you suggest that could be improved? Obviously there's a need for it.

- 5 A. Clearly, clearly buildings shouldn't be reoccupied if they're yellow or red and, and we would require a, an engineer's detail or certification that the building was safe to occupy in the normal course of events. With a green placarded building we, once we're satisfied on, from a visual inspection that the work, that the building is safe we don't have a lot of other interaction with the builder, with the owner and the owner would, in the normal course of events, check themselves that the building is up to a suitable standard. The council doesn't have that privilege of actually having that information so we don't have a complete property record. I think what could come out of this is that that information could be directed to be obtained from the owners and I think the owners could reasonably provide that within a set time.
- 10
- 15 Q. What about Mr Smith's suggestion of requiring with a level 2 or greater assessment of an unreinforced masonry building after a significant earthquake before there can be occupation or before cordons are reduced?
- A. It has the complication that in a city as large of Christchurch many, many buildings would be involved. There certainly wouldn't be enough engineers to do that in a, in a reasonable timeframe. One would suspect the economic impact of that on the city would have been very major. So, there's a balance to be struck. It certainly has its attractions.
- 20
- 25 Q. In relation to, going back to that cover sheet and the work that was required, there was also the issue of the cordons along St Asaph Street and the note in February that they needed to block off the alleyway. The cordon placement is a council responsibility isn't it, not an owner, building owner responsibility? Is that fair comment?
- A. Initially it's the council responsibility. One would expect that the owner will take responsibility after a period of time. It was certainly our intention to pass that responsibility back to the owners at a stage. I think it's unreasonable to expect that the council will cordon off a building until it's repaired. That, that should rightly be a cost against the owner.
- 30
- Q. A cost or a responsibility?

A. And indeed a responsibility.

Q. So at what point would it pass from council to the owner, the responsibility?

5 A. I think that was all part of the debate with their engineers. Once we fully knew the structural capacity of the building we'd be in a better position to, to realign cordons but if we haven't got that information we can't do that.

1211

10 Q. So you're talking about say a CPEng's report on the structural stability of the building obtained by the owner and provided to the council?

A. Yes, and one would hope that part of that structural assessment could address the issue of safety to the road and to the public, and what is a reasonable time to do that. One would expect it could be done within a number of months after the event.

15 Q. Right. So you're saying that the council until it gets a CPEng report on the structural stability of the building, isn't really in a position to properly assess where the cordon should be?

A. That's a fair inference.

20 Q. But in terms of events following September anyway the council is relying on the owners to provide that report and couldn't force them to do so?

A. That's correct.

Q. And so if they didn't provide it, the council might never have been in a position to properly assess the cordon placement?

A. That's correct.

25 Q. And yet the primary responsibility for safety of motorists and pedestrians would fall on the council wouldn't it?

A. Yes it does and indeed that's the reason why we put the cordons up as immediately as we could after the event.

30 Q. If that's the case then, would that not, would it not follow that there should be a more conservative approach to the initial placing of cordons if they're not being based on a structural assessment report?

A. Initially our engineers were instructed to be conservative in the placement of cordons.

- Q. And what about the engineers that were on contract, and we've got one in this case obviously Mr Ryburn from Opus.
- A. Yes.
- Q. Are you including those engineers?
- 5 A. Yes I am.
- Q. Obviously he came to the view that there had to be further cordon or extension of the cordon on the 14th of February in this case?
- A. Yes.
- Q. And between 12 October and 14 February there's no inspection by anyone from the council, correct?
- 10 A. Correct.
- Q. There's no inspection following Boxing Day aftershock? Correct.
- A. No inspection of the building?
- Q. Yes.
- 15 A. That's correct.
- Q. And no inspection of that particular area of damage that had been highlighted in October, St Asaph frontage?
- A. That's correct.
- Q. Or no reassessment of the cordon until 14 February?
- 20 A. Our traffic engineers do regular checks on the cordons to make sure they're still in place, but no realignment of the cordons was directed by the engineers, but we do do regular checks.
- Q. Right, and are they recorded or not?
- A. Yes they are.
- 25 Q. Have we got a record of the checks in relation to this building or not?
- A. Yes, yes we do.
- Q. Is that something you've seen or ...
- A. Yes I have.
- Q. Can you direct me to that, have we got that document here?
- 30 A. I'm not certain if you have, I've got it certainly in my briefing papers.
- Q. Right.
- A. I'm not certain if it's been provided to the Commission, I'd have to ask my legal counsel with regard to that.

Q. So are you saying that between 13 October and 14 February there was a review of the cordon?

A. We know – we, yes our cordon management crew were constantly doing that. We had seven and a half kilometres of cordons out in the city.

5

Q. Right.

JUSTICE COOPER:

Q. The review though I infer from the answers you've given would have been to ensure that it was in the position that it was originally placed in, nothing more?

10

A. That's correct.

CROSS-EXAMINATION CONTINUES: MR ZARIFEH

Q. Right, so it's not an actual review of whether the damage has changed and it needs moving?

15

A. Correct.

Q. The earth, briefly the earthquake-prone issues and prior to September, the letter back in 1977 was on the file and referred to by Mr Smith?

A. Yes.

20

Q. It would appear that nothing from the file, anyway nothing happened about those matters, would that be a fair comment? I know it's going back in time.

A. It is, there's nothing recorded on the file, I'm not certain that – it does allude to loose material on the facade of the Colombo Street facade. That's not evident to me and work may have been done but it's simply not recorded on the file.

25

Q. The seismic risk building survey in 1991 and the hazardous appendage survey in 1992, the first one classified the building as what's said to be 14B, which said remedial action recommended within two years.

30

A. Yes.

Q. Was there any enforcement of that or follow up of that, that recommendation?

- 5 A. There was a change in the legislation around about that time that caused some issues for us, so the short answer is, no it wasn't followed up but there was a legislative change that prompted our actions in that regard. The 1991 Act section 8 said that we weren't able to require a higher standard that - on buildings that had been constructed prior to 1991.
- Q. Prior or higher standard than –?
- 10 A. A higher standard than they'd previously been built to, so the building code in 1991, the Building Act required a high standard. Buildings built prior to that weren't required to be upgraded so there was a – there was a timing issue with regards to that assessment.
- Q. What was the point of a survey then? Was it just to see what the building stock – unreinforced masonry building stock there was?
- 15 A. It was – we were able prior to 1991 to require buildings to – parts of buildings, appendages to be strengthened and so we were generally going through the city, the central city, and that was a priority for the council, going through and assessing all the buildings so we knew what stock we had.
- Q. The hazardous appendage survey though was December 92.
- 20 A. Yes. That's correct.
- Q. So –
- A. The 1991 Building Act didn't come into effect until April 1992. Sorry can you run the date past me again.
- Q. It says 1 December 92.
- 25 A. Okay, so that was after the 91 Act had come into effect.
- Q. So did anything happen as a result of that survey?
- A. No.
- Q. And why was that?
- 30 A. I think because there wasn't an immediate danger. If there'd been an immediate danger reflected in that form then I think it would have been certainly followed up.

Q. So it refers to mortar deterioration and cracks, classes them as noticeable, so middle if you like, significant noticeable and minor. You say if it had been significant it would have been followed up?

5 A. If there'd been specific safety issues, yes it would. That is common in unreinforced masonry buildings.

Q. Right, but I just wanted to be clear. You're not saying then if it was, if significant was marked that it would have been followed up necessarily, only if there was some immediate danger?

A. That's correct.

10 Q. And is that, and we've heard about this, the passive earthquake-prone policy, that's essentially part of that, that there wasn't a building consent applied for or significant alterations, therefore there wasn't a requirement to do any structural strengthening or upgrading?

A. That's correct.

15 **CROSS-EXAMINATION: MR ELLIOTT**

Q. Mr McCarthy.

A. Good morning.

1221

20 Q. Just to clarify one of your comments about cordons. I think you said, correct me if I'm wrong, that that was initially a council responsibility and then responsibility passes to the owner. Is that what you said?

25 A. Yeah there's, there's a number of ways of protecting the public from, from safety issues with buildings. The building can be hoarded up, it can be cordoned, it can be barricaded or it can be repaired. At some stage the responsibility gets passed back to the building owner to, to, to rectify their building.

Q. You're not suggesting though are you that an owner is entitled to move a barrier along the footpath or indeed even out onto a street?

30 A. If the owner or the engineers determine that the cordons were in the wrong place because of a more immediate danger that they'd become aware of one would expect they would tell us. We would certainly act.

Q. But only the council could move a cordon in that way?

A. Yes, yes. The alternative is for the owner to upgrade or repair the building in some way and take the need for the cordons away.

Q. Can I just ask for document BUI.COL5930008F2 please.

WITNESS REFERRED TO DOCUMENT

5 Q. So is this the second page of the seismic evaluation form that Mr Zarifeh has asked you about?

A. Yes.

10 Q. And at the top of the page there, there's a table which contains a building assessment which seems to show that someone put quite some effort into working out a way to assess buildings. Is that right?

A. Yes.

Q. So was that process the result of some decision within the council to allocate resources to assessing buildings?

A. There were, there were resources applied to this from the early '70s.

15 Q. And this seismic evaluation form I think was filled out in 1991. Is that right?

A. There's no date on it, I'll have to –

20 Q. I'm sorry, 2nd of December 1991 is the date. I'll refer you to that document in a moment. So that pre-dated I think the coming into force of the Building Act 1991.

A. Thank you. Yes. That's correct.

Q. But was the council already carrying out this type of analysis in contemplation of the Building Act coming into force or was it something which it had already been doing before that?

25 A. It had been doing it for a number of decades actually.

Q. With the same form?

A. I think the forms have changed progressively but towards the end this was the form that's been used.

30 Q. And table 2 in that document is a required action table which seems to indicate that there would be some classification of different types of buildings?

A. Yes.

Q. And for classification A immediate action would be taken. I see the Municipal Corporations Act is referred to there.

A. Yes.

5 Q. And classification B, remedial action within two years. So if we go back to the first page of that document which is F1. This is the document dated 2 December 1991 there at the top which relates to 593 and 593A Colombo Street. Do you agree?

A. Yes.

10 Q. And down the bottom of the form if that could be highlighted, just across the bottom, firstly hazards section refers to a parapet. So a parapet there has been identified as a hazard. Do you agree? Bottom left?

A. Yes it's got horizontal cracking on the parapet. Correct.

15 Q. And this numerical rating on the right-hand side results in a score of 14 which means that it's a category B building from the council's point of view.

A. Yes.

Q. And that requires remedial action within two years.

A. Yes.

20 Q. So wouldn't it be right to say that clearly someone felt that the parapet presented some danger and the danger should be addressed within a period of two years?

25 A. Horizontal cracking doesn't necessarily translate into a, a danger. It, it's an observable feature of the building and one would expect that an engineer would assess the risk associated with that horizontal cracking and that would be one of the actions that, that could be taken by an owner.

Q. So does that mean that when the council officers were filling out forms like this recommending action within say two years someone else might come along and say, well we won't necessarily bother to follow that up?

30 A. That wouldn't be the case. That would, the intention would be to follow up in the normal course of events.

Q. That intention wasn't acted upon in this case though was it?

A. That's correct.

Q. The reason you give is the Building Act 1991. Is that right?

A. The Building Act did change the, the framework of how to deal with these buildings significantly.

5 Q. So did the Christchurch City Council perceive, perceive that the new 1991 Building Act raised some difficulties for it in addressing the type of hazard which emerged on this building?

A. If indeed it was a hazard, yes.

10 Q. So did the council initiate any sort of enquiries with the Department of Building and Housing or any Government minister to seek to activate some change in the legislation so that it could take the action it thought it should be taking?

A. At that time I'm not aware of that happening but certainly the subsequent review of the Building Act did address some of these issues.

15 Q. So that's the 2004 Building Act you're referring to now?

A. Yes.

Q. And that's the Act under which the Christchurch City Council adopted the 2006 earthquake-prone policy?

A. Yes.

20 Q. In which it decided to do nothing apart from an initial desktop inspection unless a building owner came with the building consent application?

A. That's correct.

25 Q. This initial desktop evaluation. If someone within the council had picked up the file for 593, 593A Colombo Street they would have seen this 1991 seismic survey on the file, wouldn't they?

A. They would.

Q. So it would have been immediately obvious to them that this may have been a building which required some action?

A. Yes.

30 Q. But no action was taken at any time before the September 2010 earthquake in relation to this hazard which had been identified in 1991?

A. If indeed there was a hazard. No action was taken.

Q. Is it the Christchurch City Council's position that a cracked parapet does not represent a hazard to those below it?

5 A. It doesn't necessarily represent a hazard. There's a, a number of cracked parapets in buildings throughout New Zealand. It doesn't necessarily mean it's structurally unsound so that's, I think that's a statement of fact.

Q. Has that position changed after having considered the report from Associate Professor Ingham about the way buildings behaved and parapets in particular during the earthquake in February?

10 A. I'm not quite certain what you're asking me with that question.

Q. Well if there are cracked parapets out there around the city right now –

A. Yes.

Q. – is that something which the council considers it should be doing something about?

15 A. If indeed there's an obvious hazard and they're dangerous and a risk to public safety, yes, we should be doing something about it.

Q. The council should be are you saying?

A. Yes, yes under the, under the Act, dangerous features that are immediately obvious – we, we should be doing something about them.

20 Q. What would that be?

A. We'd take action under s 124 of the Building Act.

CROSS-EXAMINATION: MR BEADLE

Q. You'll have heard this morning that 187 St Asaph Street was designated with a yellow placard on the 5th of September by Mr Wall?

25 A. Yes.

Q. And that Mr Wall says he placarded from 593 through to further along the street –

A. 599.

Q. – all as green?

30 A. Correct.

1231

- Q. My client, Holmes Group will say that when they went on the 24th of September, so 19 days later, the 593 Colombo Street entrance was already green, already yellow. So what I want to explore with you is how that can have changed from green on the 5th of September to yellow on the 24th of September? Can we have a look at document BUICOL593.0046A please. Now clearly Mr McCarthy you're very familiar with this level 1 form?
- 5
- A. Yes.
- Q. This is the form completed on the 5th of September 2010, you see that?
- 10 A. Yes.
- Q. And it includes provision there in the second box which says, "further action recommended," and then there are some boxes to tick aren't there? Do you see that?
- A. I'm sorry, can you bring it up. Yes.
- 15 Q. So this is for 187 St Asaph Street, but you'll see there that in terms of the boxes that Mr Wall ticked, he ticked that level 2 "or detailed engineering evaluation was recommended," but he didn't tick, "that barricades are needed," did he?
- A. That's correct.
- 20 Q. Can we have a look please at documents BUI.COL593.007A.4. Can we focus on the top left-hand corner photograph. Now Mr McCarthy this photograph was taken on the 4th of October 2010 and so it's self-evident isn't it that the outside of 187 St Asaph Street has been barricaded by that time?
- 25 A. Yes.
- Q. So mustn't it be right that somebody at the council has decided between the 5th of September and the 4th of October that barricades were required?
- A. I think the barricades you're looking at are actually part of a sewer main reconstruction that are going on and I think the – you'll see the pipes that go into the container. I think you'll find that probably what has happened is the engineers at the time had recognised that barricading and said, "okay that can be – that effectively keeps people away from
- 30

that particular corner of the building,” which was the area of most concern.

Q. And the engineers you're talking about are the council engineers?

A. Yes.

5

JUSTICE COOPER ADDRESSES MR BEADLE:

Q. Forgive me Mr Beadle, but what do you say the function of the container is likely to have been?

10 A. I believe that's probably de-watering the trench, that was intended to go in there so that would be a – that water would come up that pipe and go into the container and that would allow for sediment control, allow for settling of the water.

15 Q. But, all right, well on the other side of the container though it's possible to discern the wire, the metal and wire barriers that are a common feature of the city still today isn't it?

A. Yes.

CROSS-EXAMINATION CONTINUES: MR BEADLE

20 Q. Well Mr McCarthy you do say, it has been noted when the council went back on the 13th of October, you say in your brief at paragraph 9 that the existing yellow placard was confirmed, the assessment form refers to a crack in the corner of the front parapet, the box relating to barricades was not ticked but it records, quotes “front footpath fenced off, access at side open.” So the footpath has been fenced off hasn't it, because that container is not on the footpath?

25 A. That's right.

Q. So that to my mind suggests that somebody's decided that the footpath needed to be barricaded off. You wouldn't accept that?

A. Yes, not necessarily related entirely to this building of course.

Q. Well to what could it relate then?

30 A. Pardon me.

Q. To what could it relate?

A. Well the construction works that are going on on the street.

Q. So the –

A. So partially the barriers would have been put up to keep people away from presumably that corner of the building but there's other barriers as well that are related to the construction works.

5 Q. Well if we look at the photograph closely can you see that on the other side of the container there are barriers aren't there?

A. Mmm.

Q. So in fact the container is itself, access is restricted to the container itself but I'm talking about the footpath which is a separate issue.

10 A. Mhm.

JUSTICE COOPER:

Q. Mr McCarthy, are you saying that you think it's likely that the barriers in this view which are behind the container along the length of the footpath are designed to keep pedestrians out of the works that are going on, on
15 the street. Is that what you're saying?

A. That's what I believe is the case Sir.

MR BEADLE ADDRESSES JUSTICE COOPER

And Sir, so the proposition I'm putting is that if there are barriers surrounding the container, then it is not necessary to separate off the footpath, but the
20 footpath was separated off. So somebody has decided that it is appropriate to separate off the footpath distinct from the container.

JUSTICE COOPER ADDRESSES MR BEADLE

25 Q. Well that's your – in what way has the footpath been barricaded off?

A. Sir, if we look at, if you go back to the main page and look at a different photograph.

Q. Yes.

A. In fact Sir I think it's better to look at the enlargement of this photograph
30 that we supplied. It's the document number BUICOL5930007A.4A.

Q. Right.

A. A photograph of the front of the building. I understand that on the left, to the left of the Colombo Street frontage there is a wire mesh barrier to prevent people walking down the footpath at St Asaph Street.

Q. So that if, well you want to put that to the witness presumably, do you?

5 **CROSS-EXAMINATION CONTINUES: MR BEADLE**

Q. So Mr McCarthy, if one looks at this photograph can you see that there is a wire mesh barrier to the left of the frontage of Colombo Street which prevents pedestrian access to St Asaph Street?

A. It appears that's the case.

10 1241

Q. You see Mr McCarthy I'm just looking for what appears to me to be the hole in the evidence here as to how this, the frontages of Colombo Street became yellow after the 5th of September, but before Holmes inspected it on the 24th and it seems to me that the Council was around and about that area at least for the purpose of doing this work and that it may, therefore, be that some, well it must be that somebody has identified that this building should be yellow. What do you say to that?

15

A. I think there was only a yellow placard on the Chinese Acupuncturist around the corner. I'm not, I've seen no evidence that there's a yellow placard on any of the Colombo Street façade or street, all of those tenancies, my understanding is they were all green placarded unless you can show me some other evidence but I believe they were all green placarded.

20

Q. Well I will, Mr McCarthy. If we look at the photograph, if we zoom in on the doorway underneath the 'S-O-U' of 'Southern' - no it's still quite indistinct. But if one can hold that thought and if we can then go to document BUICOL59300051.3. Can you see the yellow placard on the door?

25

A. Yeah it does appear to be a yellow placard.

30

Q. Yes so this is the evidential hole we're trying to solve and I'm looking for what opportunities there were for this to occur. Is it not entirely possible that when the barricading of St Asaph Street was done somebody at the

Council realised that that front door on Colombo Street should be yellow?

A. There's a possibility that might have been the case.

CROSS-EXAMINATION: MR MCLELLAN

5 Q. Mr McCarthy can I have WITNPC.003.6 – this is the annexure A to your brief of evidence Mr McCarthy.

A. Yes.

Q. Now this is Mr Wall's initial inspection, rapid, ah, level one assessment on the 5th of September. You'll see that the address is given 593 to
10 599A.

A. Yes.

Q. Now could I have the same prefix but .0003.6 – sorry .7. This is the same day level one assessment for 187 St Asaph Street.

A. Yes.

15 Q. See that. So it seems that certainly on the 5th of September the properties were treated as separate.

A. They were.

Q. As you have said in your brief that your assessment team appears to have regarded them as separate properties -

20 A. Yes.

Q. – for assessment purposes. And if we go to the next report in the series which is .8. This is the 13th of October assessment for 187 St Asaph which notes an existing placard of yellow. Do you see that?

A. Yes.

25 Q. And the inspector has noted 'front footpath fenced off access at side open'.

A. Yes.

Q. From my discussion with Mr Smith earlier on do you take that to be a reference to the side of 187 St Asaph where there's that lane running
30 down the side of the building?

A. Correct.

Q. Now in the, we've seen your cover sheet or the Council's cover sheet which is BUI.COL593.0048.1. Can we take it that that will have been completed in response to the report dated the 13th of October?

A. I'm sorry what's your question?

5 Q. Can we take it that this cover sheet, filled out by your enforcement team, would have been a response to the 13th of October assessment?

A. Sorry, this is 13th of October?

Q. Yes.

A. Oh yes, yes, I'm sorry you mean physical, yes, correct.

10 Q. Because you'll see that down towards the bottom 'Fully outline what the danger is and/or work required' and someone's written 'Notice to Fix for work relating to façade parapet southwest street front'.

A. Yes.

Q. Which is a reference to the 187 St Asaph Street corner.

15 A. Yes.

Q. Can you see just a few lines above that there's a red stamp saying 'processed 26th of October'? Can you infer from that what action would have been taken for the enforcements person to stamp it 'processed'?

20 A. Ah, entered into the computer, scanned and entered into the electronic record.

Q. But we seem to know that no action was taken to send a Notice to Fix, is that –

A. That's correct.

Q. As far as your records show.

25 **QUESTIONS FROM THE COURT: JUSTICE COOPER**

Q. Can I, forgive me Mr McLellan, what does 'No further action required' on this form mean? What is conveyed by that?

30 A. I'm not certain, sir. I imagine that there would be a 'bring up' record put into the system so that so that it wasn't closed off and if no further action is required then that would have been noted as well but, at this stage, I would suggest to you that that information has merely been entered into the electronic record and a note put on file to follow up at some stage.

Q. The, well the word 'processed' means the form has been processed doesn't it?

A. Yes it does.

Q. That's what you told us.

5 A. Yes.

Q. And that's what's happened on the 26th of October.

A. Yes.

Q. Well are the Council officials simply using that space on the form to note that the form's been processed? I mean is it just an unfortunate
10 circumstance that they've put that word and date on a part of the form which says 'No further action required'?

A. They may well have, you may be right sir, you're likely to be.

Q. Because the overall situation was that the Notice to Fix was being sent, isn't that right? And so surely the Council would want to check whether
15 the object of the Notice had been satisfied.

A. They would. I think there's a bit of confusion there around the Notice to Fix and a s 124 Notice to Repair a danger but, essentially, there needed to be some action taken as a result of this, this form having been filled out and the inspection.

20 1251

Q. Well isn't it, I mean the form is likely to cause confusion whenever it's used isn't it, or it could do?

A. It could do Sir. I think generally there was, generally our system worked pretty well but perhaps the location of that notation, the process
25 stamped might well cause confusion, yes.

CROSS-EXAMINATION CONTINUES: MR MCLELLAN

Q. If you have a look at the next line beneath that process stamp though Mr McCarthy, that says 'notice required to be completed by operation notice staff', I'm not quite sure what the – that I'm scanning it correctly,
30 but clearly someone circled yes meaning something has to, some step has to be taken by the enforcement team. Is that – am I interpreting it correctly?

A. Correct. Yes you are.

Q. And in the context of this notice that would be a notice to fix being served?

A. Yes. Subject to the explanation about (inaudible 12:52:54).

5 Q. The legislative framework, I understand. Now if we fast forward as it were through to February when Mr Ryburn's re-inspection was carried out, the re-inspections that were being done in January, February, would you agree had varying purposes, if I can just explain that. Some were perhaps relatively routine, updating placarding that source of
10 operation, others were for more specific purposes?

A. Correct.

Q. And if we have a look at the re-inspection report which is BUICOL593.008M.1, these were reports, the forms were generated by the council staff and handed to the inspectors as I think daily briefings.
15 Is that your general understanding?

A. Yes, yes.

Q. You see that the address at the top, 187 St Asaph Street has been typed in and the rest of the forms handwritten?

A. Yes.

20 Q. And is it your understanding as it is mine that that was typed in by council staff?

A. Yes it was.

Q. And then a file would be handed to the individual inspector with the form and such other material that the council had at its disposal to give to
25 inspectors?

A. Yes.

Q. Now we've talked about the earlier inspection that was done on the 13th of October and the fact that no action was taken by the council to serve a notice to fix. Is it a fair inference from the contents of this re-inspection report that it was, that the council asked for this inspection as
30 a result of there being no visible action taken in relation to this property apparent from the council file?

A. The action would have been a re-inspection of all of – part of our scheduled re-inspection of all buildings that had red and yellow placards.

5 Q. But would the re-inspection, would the person who decided that today, 14th of February, 187 St Asaph Street would be re-inspected, would that person be conscious of the fact that the last apparent action by the council was back in the 16th of October –

A. Yes.

Q. – when that cover sheet was completed?

10 A. Yes.

Q. So there'd be, yes, yes, I think we understand that. And one can see from the general comments if that could be highlighted please about three-quarters of the way down the page, in Mr Ryburn's brief of evidence that's been served, he says that reads, "No work to secure overflow since 12 October," and the overflow, I don't know if I need to go back to it, but were you here when Mr Smith gave his evidence –

15 A. Yes I was.

Q. – and we looked at a photograph which showed some guttering.

A. Yes. The storm water overflow at the top of the downpipe.

20 Q. And there was cracking in the wall next to that overflow.

A. Yes.

Q. And he says this is a safety risk to users of the access way which is the little lane running down the side of 187?

Q. Yes.

25 Q. So it appears, and this is what Mr Ryburn says in his brief that he believes that he had the 13 October 2010 report with him during his inspection, so he was conscious of the fact that work had been requisitioned as it were, or should have been, but no work had been done?

30 A. Correct.

Q. So is it – it is a fair inference that the purpose of this inspection was to see whether works had been done to that dangerous, or potentially dangerous part of the building?

A. Correct.

CROSS-EXAMINATION: MR RZEPECKY

5 Q. Afternoon Mr McCarthy. You referred in your evidence in paragraphs 14 to 15, to file notes and you record that the file note was made by the building recovery office case manager. How do you know that from looking at the form? It's WITMCC.0003.13.

A. I'm surmising that. It's not signed.

Q. Well there's a place at the bottom left there for it to be signed isn't there?

10 A. Yes there is.

Q. Is there any reason why this document hasn't been signed by its author?

A. No.

15 Q. So as a council's representative at this enquiry are you not able to say actually who produced this document on the file?

A. No, other than the fact it's on the council file.

Q. And this file note records discussion with Mr Chapman following council's receipt of Mr Ryburn's report. Is that correct?

A. Correct.

20 Q. As a result of this discussion the person at least who took this file note would have known that there were tenants in the building, wouldn't they?

A. Yes.

25 Q. Council didn't do anything in respect of contacting the tenants about the state of the building did it?

A. There's no evidence that they did.

Q. Thank you. You've given evidence earlier that it's really up to owners ultimately to cordon off buildings, but was there a practice of the council to actually send notices to owners informing them of this responsibility?

30 A. We placed placards or notices on buildings to inform the owners so there was that very visible tangible proof of what we'd done. We also

where possible sent letters to the owners and told them of our expectations, wasn't just about cordons of course.

Q. But in respect of 593, the council had actually taken on itself to cordon off St Asaph Street hadn't it?

5 A. It had.

1301

Q. And the fact that it hadn't actually done anything on Colombo Street would reflect the green status of the building at the outset following the 4 September earthquake?

10 A. That's correct and any other evidence that we had subsequent to that.

Q. I wonder if, my friend Mr McLellan asked you about the report. I wonder if we could just bring that up. BUI.COL5930008M.1. That's the right document? Yes, thank you. You'll see Mr McCarthy that that's the engineer's report. Just so that I'm clear that's actually an instruction to Mr Ryburn isn't it?

15

A. I'm not certain I understand your question. Mr Ryburn completed that form –

Q. Yes.

A. – on site.

20 Q. But initially when the council official typed in the address at the top, that's an instruction to him to go to that site and carry out a report isn't it, carry out an inspection?

A. Yes.

25 Q. And that was because St Asaph Street was yellow stickered and as a result the council was following a routine practice of sending somebody back to the site?

A. Yes.

Q. Is there a document like this amongst the council's files for Colombo Street?

30 A. No.

Q. So Mr Ryburn would have gone to that cordoned off area on St Asaph, noted that there were no repairs to that part of the building and completed this report. Is that what you would expect?

A. That would be my expectation.

Q. So as at the 14 of February 2011 does the fact that this instruction to Mr Ryburn only refer to St Asaph suggest that the council didn't have a record of the placard status of Colombo Street?

5 A. I think there was a record but it probably at that stage still reflected a, a green placard.

Q. A green placard.

JUSTICE COOPER ADDRESSES MR LAING AND COMMISSIONERS

10

MR PALMER ADDRESSES JUSTICE COOPER – DISCUSSION AUDIBILITY OF MR PALMER

MR PALMER:

15 I'll repeat. My name is Palmer, W J Palmer. I'm from Buddle Findlay.

JUSTICE COOPER:

Yes Mr Palmer.

MR PALMER:

I'm here to call Mr Wall's evidence who will be the next witness presumably after the break.

JUSTICE COOPER:

25 Yes.

MR PALMER:

But I do, arising out of questions that I've just heard relevant to Mr Wall's evidence I, I do have one or two questions. The question is do I ask them
30 now or do you want me to ask them when you resume this afternoon?

CROSS-EXAMINATION: MR PALMER

- 5 Q. Mr McCarthy you said a moment ago in answer to my friend Mr Rzepecky that the council probably would not, not have had an awareness of, of the yellow, of any different status to 593 Colombo Street than a green sticker status as at the time Mr Ryburn was instructed?
- A. Yes, that's correct. That's my belief.
- Q. Now as I understand the evidence that I've been listening to this morning Mr Ryburn was instructed in February to undertake an inspection then.
- 10 A. Yes.
- Q. But the council also received a level 2 inspection report from the Holmes Consulting Group in September didn't it?
- A. No there was no, no record of us receiving any level 2 assessment from Holmes.
- 15 Q. And what about the, the October assessment?
- A. The October assessment by one of our officers?
- Q. Yes.
- A. On 187 reconfirmed the yellow placard.
- Q. And, and you have no record I presume of any different status in relation to 593?
- 20 A. That's correct.
- Q. In the early part of your evidence you I think, I can't remember what you said exactly, but you said something like, "187 does not exist as an address." Is that how, that's how I interpreted your evidence. Is that correct, what you said?
- 25 A. That 187 isn't a physical address?
- Q. Yes, for council purposes you, I, I may be wrong, I'm just asking you to correct me but I took it from your evidence that the council had 593 Colombo Street as an address for the building but not 187. Is that correct?
- 30 A. I, I didn't give evidence along those, those lines. It was a separate tenancy. I'm not certain what that was numbered. It was a Chinese

acupuncturist is, is the photo I've seen so one would assume that as a tenancy they had a number.

Q. And when, when the rapid inspectors' reports are provided to the council presumably they're received and processed. Correct?

5 A. Correct.

Q. Does your filing system provide for two separate addresses for that building, 187 St Asaph and 593 Colombo Street? So when you – let me rephrase that.

A. Yeah.

10 Q. When you received a rapid assessment report for 187 Colombo Street would that be, would a new file be opened under 187 Colombo Street or would it be added to an existing council file for that address?

A. There would have been a separate file for 187 St Asaph Street I suspect following the 5th of September assessment. So there would be a separate file probably for that address.

15

Q. And that, to be clear, is that a file created following the 4 September earthquake for these purposes?

A. Yes.

Q. And likewise am I correct in assuming that there would have been another file to receive the report in relation to 593 Colombo Street?

20

A. Yes.

JUSTICE COOPER:

Now Mr Palmer can I just note are you acting for Alan Reay Consultants Limited?

25

MR PALMER:

That's correct sir.

RE-EXAMINATION: MR LAING – NIL

30 **QUESTIONS FROM JUSTICE COOPER AND COMMISSIONERS – NIL**

WITNESS EXCUSED**JUSTICE COOPER ADDRESSE MR ZARIFEH****COMMISSION ADJOURNS: 1.11 PM**

5

COMMISSION RESUMES: 1.46 PM**JUSTICE COOPER:**

Mr Zarifeh has told us over the luncheon adjournment that he doesn't think
10 there will be time to deal with the other two cases that were listed for hearing
today concerning the failure of the buildings at 595 Colombo Street and at
601A Colombo Street and I propose simply that those two hearings be
adjourned for a further fixture which will be allocated once counsel or the
parties or those interested have had an opportunity to confer about suitable
15 available dates. That will be sometime in the New Year. Now does anybody
wish to be heard in opposition to that proposal – in that case those matters
are adjourned accordingly and, as I say, new dates will be arranged once
there's been an opportunity to confer with those who are interested. Thank
you.

20 Now Mr Palmer we've reached the point where we are going to deal with the
evidence of Mr Wall so if you would like to do that and if there's anything you
wish to say by way of opening you may do so also at this point.

MR PALMER:

25 Certainly I would like to address you on representation. You asked me before
if I represent Alan Reay Consultants Limited.

JUSTICE COOPER:

Yes.

30

MR PALMER:

And the answer to that is yes but I'm not here today for that purpose. Today I'm representing Mr Wall in his personal capacity.

JUSTICE COOPER:

- 5 Well I was asking you. You said when you first announced your presence that you were going to call the evidence of Mr Wall so I thought I'd just ask you who you were acting for and you're acting for Mr Wall.

MR PALMER:

- 10 Yes I am.

JUSTICE COOPER:

All right. Thank you.

- 15 **MR PALMER:**

Mr Wall of course was a volunteer assisting with the interim assessments and I call Simon James Wall.

MR PALMER CALLS**SIMON JAMES WALL (SWORN)****5 MR PALMER ADDRESSES JUSTICE COOPER:**

There may be an earlier version of this circulating Sir. This is the corrected and original version of the evidence.

EXAMINATION: MR PALMER

Q. Is your full name Simon James Wall?

10 A. Yes it is.

Q. Do you reside in Addington, Christchurch?

A. I do.

Q. And are you a structural engineer?

A. I am.

15 Q. You're going to give evidence today. Have you produced that evidence to writing?

A. Yes I have.

Q. Do you have with you a copy of your brief of evidence?

A. Yes I do.

20 Q. Could you please read your brief of evidence to the Commission.

A. My full name is Simon James Wall. I reside in Addington, Christchurch. I am a structural engineer. I have a Bachelor of Engineering with Honours and a Master of Engineering Management from Canterbury University. I qualified in March 2004 and I have since had seven and a half years' professional experience. I have been a member of the
25 Institute of Professional Engineers of New Zealand, Structural, since March 2004 and a chartered professional engineer since October 2007. I am employed as a senior structural engineer. On 5 September 2010 I volunteered in my personal capacity to assist Civil Defence with level 1
30 rapid assessments in the immediate aftermath of the September earthquake. I was not engaged in any capacity to provide professional engineering services or advice. As a volunteer I was placed in a group

5 together with a council building inspector and a member of the fire service. We were given a bundle of documents mainly comprising inspection forms and placards and assigned a block of properties. The level 1 rapid assessments were an initial emergency assessment process to identify and record visible damage to buildings which could be obtained from an external review. Once my team had completed assessment of all buildings in a block we would return to Civil Defence headquarters at the Art Gallery and return the forms and receive our next assigned block. I understood the forms would then be used by Civil Defence and other authorities to direct and prioritise further action. Generally the level 1 rapid assessments were exterior only. In some cases where access was available and appropriate the interior may have been assessed also. Level 1 rapid assessments were an urgent first assessment and the completion of the elements specified in the report, reporting form, in general did not require any lengthy time. As part of the Civil Defence assessment I carried out a level 1 rapid assessment on the properties at 187 St Asaph Street and 593 to 599A Colombo Street. I completed level 1 rapid assessment forms for these properties.

10
15
20 Q. And Mr Wall the, I think the document reference is there, 0046A and if somebody could help me with the second assessment, I never actually received that with a number on it – 0046B which is the 593 to 599A Colombo Street forms and just could I also ask you a question. In relation to the premises that you identified at 187 St Asaph Street and 25 593 Colombo Street did, did you do exterior inspection and interior or was it exterior only?

A. It was exterior only for those two addresses.

Q. Thank you. If you could continue at paragraph 7.

A. Records show I placarded the address at 187 St Asaph Street as yellow (restricted use). I placarded each of the separate addresses at 593 to 30 599A Colombo Street as green. The Royal Commission has suggested the building at 187 St Asaph Street is the same building as 593 Colombo Street. While the two street addresses related to parts of

the same physical building they had different street frontages and so were assessed separately and in terms of a level 1 assessment had sustained differing levels of damage. Each of the buildings at 593 to 599A were separately assessed and were issued their own placard, green in each case. I recorded each of these separate instructions in a single level 1 rapid assessment form for ease of documentation. I did not have any further involvement in the assessment of 187 St Asaph Street or 593 to 599A Colombo Street either as a volunteer or in a professional capacity.

10 **CROSS-EXAMINATION: MR ZARIFEH**

Q. Mr Wall you heard the evidence of Mr Smith and Mr McCarthy about the training, briefing and in particular in relation to the issuing of separate placards for tenancies in the same building. Do you recall anything in the briefing about that issue?

15 A. I don't specifically recall it but it could have happened, yeah.

Q. And in relation to this building you treated 187 separately because it had a separate entrance and physical address?

A. The, the building had separate street frontage or a different street frontage and a different street address and had sustained different damage to the other building, or the other address.

20 Q. Right. There was obvious damage to you on the 5th of September anyway on the south side of the St Asaph Street frontage, south-end?

A. South-east corner of it.

Q. South-east end, corner.

25 A. Sorry, south-west corner.

1356

Q. South-west corner, yes and on the Colombo Street frontage on the 5th of September to your observation, no or minor damage?

A. That's correct.

30 Q. Was there any way of knowing from an external inspection only whether the cracking on the south-west corner whether that had had any effect internally or in other parts of the building?

- A. The – can you just clarify that question?
- Q. Well you saw obvious cracking on the south-west side of the building?
- A. Correct, yes.
- Q. Is there any way of knowing – was there any way of knowing without an
5 internal inspection whether that was a reflection of damage in other parts of the building?
- A. Not directly. No, you couldn't have identified any damage.
- Q. Did you give any thought to the two addresses being part of the same structure, the same building?
- 10 A. I don't recall specifically how I came to the conclusion I did, but based on different street addresses and different levels of damage.
- Q. Okay. On the rapid assessment form for 187 St Asaph Street which is 0008C.1, it'll just come up in a second, you gave that a yellow placard as you know, you didn't tick 'barricades are needed', you see that
15 bottom left?
- A. I see that, yes.
- Q. Did you give any, can you remember now if you gave any consideration to that issue?
- A. I don't – I can't remember the specifics of how I arrived at that
20 conclusion but as Mr McCarthy pointed out in the photo that was shown, there were barricades up in the area. There were some areas of the city that were, were sort of areas of building damage that had already been taped off or – with emergency tape and there may have been some reason along those lines that meant that box wasn't specifically ticked.
- 25 Q. You recall that photo that showed the barricades on St Asaph Street?
- A. Correct, yes.
- Q. From a moment ago. Perhaps if that could be brought up, I think it was 0007A.4, top left. Can you recall if those barricades were in place when you inspected on the 5th of September?
- 30 A. The ones relating to the construction works?
- Q. Yes.
- A. I believe so.
- Q. And the container.

- A. Yes, if those barricades were as part of the construction works that container would have been there also.
- Q. And what about the fencing or barricade fencing that's just behind the container and in front of that green section of the building frontage?
- 5 A. I don't know this, I wouldn't be able to remember the specifics of what was there.
- Q. Did you actually, do you actually recall putting green, the green placards that you had, do you actually recall putting them onto the doorways of the buildings – 593 down to 599A?
- 10 A. Not each specific placard that went on each specific building no.
- Q. But you've filled out a form that covered the four or so buildings?
- A. Correct, yes.
- Q. It's 593, 595, 595A and 599A.
- A. I believe so.
- 15 Q. So at least four, maybe even five, you filled out one form but am I understanding it correctly that you completed separate green placards as such to go on the doorway?
- A. That's correct, yes.
- Q. And you affixed it on each of the doorways to those addresses?
- 20 A. That's correct.
- Q. So for, if we go back to photo 0007A.4A, we can see two tenancies on that Colombo Street frontage of 593 – the Adult Boutique and Southern Ink, correct?
- A. Yes, yes.
- 25 Q. And there's a doorway for Southern Ink on the very right, see next to the, nearly adjacent to the building 595? You can see an open sign -
- A. Yes, yes.
- Q. - on the building? And then there's a doorway into the other tenancy or what appears to be a doorway just under the words SOU of the
- 30 Southern?
- A. Yes.
- Q. I don't know if you can remember now but can you remember which doorways you put the green placards on?

- A. I couldn't recall specifically which ones but I do recall that we were intending to put one on every doorway in that block.
- Q. So on all the doorways that you could see on Colombo Street?
- A. That's correct, yes.
- 5 Q. Then you would have put one on presumably 595, the doorway that we can see to the very right of that photograph?
- A. I would have expected so, yes.
- Q. And you didn't – as you say you didn't go back after that day?
- A. I wasn't involved in the building from the time that I left that day, no.
- 10 Q. So you can't explain what appears to be the yellow sticker on the doorway under SOU of Southern?
- A. No.
- Q. Sorry I was just looking for a note that Mr Boys who's going to give evidence later, made of some damage that was he noted visible from the exterior. I was just going to ask you about that. It's 0007E.2. I just wanted to direct you to the writing in the middle at the left. See it says middle bit of facade on east side appears to have moved outwards, visible from outside. You see those words?
- 15 A. Yes.
- 20 Q. Now there may be a photo in the Holmes material. I'm not sure of that and we may be directed to that, but just leaving aside exactly where it is, in terms of anything like that being visible from the outside on 5th of September – this is 24 September that he's writing this – can you make any comment about that?
- 25 A. I don't know where in the building he's referring to.
- Q. Did you see anything like that?
- A. Not that I have recorded or can recall, no.
- Q. And presumably if you had you would have recorded it?
- A. Yes, well that was the exercise, yes.
- 30 Q. I just noticed something and I hadn't appreciated before and this is not a building that we're dealing with now and in fact it's been adjourned as you would have heard a moment ago.
- A. Sure.

- Q. But I just wonder if I can ask you about a form that, and I think it's probably a carryon from that walk you did down Colombo Street for 601 and 601A. I'll get it brought up, it's BUICOL601.0011.1. I just want to ask about this now to save you coming back.
- 5 A. Sure.
1406
- Q. You see that form?
- A. Yes.
- Q. Just get you to confirm that's a form completed by you on the 5th of
10 September 2010.
- A. Apart from the fact my 9 I think looks like a 7 I would have to assume that that's correct yes.
- Q. And it's your signature at the bottom where it looks more like a 9.
- A. That's correct, yes, that's more like it.
- 15 Q. And that would of, as I said, been a continuation of your placarding of the buildings we're just dealing with.
- A. That's correct, yes.
- Q. 601 being on the corner of Colombo and Mollett Streets, so the one just after, two tenancies just after 599A or thereabouts.
- 20 A. Ah, yeah, yep.
- Q. Now I just, it's obvious you've red placarded that building, we can see.
- A. Yes.
- Q. And my question really was just to confirm you'd completed that but also you've ticked 'barricades are needed' – do you see that?
- 25 A. Yes.
- Q. You've also ticked 'level 2 detailed engineering evaluation recommended, structural', correct?
- A. Yes.
- Q. You appear also to have ticked 'Other' and you've written down
30 'electrical and services' so that was obviously something you thought should be looked at?
- A. Ah, if I recall, this building had suffered the collapse of a wall –
- Q. That's right.

A. – and I suspect it may have had some electrical cables that had connected at that point or something that was –

Q. Okay and you mentioned the comments ‘masonry wall collapse’ and ‘roof into side street’ which is Mollett Street.

5 A. Right.

Q. Just in relation to the ticking ‘barricades are needed’ –

A. Mhm.

Q. As an engineer but as a volunteer at doing the work you were doing on that day as you describe, apart from noting ‘barricades are needed’ and
10 ticking it, did you have any further involvement in the issue of barricades for that building?

A. No, as it says in my brief my involvement ended at the, once I’d completed the report and dropped it back to the headquarters.

Q. And the fact you’d ticked it didn’t mean that the Council came back to
15 you later and asked you where you thought they were needed or anything like that?

A. No not at all.

CROSS-EXAMINATION: MR ELLIOTT

Q. That’s the document you signed relating to 593 to 599A Colombo Street.

20 **WITNESS REFERRED TO DOCUMENT BUICOL5930008B.1.**

A. Yes.

Q. And up the top it says that the inspection time was 1.00 pm.

A. Yes.

Q. And then down the bottom –sign here on completion – the time is 1.20
25 pm so you would have spent 20 minutes inspecting those buildings between 593 and 599A.

A. Ah, presumably, um, the lot was rather, was quite big so I don’t know when the form would have been completed, at which point.

Q. Can you just explain what you physically did during your time when you
30 were assessing these buildings.

A. The majority of my time was spent literally walking round the buildings, closely observing for any visible damage and recording that on the form

and then obviously filling out the documentation and affixing to the doors, the relevant doors.

Q. Were you looking for anything in particular?

5 A. Um, in general any damage that could have occurred as of the earthquake the previous day, or potentially any signs that the building had been changed in some way but only obviously on a visible basis.

Q. Your form records 'minor cracking of masonry'.

A. Mhm.

Q. It might be hard to recall but do you know where that might have been?

10 A. Absolutely no recollection.

Q. And 'smashed window at 595 Colombo' was obviously one of those windows at 595.

A. Yeah again I've not been able to recall specifically the circumstance that it occurred.

15 Q. There's a section there which says 'photo taken' and you've circled 'yes'. Did you take photographs of the inspections of 595 etc?

A. Yes I did.

Q. Where are those photographs?

A. I'm unable to locate them and I'm pretty sure I've deleted them.

20 Q. All right and just one question in relation to 187 St Asaph. We can produce the form if you like but here you've said 'parapet badly cracked, risk of further collapse' and you've posted a yellow sticker.

A. Yes.

25 Q. Is there a reason why you wouldn't have posted a red sticker given the risk of further collapse with a bad crack there on the parapet?

A. Because the, as far as I recall, the damage that had occurred related to an isolated part of the building and wasn't related to a fundamental or potential fundamental collapse of the building in the sense of that damage and that was the instructions we were given.

30

CROSS-EXAMINATION: ALL OTHER COUNSEL - NIL

RE-EXAMINATION: MR WALL - NIL

QUESTIONS FROM THE COMMISSION - NIL

WITNESS EXCUSED

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

MR RZEPECKY:

5 Just briefly by opening Mr Chapman has a prepared brief. It started off as a
brief prepared by a counsel for the Commission but it has just been expanded
because Mr Chapman managed to locate some emails that had been difficult
and they've been produced and are in the system so the brief refers to a
number of those. Now it's perhaps commonly thought that he's here because
10 he was the property manager for 593 Colombo Street but we wish to say from
the outset that, in fact, this was a building owned by the Changs. It had been
owned by them for some time and we were never actually instructed as
building managers. They sort of flirted with the possibility but eventually just
asked Mr Chapman if he would help them out getting some assessments on
15 the building following the 4 September earthquake and that is, in fact, what he
did. He also had some exchanges with the tenant, Southern Ink, because
they also thought that he was the property manager. He just tried to facilitate
things as he went along but, critically, on the 23rd of January the owners said
they didn't want him to manage the building, to assist them any further, and
20 that they were putting any possibility of repairs on hold and the Commission
will hear that in the course of this evidence.

EXAMINATION CONTINUES: MR RZEPECKY

Q. Mr Chapman do you have a copy of your brief in front of you?

A. I believe I do.

25 Q. Has that been given to you today or is that one you had brought with
you?

A. One I brought with me.

WITNESS REFERRED TO ANOTHER COPY OF BRIEF

30 Q. I am going to ask the witness to read his brief and sign it at the end
because he hasn't signed this yet. So just put the one that you brought
with you on the floor so we don't get it mixed up. Now Mr Chapman
your full name is Christopher Phillip Chapman.

A. That's correct.

**WITNESS READS BRIEF OF EVIDENCE FROM PARAGRAPH 1 UNDER
HEADING 'INTRODUCTION'**

1416

- 5 A. "I am employed as a property manager for Grenadier Real Estate which
trades in Christchurch as NAI Harcourts. It is the arm of Harcourts
which does sales, leasing and management of commercial property. I
have been in that role for the last six years. Before that I was a property
manager with Baileys which was bought out by Harcourts for some six
10 years. Previous to that I was South Island Network Property manager
for Telecom for some 10 years and prior to that a draughtsman with the
New Zealand Post for approximately 10 years. As at September 2010
NAI Harcourts managed a large number of commercial properties in
Christchurch including approximately 20 to 30 buildings in the CBD.
15 Following the September earthquake we were fortunate to have had a
good commercial relationship with structural engineers Holmes
Consulting Group. I say fortunately because from my experience
following the September earthquake there was little information given
out in the timely manner about placarding of buildings. Having said that
20 I accept that the September earthquake and its aftermath was a learning
exercise for everyone. We needed to know what placarding was for our
buildings but we couldn't get past the CBD cordon once it was
established. In the early stages Holmes engineers attended the Civil
Defence briefings and were able to give a briefing to us providing
25 information that we could use to help our clients. We made an early
planning decision that we would instruct Holmes to carry out structural
assessments to find out if our buildings were safe to occupy. Holmes
invariably told us immediately that they decided following from their
inspections that a building was not safe to occupy. They would advise
30 us as the owner's manager on that work required to make the building
safe for occupation. In some cases Holmes even arranged for changes
to the placarding. The premises at 124 Lichfield Street is an example of
a building which had been given a green sticker on the High Street side

immediately after the September earthquake but then it had to be changed to a yellow placard after Holmes Consulting Group inspected it. They identified emergency make safe works which they designed, supervised the works and signed off on completion and sought the placard approval change back to green. Following the September earthquake we were under a lot of time pressure to respond to the needs of our building owner clients and their commercial tenants. We worked under a lot of work stress as well as coping with our own personal earthquake issues. We experienced some difficulties in dealing with the assessment of buildings and repairs required. One of the buildings we managed was 124 Lichfield Street with the frontage at 180 High Street as well. Following the Boxing Day earthquake in late January we needed to get a crane on to High Street and a crane on to Lichfield Street to fix parapets on the building but could not do so because the Council would not give us a traffic management plan. The reason we could not get the traffic management plan because the Council were in the process of completing tram lines and that took priority. In some few instances we also had problems with getting insurers and loss adjusters to make progress in relation to some buildings. We were able to undertake emergency works in many situations. However, in those few instances where the insurer had taken control of the claim our ability to make decisions became limited. Another difficulty I experienced at times was with foreign ownership of buildings where the owner had a lack of understanding of New Zealand compliance requirements. As the result of February earthquake I understand that CERA are now requiring every remaining property, in the CBD at least, to be thoroughly inspected by an engineer before it can be reoccupied. This did not happen after September and with hindsight this would have been better I believe, it would have been better sorry, full stop. I believe there were time and resource issues associated with this and I do not believe that those resources were available following the September 'quake.

My other general comment is that lack of resources came to a head after the Boxing Day aftershock. As well the fact that it occurred in the holiday period did not help and it was difficult to get engineers and other people necessary in relation to building assessment repairs.

5 593 Colombo Street. This was not a building that was ever managed by Harcourts. I understood that the building was owned by the Changs who were a Chinese family. They had approached me a couple of weeks before the September earthquake to enquire about our management services. I met with them and gave them details of what
10 we could do for them as owners and our standard terms. I did not hear back from them until shortly after the September 2010 earthquake. On 7 September 2010 I received an email from Joy Chang in which she told me that the building had suffered some damage, made query about EQC cover and asked for my help as to how they could evaluate the
15 damage.

Q. Just pause there please Mr Chapman. Your Honour there is a series of emails on the 7th of September and they've been loaded into the Commission's system and I have a number. I've left a gap in the brief and I can give Your Honour the number now. BUI.COL593.005
20 8A.RED.2. I'm not proposing to take the Commission to every single email referred to unless you would like me to. If you could continue reading please Mr Chapman.

A. I responded by email advising that there was no EQC cover and without insurance they would need to have to meet the costs. Joy Chang
25 responded on the same day asking for how they could get an assessment of the damage. I went straight back by email and told her there was currently no access to the building and recommending an engineering inspection. On 10 September I received an email from Bowen Chang who I understood was one of the younger family
30 members. Bowen was asking for our help to have the building assessed and raised other enquiries about our property management services and insurance slash EQC related issues. As it turned out we never entered into a formal management agreement but did try to help

5 them in relation to their building. I responded to Bowen Chang by email on 11 September 2011 and I told him that I could arrange a building assessment and what the likely cost would be. I also attempted to answer his various queries. I also sent him a copy of our standard management contract. The Changs never returned a signed copy of this and never engaged Harcourts as property managers for the building. As I indicated above Harcourts took the view that every building they managed needed inspection. We had contact with Holmes Consulting Group and also Spotless Building Contractors. I have no recollection of what placarding the Council may have placed on the building at 593 Colombo Street. On 17 September I sent an email to the Changs asking them to at least confirm they wanted to engage Harcourts to act on their behalf on the earthquake issues. Joy Chang responded by email on 18 September confirming that the Changs wanted us to deal with the earthquake issues for them. I responded by an email on the 26th of September 2010 where I refer to Matt of Southern Ink who was a tenant. On 26 September Joy Chang sought an update by email. By then I had arranged for Holmes Consulting to carry out an assessment of the building. I have a hand-written site report from Holmes dated the 24th of September 2010 on my file.

10
15
20
Q. Just pause there please Mr Chapman. I would like BUI.COL.005512 to be referred to the witness please.

WITNESS REFERRED TO REPORT

25 Q. Mr Chapman is that the document you just referred to as the hand-written report?

A. That is the hand-written report I refer to.

Q. And do you recall who you received that from?

A. Ah, from Holmes Consulting Group.

Q. Do you recall who prepared it?

30 A. Ah, only by, ah, reading the ALB on the top of it which I recognised as Alistair Boys.

Q. Thank you, could you continue reading please.

5 A. I sent this on to the Changs by email on 27 September 2010. Holmes also sent a printed report dated 4 October. This report included some photographs of notation about possible damage and a Holmes engagement agreement for the Changs to sign. I sent the report and the engagement letter on to Joy Chang by email on 11 October 2010. Joy Chang sent a signed copy back by email on 19 October 2010. I sent this on to Richard Seville of Holmes on 10 November 2010 by email. As a result of these communications the Changs had engaged the services of Holmes Consulting Group to: design temporary shoring; liaise with the contractor that would carry out those works once they were designed; provide concept drawings for strengthening; and I refer to the written contract which I dated the 19th of October 2010. On the 10 24th of November 2010 Holmes conducted a site inspection and met with the Changs. Present at the building on the 24th of November were 15 Richard Seville, Scott Thompson, Mr Chang, Joy Chang, Bowen Chang and myself.

20 A. When we met at the building we went through the building and inspected damage to the cracks to the plaster et cetera. There was also talk of what could be done upstairs in terms of converting it to future offices. Following that meeting around 6 December Holmes Engineers with the assistance of Spotless Facilities Services undertook an invasive inspection which included cutting holes in wall linings etc to enable them to complete their inspection assessment. At that time the only tenant that was occupied was the Southern Ink Tattoo shop, 593 Colombo Street. The tenancy next door which had been occupied by Adam and 25 Eve Adult Boutique was empty, and I believe had been vacated before the September earthquake. The tenancies on the St Asaph Street frontage of the building were not occupied at the time of our inspection on the 22nd of November 2010. On both of those inspections access 30 had to be taken with the cooperation of Southern Ink.

A. I did not receive any engineering reports or further instructions from the Changs before the Boxing Day earthquake and I'm not aware of any engineering inspections after the Boxing Day earthquake by the council.

I was not instructed to arrange further inspections by the Changs, but at that stage I still hadn't received any engineering advice following the earlier Holmes inspections of November and December 2010. On 23rd of January 2010 I received an email from Joy Chang informing me that they wanted to hold off making any repairs to the property and would carry out the building management themselves. Of course they'd never engaged Harcourts as building managers anyway. On 11 February 2011 I received an email from Richard Seville of Holmes attaching engineering drawings intended to repair and increase the earthquake strengthening for the building. I do not recall receiving any other report at that time. An email to Joy and Bowen Chang dated 15th February 2011 I passed on the Holmes drawings. I also forwarded these drawings onto Scott Thompson of Spotless for pricing in an email dated the 15th of February 2010. I think those dates should actually be 2011.

15 Q. Does the witness have a pen. Do you have a pen Mr Chapman?

A. Not on me, I have one in my jacket.

Q. I'm going to ask the witness to change his brief and initial the – out to the – Mr Chapman would you just change that date to 2011 please and then out to the left under number 23 just put your initial. Thank you for pointing that out.

A. I'll re-read that paragraph if I may.

Q. Thank you.

A. I also forwarded these onto Scott Thompson of Spotless for pricing in an email dated 15th of February 2011. I did not receive any further instructions from the Changs prior to the earthquake on 22nd of February 2011. The Changs did not have the building insured so I did not have to deal with any insurer or loss adjustor. I believe that the building was demolished by Civil Defence following the February earthquake.

Southern Ink. I did have some communication with Matt from Southern Ink. I think that he was the business owner and the Chang's tenant. It was common after September earthquake for commercial tenants to seek information from building managers and landlords, and in particular to express some despair over the loss of their business and problems

30

with paying the rent. Matt sent me an email dated 20 September 2011. I think that should be 2010 should it not.

Q. Yes if you could change that please following the same procedure. Thank you Mr Chapman.

5 A. Matt sent me an email dated 20 September 2010 asking for some repairs to his ceiling. He incorrectly thought that I was the property manager. I responded the same day by email advising him that we were arranging for structural engineers to check the building structure. He responded by email expressing his appreciation that I'd got back to him.

10 It was my experience at this time that tenants were feeling starved of information so they were as grateful, as a rule they were grateful to hear that there might be some progress. On 30 September 2010 Matt emailed me to let me know that they were having problem paying the rent due to the effect of the earthquake on their business. Once again

15 he referred to the ceiling which appeared to be a hygiene problem for them. On 8 October 2010 I let Matt know that we were still waiting for structural engineering advice. I also pointed out that it might be some time before the building could be tenanted legally. I asked for a copy of his lease. He sent me a copy by email 11 October 2010. Harcourts

20 were not managing this property so I must have assumed that Southern Ink were still in the building with the permission of the Changs and presumably as allowed by the Christchurch City Council building assessment following the September earthquake. Matt never asked me if it was all right for him to be in the shop. I never had any discussion

25 about this with the Changs or with Holmes Consulting. Everyone involved knew that Southern Ink was there. I recall that they might have been the only tenants in the building at the time of the September earthquake. They were afterwards. I did not have any direct knowledge. I was engaged in arranging the engineering assessment. On 18th of

30 November 2010 I received an email from Matt in which he was once again complaining about the ceiling. I responded by email on the 19th of November 2010 in which I advised Matt that the engineering inspection would take place on Monday which actually I believe took

place on the 24th of November 2010, and asking for access. He emailed me again on the 21st of January 2011 referring to repairs to the ceiling that he had had carried out and also wanting to know about the lease. I responded on 24 January 2011. I told him that the owners, the Changs, were going to hold off repairs and manage the building themselves. I also told him about progress on the engineering issues and in respect of the rent issues advised him that the Changs had agreed to a 30 percent rent reduction and that he was now a monthly tenant and could vacate on one month's notice. He expressed some concern about the safety of the building in an email 28th of January 2011. I got back to him by email on the 16th of February where once again I updated him on the progress of engineering and building works confirming that the repairs would be up to the owners. In respect of the building earthquake strength standard required by the council I understood that this was as a result of the proposed repair works requiring a building consent. The council had by then indicated that it would be increasing earthquake standard for a new building consent for existing buildings. Harcourts was instructed by the Changs to help them work through the issues which arose after the September earthquake. After Joy Chang's email of 23rd January 2011, Harcourts had no further instructions. Despite this I did field emails from Matt and received the engineering information from Holmes. Harcourts did not receive any payment from the Changs for this. And I think there's a spelling mistake in there too.

Q. Could you please correct that.

25 A. The form should be from.

Q. Yes and also sign above your name there please. Do you have a glass of water Mr Chapman?

A. I will do shortly.

30 Q. And with the Commission's leave I just have a supplementary question to ask. Mr Chapman if you could just turn back on your brief to paragraph 28, and if the document 5930056.3 could be brought up which is an email dated 8 October. Now you've mentioned in that email to the proprietor of Southern Ink that it might be some time before the

building could be tenanted legally. Could you please explain to the Commission what you meant by that comment?

A. Well the majority of the building which had the frontage –

Q. Just speak slowly, reasonably slowly.

5 A. Sorry. The majority of the building that was fronting St Asaph Street was vacant. There had been some enquiry over leasing space and in fact at one stage we did work through the issues of refunding the deposit that had been paid prior to September earthquake for taking up a lease on those premises and I was of the view that we would not look
10 at tenanting any of those tenancies that were vacant until the repairs were undertaken.

Q. So is that what you –

A. That's the guts of what I meant, yes.

CROSS-EXAMINATION: MR ZARIFEH

15 Q. That last issue, when you say that you were of the view that you wouldn't re-tenant until the repairs had been done, which repairs were you talking about?

A. The earthquake repairs to the building.

Q. The ones advised by Richard Seville of Holmes?

20 A. To whatever repairs were going to be required because at that date I didn't know what those works would be.

1436

Q. Right. So you'd received, I think the 4th of October there'd been a visit hadn't there, an inspection by Holmes, by Holmes people?

25 A. Yes ever so briefly but it recommended I think if we can, there's some handwritten report, it recommends some further investigation and work which is what we, we arranged through, with Holmes and the Spotless Construction engineers, workers. So we didn't have any detail of what work was going to need to be done.

30 Q. Did that include the Adam and Eve tenancy on the Colombo Street frontage?

- 5 A. It would have included the works on the whole building I would suspect. We, we didn't know the full extent of what work was going to be recovered so, the building was vacant, Adam and Eve tenancy, all along St Asaph Street and upstairs. The only tenant that was there was the tattooist, Southern Ink.
- Q. I'm just trying to understand why you said to be able to be tenanted legally.
- 10 A. If you put a, if you put a lease in place for the tenant and then you've got to start dealing with issues of moving them out to do works and things it becomes an issue for the owners in regards to the compensation et cetera so you wouldn't start signing a legal document which is binding on a tenant and a landlord in that respect.
- Q. Okay so it didn't have any bearing on the existing tenants that were there?
- 15 A. No, a lease document does have provisions for a tenant to perhaps have rental reductions depending on the level of damage et cetera but I didn't have that information at the time so that's one of the reasons why I perhaps would have asked Matt for his, for his lease because I would perhaps have to explain to the Changs the reasons why we may have
- 20 been moving a tenant out depending on what the status of the building ultimately turned out to be.
- Q. Why were you asking for things like the lease if you weren't acting as a property manager?
- 25 A. Well we may have got to the situation of, of having the repair works and the Changs had initially decided that they wanted us to help them do that. So those works may have required the dealing with the tenant in moving them out maybe or having to explain to the Changs why we needed to move a tenant out. So in order to understand what terms and conditions the tenant was on a copy of the lease is the best document I
- 30 have. So that would have been the reason I would have asked for that.
- Q. So would it be fair to say that up until the 23rd of January when Joy Chang sent you that email, 23rd of January 2011, you thought that you were going to be the property managers?

- A. We hoped we would, yeah.
- Q. But you hadn't put any formal agreement in place?
- A. They hadn't signed a formal agreement.
- Q. But to all intents and purposes you were acting as a property manager?
- 5 A. I was acting as a facilitator in a specific, specific function that they'd asked me to, to help them, assist them with the earthquake damage because they were overseas and we were here.
- Q. And I think they're still overseas are they, the owners?
- A. I believe most of them are. I've, yeah, I've no idea whether any, any of
- 10 them are actually back here in New Zealand at the current point in time or not.
- Q. But acting on their behalf and dealing with obviously people like Holmes and to a limited extent the tenants?
- A. Very limited extent to the tenants.
- 15 Q. I just want to ask you something you said in paragraph 4 of your brief. You referred to 124 Lichfield Street as another property that Holmes managed?
- A. Yes, we, we managed –
- Q. The property –
- 20 A. – and Holmes had helped us out with.
- Q. Sorry Harcourts managed and Holmes were involved as well. You said that, top of the second page, "The premises at 124 Lichfield Street is an example of an building which had been green stickered on the High Street side," right?
- 25 A. Yes.
- Q. So did that, presumably it must have had two frontages did it, Lichfield and High?
- A. It had a Lichfield Street frontage which was retail and it had access to residential apartments and café et cetera on Lichfield Street, yes.
- 30 Q. Right. So do you know what the placard was on the Lichfield Street side?
- A. The Lichfield Street side, I believe it was yellow at that particular point in time but there was a green placard on the High Street side but it was all

one building. The issue we had were parapets at the top and their potential to fall.

Q. Onto High Street.

A. Not only High Street but the Lichfield Street so, yeah.

5 Q. Okay but what I want to know is there was a yellow placard on Lichfield and a green on High?

A. Yes.

Q. You referred to these emails from Joy Chang and from, is it her brother Bowen Chang.

10 A. I do.

Q. And one of 10 September in paragraph 12 of your brief. If you look at that document which I think is 005 5.1, if that's right.

WITNESS REFERRED TO DOCUMENT

15 Q. If you look at the third line of his email of 10 September to you he says, "In order to have the current and future tenants moving back to our commercial properties we need to have the building assessed and certified by an engineer." Do you see that?

A. Yes I do.

20 Q. At that time, 10 September, Southern Ink was, the tenants there were still in occupation weren't they?

A. I believe so.

Q. And were in occupation throughout your dealings?

A. I believe so.

25 Q. When you say you believe so you, when you went there they were there in person?

A. They may have had days when they weren't there. I can't guarantee that but, yeah.

Q. But they were, whether they were there or not every day they were (inaudible 14:42:35).

30 A. They were a tenant in the building.

Q. And did you have any correspondence with any of the Changs about that, about the tenancy situation?

A. Not that I can recall.

Q. So you don't know whether they were advised who was still in there or not?

A. Not that, I can't remember.

5 Q. And he talked in that email of having to get the building certified by an engineer. What was your understanding in the days following the September earthquake as to the state of the building?

10 A. I would have assumed that the council or Civil Defence will have gone around the city like they've been doing putting placards on buildings. My understanding that that would have been an exterior only inspection and as we had decided in, in everything that was in our portfolio we needed to get a level 2 inspection done which is both internal and external. Hence the association with Holmes and getting them to do those inspections and this was where, that led me to get Holmes to do an internal inspection on that building which is the end result. That report starts the 24th of the 9th and the handwritten notes.

15 Q. Right so this is Bowen Chang authorising you if you like to do that. But you treated this building the same as you were treating the other buildings that you were managing in relation to Holmes?

A. In most, in most respects in getting them assessed, yes.

20 Q. And have I got it wrong. I thought you, you didn't know anything about the yellow placard of the building or part of the building?

A. You're asking about the yellow placard –

Q. Yes.

A. – on 124 Lichfield Street?

25 Q. No, no I'm talking about 593.

30 A. The placarding I, I don't have any recollection of what the placarding was on this particular building. It's become apparent with hindsight and what evidence has been produced today that it may have been yellow and green. The Holmes report first identified some issues but it needed to do some invasive work. None of those reports that I've received, that I have, identify a placard colour of yellow, green, red or any other type.

Q. Right so did you have no idea at all?

A. I don't recollect and I – we did a visit and I don't recollect what placards were there if any.

Q. Okay. When you got that handwritten note then from Alistair Boys of the 24th of September, did you read that?

5 A. Yes.

Q. And what did you make of that?

A. It required some further work. That report went to the owners and following that we ended up with an email from the owners saying that there were a couple of them going to be in the country and they wanted
10 to meet up. I arranged a meeting with both Holmes and Spotless, our contractors, to meet at the building, to go over the building, to discuss works or come up with an ultimate strategy of how we were going to deal with that and that's where we ended up with drawings that arrived in late February with a two stage repair strategy.

15 1446

Q. Okay and we're going to hear from Mr Boys, as you're aware, and my understanding is that he will say that he was of the view that the building, the whole of the building should be yellow. Were you aware of that?

20 A. No I was not. If either of those two reports, the one that was the handwritten one or the final one that came from Richard had reference to yellow placarding on it then we would have certainly done things differently in regards to any tenancy that was there but, at the time, we didn't. We understood it may have been green.

25 Q. So what would you have done?

A. Um, we would certainly have highlighted the need for the tenant to be advised that they should not be in the building and, in fact, have moved them out.

Q. Okay so just so I'm clear you say you only got the handwritten site
30 report of 24 September.

A. True.

Q. And not the typed out one.

A. There's a one dated, there's the one from Richard Seville following –

- Q. No I'm talking about there's one from Alistair Boys, it's 000.11, oh WIT.SEV0001.11. See that form.
- A. I see that yes. I've got no recollection of seeing that and it's not on my file.
- 5 Q. Okay and presumably from what you've said if you'd got that you might have treated it differently.
- A. The important bit at the bottom it says is yellow tag, so yes that would have been an indicator to us.
- Q. And an indicator to you, as you said, that tenants shouldn't be in there.
- 10 A. Exactly.
- Q. Well –
- A. Well it's actually restricted use so there are some rights for tenants to be able to go in and out.
- Q. Right and I think on the level 2 assessment form it's got short-term entry only.
- 15 A. I think so.
- Q. But that wouldn't include tenants being in occupation would it?
- A. Probably limit them to go and get gear out perhaps.
- Q. Right but not to be running a business.
- 20 A. Not to be running a business.
- Q. Okay and the next date is the 4th of October and you refer to that in paragraph 15 of your brief, the third sentence, do you see that?
- A. Yes I do.
- Q. Holmes also sent a report.
- 25 A. It's a typed report with Richard Seville's name on it and some photographs which went to the owners.
- Q. So did you look at that form?
- A. It's a typed report, I've read that. It has some photographs of some suggested repair works which was forwarded onto the owners.
- 30 Q. And as, okay accepting that you weren't the formal property manager but you were, in effect, acting as one weren't you or acting in that position?
- A. Acting as a facilitator.

Q. Okay, but when you received that report of 4 October what did you make of that in terms of the premises and whether they should be occupied?

5 A. There was some works that needed to be done to the building. The owners needed to be aware of those and make some decisions financially to be able to get those done, undertaken. I'm not sure where that fits in with the date where the Changs have started to say they're coming into the country and we want to sit down and meet as well. So that may have been even the further indication that they wanted to meet
10 up with all the parties involved and make the final decisions as to what they were going to do. Unfortunately, I don't think they made any decisions in regard to either of the reports that were provided to them other than pull the plug on the whole exercise a bit later on.

Q. Had you had any contact with the tenants at that point?

15 A. Not that I can remember.

Q. The 4th of October we're talking about.

A. I'd have to, ah, I'd had some contact with Matt on the 20th of September via an email, on the 30th of September, on the 8th of October.

Q. Okay, we're dealing with the 4th of October.

20 A. Yes I've had a couple of emails with Matt just letting him know that we're actually getting the building checked out.

Q. Right and have we got a copy of that 26, is it 26 September that Matt, that you responded to Matt Parkin?

25 A. 20th September or the 30th of September. There's two emails (inaudible 14.51.35)

Q. Have you got the numbers for those on your brief?

A. Well the first email starts off at BUICOL593.0056.1.

Q. Right we'll bring that up then and have a look.

JUSTICE COOPER ADDRESSES MR ZARIFEH 4 OCTOBER DOCUMENT
30 **– TYPED SITE REPORT**

Q. So, sorry, I was referring you to the emails from the tenant so 20th of September was the first one, is that right?

A. It was.

- Q. Yeah and that's Matt Parkin saying "I understand you're the new property manager for 593B Colombo".
- A. Correct.
- Q. And talks about the damage, internal damage.
- 5 A. He does.
- Q. And then you replied on the same date saying the first priority's to get the building structurally checked.
- A. Correct.
- Q. And once you know the full extent of the damage you'll be in a better
- 10 position to schedule and start repair works.
- A. Correct.
- Q. Now was there anything further before the 4th of October?
- A. There was an email the 30th of September.
- Q. Right and that's 0056.2 where you talked about the rent.
- 15 A. He was having trouble paying the rent. He wasn't paying the rent to us, he would have been paying it directly to the Changs.
- Q. Did you reply to that or not?
- A. Ah, I believe an email of the 8th of October followed that and that's .3.
- Q. Oh the one about the legally tenanted.
- 20 A. Correct.
- Q. Okay and that's when you referred presumably to the report of 4 October is it?
- A. The handwritten report.
- Q. No the typed report. We were dealing with the typed report of 4 October
- 25 remember?
- A. I don't have all of those documents sitting in front of me and we bring up one document at a time so I just would like to have –
- Q. Okay 0055.15. Remember the site report with photographs?
- A. It's a typed follow up of the handwritten notes from the earlier report.
- 30 Q. This isn't the Alistair Boys one.
- A. It's been reviewed by Paul Roberts but it follows a similar line of information that's been provided on the 4th because it again refers to removal existing plaster be required to determine existing framing

conditions and temporary strengthening connections. There was also, in the earlier handwritten report, a need to do some of those works with a scissor lift so this is where we ended up with the meeting with the owners in deciding the strategy and getting those inspections and invasive works done.

5

1456

Q. Okay but when you emailed the tenant on the 8th of October you were presumably referring to this report?

A. No I'd been waiting for the in-depth work we were going to do.

10

Q. Well when you read that report, 4th of October and you looked at the photos you would have seen that there was repairs being, or temporary repairs being suggested for the Colombo Street façade?

A. Correct.

15

Q. And at that point you obviously knew that the Parkins and Southern Ink were in residence in tenancy there on the Colombo Street frontage?

A. I would have to assume, I would have to assume that's correct.

Q. Right. Did you give any thought to raising that with the engineers or anyone else?

20

A. No I don't believe we did and I don't even when we had the, the onsite meeting I don't think there was any specific conversation that recommended that the tenants actually physically moved out.

Q. Okay so nothing was said and you don't recalling thinking –

A. Not that I can recall.

Q. – that you needed to raise it?

25

A. No I didn't. There was nothing that indicated an immediate need for a tenant to vacate the premises. As I mentioned earlier in our reports that we got, received, they usually mentioned the placard colour, those sorts of things and works could be required to a building but it didn't mean that it needed to be untenable so if both the handwritten notes and this report had highlighted a yellow placarding then it would certainly have given me a different line of thinking and drawn my attention to the fact that we needed to do something more seriously with perhaps removing the tenant from the building.

30

Q. Right so because it didn't say yellow or red you (inaudible 14:58:09).

A. We, we were dealing with lots and lots of reports and that was the critical part of the report was the placard colour, the mentioning of the placarding and even when we had meetings and conversations we would get handwritten reports which would be followed up by written reports. We could act on handwritten reports. If they had an issue that we needed to deal with it, the placarding recommendation, a change, those sorts of things. There's none of that on there and that's probably where it's not really drawn the whole context maybe of the report to our forefront.

Q. And on the 24th of November when you went to the building with the owners and with Richard Seville from Holmes and others –

A. The 24th is a date that's in my diary for that date. It may have actually happened on the, on Monday the 20th. There's something that indicates that it may not have. So it's, it's within a day or two of that particular date if not earlier but, yeah, I just need to clarify that if I can.

Q. So that meeting, it was obvious that the Southern Ink had been occupied?

A. It was when Matt needed to let us into the premises so we could have a look at that.

Q. And was there any discussion at all at that meeting about the fact they were there?

A. I don't recollect it, no.

Q. And certainly no, no instruction to you that, raising that as an issue?

A. None whatsoever that I can recollect.

Q. Well if it had been what would you have done? Would you have done anything?

A. I think so. Yes, yes we would have. The owners would have, would have been there and I would have explained, able to explain to them the reason why the tenant needed to be vacated and we would have, as a, a company that has a leasing arm to it perhaps even offered him some assistance from those, that part of the business to see if they could find some alternative accommodation.

- Q. So between 24 or thereabouts in November and the 11th of February when you received the plans from Mr Seville what was happening then in terms of, between you and Holmes?
- 5 A. I would have probably sent Richard the odd email saying is there any update yet on those plans.
- Q. So you were just waiting for the plans?
- A. That's the next phase of, of my facilitating role is to provide that information to, to the owners.
- 10 Q. And when you got those plans on the 11th of February you would have looked at them or perused them?
- A. I would have looked at them, yeah.
- Q. And you would have seen that they were divided into two parts?
- A. Yes.
- 15 Q. And there was a part in red that indicated that's what should be done for re-occupation?
- A. Yes and, and –
- Q. And a part in black for the 67% of new building standard?
- A. Black or blue. Whatever colour it was, yeah.
- 20 Q. What did you make of that then when you saw that?
- A. I knew most of the work that was required was to the vacant side of 187 High Street. I'm not an engineer. I can't, you know, I don't have any expert knowledge. I'm not a construction builder or those sorts of things. So they were concepts which would assist the owners in being able to get the building re-tenantable and comply with what was then going to be the, the Building Code, we know that's changed. And there was a financial impact. There would be a financial impact on the owners. So I forwarded them on to the owners and to a contractor to get pricing.
- 25 Q. And you didn't give any thought to this issue of, again of whether the tenants should be in there once you received that.
- 30 A. There'd still been nothing raised and brought it to the forefront that a tenant should not be in there. Yeah, no I hadn't given it serious thought I don't believe.

Q. And did you, by that stage, the 11th of February, you would have received your email from Joy Chang that you spoke about saying that they wanted to basically take over everything?

5 A. Well they were going back to the way they were before the September quake, yeah.

Q. So Harcourts was going to drop out?

A. Harcourts had been dropped out.

Q. Right.

10 A. But we, we carried on pursuing Holmes for the drawings. At the start it went well because we got, the plug got pulled on us before the drawings had arrived but that work had started and we had money from the Changs in, in our trust account to pay Holmes' account.

15 Q. I don't know if you've seen it but there was, it's, I'll get it brought up, 0059.1 is an email from Joy Chang to myself and my understanding she's in, lives in Australia and she was writing this the other day in reply to myself asking her to come and give evidence but I just really want to look at, and you'll see the parts in blue were what I was suggesting she could come and give evidence about and the black is her reply and really the, the last reply after what happened once you received the
20 engineers advice via Harcourts. "We had discussions with Harcourts and had given them the authority to carry out the necessary works to bring the building back to pre-September condition." Do you accept that or not?

25 A. That was part of the drawing work that Holmes were undertaking to bring that building back to re-tenantable. So that was, that was as a result of the onsite meeting so I would take that as, it was to get those drawings so they could make some decisions.

Q. But the actual authority to carry out the works hadn't actually, hadn't got to that stage then?

30 A. There'd been no authority to spend whatever money it was going to cost to do those works, no.

JUSTICE COOPER:

Q. So when she says that you had been given the authority you disagree?

A. There's an email that gives, I believe that, an email that they sent to us asking for our assistance to get the earthquake damage assessed and the engineering reports. I do not believe there's any instruction that requires us to physically undertake any particular work at that point in time.

1506

Q. Well in, in the context of Mr Zarifeh's questions which are reproduced in this email in blue, by the time the third question is asked it's looking at the situation once you had obtained the Holmes' advice and that had been forwarded to the Changs. 'What happened once you received the engineer's advice via Harcourts. We had discussed it with Harcourts and had given them the authority to carry out the necessary works to bring the building back to the pre-September condition'.

A. There was no instruction from the Changs to do any work in relation to the repairs and the strengthening works based on the Holmes' design drawings. From the Changs to ourselves. There was an earlier email from Joy Chang which states that they wanted to look after the building themselves and they were going to hold back undertaking any repairs so I believe there's some contradiction in what she's saying here versus the information that I have.

CROSS-EXAMINATION CONTINUES: MR ZARIFEH

Q. And is the last contact you had with her that email of 23 January?

A. The last email I would have had would have been when I forwarded her the drawings that Holmes had prepared which was after the date that they'd asked us to stop doing work.

Q. But that was an email from you to her. Did you get any reply?

A. None whatsoever.

Q. Well just come back to this issue of the Parkins, the tenants?

A. Mhm.

Q. And you referred to some emails between you and Matthew Parkin?

A. Mhm.

Q. And you referred to one on the 18th of January, sorry of November, I'll just find the number, I think it's, is it 0056.22? Is that the one you're referring to?

WITNESS REFERRED TO EMAIL

5 A. It is. It says I have a meeting with some of the owners "on Monday to sort out how we get this property sorted to discuss your lease", because he's mentioned that about having an issue with paying rent in an earlier situation.

10 Q. Right and does he say there in the third line, he says, talks about the ceiling falling down. Thank you. 'There's not a lot of clientele coming in and to be honest it makes me nervous bringing the general public into the studio when you still haven't confirmed whether the building has been deemed safe or not'. See that reference?

A. I do.

15 Q. Right so as of 18 November Matt Parkin's asking you whether there's been confirmation that the building's safe or not isn't he?

A. Correct. I don't have a report that advises me of that. I have two reports from Holmes which suggest work that needs to be done which is where we're going through doing that.

20 Q. Right.

A. If as the Council have said that the buildings were or those tenancies on that side were green and there were placards on those doors I wouldn't have any at the moment still have any need to consider anything in particular. I would have expected that the first ideal would have been the hand-written report maybe from, from, from Holmes suggesting that the green placards were changed to yellow. I would've perhaps expected the typed report from Richard might have also stated that any green placards needed to be changed to, to yellow, if the 187 St Asaph Street end of the building had been yellow and there were green placards on Colombo Street that was not necessarily unusual to happen. We had a couple of buildings in our portfolio that were red because neighbouring parts of the building had fallen into it.

30 Q. Right.

A. But the tenancy on the corner of the street was a bar and it was green and operating. I had another building not in the CB – it's outside of the CBD as well, which had a residential tenancy above it which was red placarded. Part of the ground floor tenancy was restricted use and yellow and the other tenancy was green and fully allowed to operate, so the one placard for the whole building thing didn't seem to be consistent if that's what the policy was.

Q. Right, well I thought you told us that you didn't know what the placard –

A. No I don't –

10 Q. – on that building was?

A. No, no I didn't know what the placarding was and having heard evidence I'm saying is if the placards were green and they were visible to be seen to be green then it wouldn't necessarily give Matt the tenant any indication that he shouldn't be in there, but I would have expected the engineering advice to advise us that they should be changed from green to yellow based on their findings which we could have acted on.

Q. Okay, so but you're aware that Matt Parkin as of 18 November was wanting you to tell him, was this building safe or not?

A. And I don't have anything that tells me it's not safe or not.

20 Q. No, no my question –

A. So I can't answer that question.

Q. You're aware that Matt Parkin as the tenant was pressing you to tell you [sic] whether it was safe or not?

A. I'm also aware the fact that his ceiling was a lath and plaster ceiling so hence in the shakes or the aftershocks that the plaster is likely to fall down and create dust.

Q. Okay. Mr Boys has replied to a letter from the Commission, from myself and one of the questions was and I'll bring it up it's 0043A.1?

WITNESS REFERRED TO LETTER

30 Q. And if you just go to question 3 please. I'll start reading it, "Did Mr Boys advise the occupiers and Harcourts of his conclusion that the building be yellow placarded and as a result have only 'short term entry'? Please explain what occurred and why". And we'll turn over to the next

page and the top paragraph, "Mr Boys advised NAI Harcourts", which presumably would be yourself he's dealing with, "of the continued yellow placard status of the building. This advice was provided verbally during a meeting held on 24 September 2010 whilst providing an update of the building inspections carried out to that date. This was subsequently confirmed by the site report a level 2 inspection form. Due to the existing yellow status of the building there were no tenants in occupation at the time of Mr Boys' inspection. Mr Boys does not recall if he specifically informed NAI Harcourts verbally that the building was to remain unoccupied but it was understood that yellow placard buildings were restricted to short term entry only and his level 2 assessment report confirmed the building to be suitable for short term entry only." What do you say to that?

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10
15
A. I haven't seen that report and I think that's one that you brought up before and I haven't seen that report and I don't have that report on my file. If that's the level 2 assessment report that you were referring to, this refers to.

Q. Okay well what about –

A. We met –

20
Q. – the advice?

A. We met with Holmes Consulting probably every second day discussing buildings. That led us to updating some information that we had, that information that I have doesn't record a placard colour for 593 Colombo Street.

25
Q. Okay, what about the second line, "This advice was provided verbally during a meeting held on 24 September 2010"?

A. That would have been recorded if, if that was correct it should have been recorded and it would have updated our master information spreadsheet for this particular building. But that information spreadsheet which I checked this morning does not record a placard colour against it so if he's advised us that it should be yellow then our information system should also tell us yellow. I also believe that this perhaps refers to the report that was brought up earlier which I have not

30

seen and I don't have on our file. I would have expected the lead up to this would have been the hand-written report that I have in my evidence which would also have highlighted the building having been yellow or the – or should be yellow and, or the typed report of Richard Seville of a later date also highlighting that information.

5

Q. Right, so and you can't recall now what he told you verbally?

A. We, we had meetings every second day regarding buildings and things and I can't recollect every conversation, no.

1516

10 Q. So it might have been, you might have been told that but you overlooked it, you don't –

A. We might have been told that but as I said it would have, I would have expected it to have been in documentation that was provided to us. I have not seen and I don't have a copy of that report that Mr Boys refers to. I do have other reports and neither of those reports refer to the yellow.

15

Q. You've got the handwritten one but not the typed one, is that what you're saying?

A. Handwritten one, not the typed one from that. I would have expected that there would have been a comment on that earlier report and I probably would have expected that the later typed version would also have highlighted that.

20

Q. And it seems apparent from that answer that Mr Boys thought that there were no tenants in the building. What do you say to that?

25

A. May have been one of those days when the tenant wasn't operating. He may not have had any appointments. I'd also make the comment too that where placarding may or may not have changed, and I don't know whether there's a placard change that's gone on here as well, but we didn't have, as property managers or owners, we didn't have the ability to make changes. That was information and systems that we relied on through structural engineers and the Civil Defence and/or the Council and that process that they had there with regard to placard changing so yeah, yeah.

30

- Q. Matthew Parkin, we've got a written statement from him, and he says – it's 0042A.1 – I'll just read you out the piece before it comes up "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". That's about the middle there. Do you see 'our communication'?

UNIDENTIFIED SPEAKER – INAUDIBLE 15.18.19

COUNSEL ADDRESSES THE COMMISSION – CONFIRMED MR PARKIN NOT TO BE CALLED

- 10 Q. See that paragraph 'our communication with the landlord' at the top there.
- A. I do now, yep.
- Q. Second sentence of that first paragraph "I remember I rang him to check whether the building should have got a green sticker". Do you recall that?
- 15 A. No I don't recall that conversation but it obviously indicates that the building did have a green sticker at some stage.
- Q. Right but what about the conversation itself. He's obviously in that expressing doubts about the safety of the building isn't he?
- 20 A. I'm not an engineer and I'm not qualified to assess buildings as to whether they're green stickered, yellow stickered or red stickered so –

JUSTICE COOPER:

You're not being asked about that.

25 CROSS-EXAMINATION CONTINUES: MR ZARIFEH

- A. No, no, if I was going to, carry on if I may, that's where the engagement of structural engineers to do those assessments for us and if there is an issue to go through the processes to change those and alert us to the fact that there was that change.
- 30 Q. Okay but you are an experienced property manager and you're managing a lot of properties at that time after the September earthquake?

A. We were.

Q. What I'm saying is that Matthew Parkin saying that is consistent with the email we just looked at where he was raising safety concerns about the building with you.

5 A. And we were going through a process of getting the building assessed.

Q. Right and just so I can understand it you say that because you were never told that the building should be yellow it never alerted you to any problem with it. Is that fair?

10 A. There was nothing that was provided to me that I have on record that indicated I needed to do something with regards to removing a tenant or any tenancies from that particular building.

15 Q. And the make safe temporary works in the letter of 4 October and the photos and the make safe works for the reoccupation and the plans when you got them, none of that alerted you to the fact there might be any difficulties with the building?

20 A. There's an indication that it suffered earthquake damage that needs to be repaired. There's an indication that it requires strength. Those works are going to initiate a consent which is going to require strengthening to what was then 64, 67 percent of the code. There is nothing that indicates that, to me as a layperson, as a property manager, that the building should not be occupied.

Q. Clearly the tenants, at that point anyway, were dealing with you rather than the owners.

25 A. I don't know what their relationship with the Changs was at the time. We weren't collecting rental –

Q. They were looking to you for advice on property weren't they?

A. We were facilitating structural assessment and facilitating some design and, design for repairs and strengthening. We weren't collecting rent. We did not have any legal contract to manage a tenant.

30 Q. I understand all that but the tenants were looking to you at that point for advice on the structural assessment that was going on.

A. And we were still waiting for ultimately what was an assessment that said we should have changed what matters confirming was a green

placard to something else and I did not have any of that information to make that change.

Q. Hadn't it gone beyond the placarding though? I mean you'd got an engineer in there to do a very thorough inspection hadn't you?

5 A. I could make a gut feeling on a building and be right and I could be wrong. I'm not the expert. That's what the structural assessments and the engineers are engaged for.

CROSS-EXAMINATION: MR ELLIOTT

10 Q. Mr Chapman just have a look at the email BUICOL5930056.24 please. You see midway down the page there from Matt to you, 28th January 2011, if that can just be enlarged please. This is Matt Parkin I take it emailing you?

A. I would assume that is correct.

15 Q. He says "Thanks for your reply. 67 percent sounds like a lot. Is there quite a bit of damage up there and, if so, how safe are we downstairs mate?" I assume that indicated to you that he was interested in knowing whether it was safe downstairs.

20 A. It's his reaction to the fact that I fed him information saying that the engineering works bring it up to 67 percent of the code. How safe they were downstairs there was still nothing in anything I'd been provided with to determine or to give me an indication that they weren't safe downstairs and it also states that he wanted to stay there as long as he could as well. So I've got nothing in front of me that determines a green placard that Matt's confirming was there that should have been turned to
25 a yellow which had given me a heads up that I should have perhaps moved Matt out earlier, if at all, but, yeah, I don't have any of that information.

Q. If I could just ask you to confine yourself to the question that I'm asking you.

30 A. Sure.

Q. And you would agree that he has said "and, if so, how safe are we downstairs mate?"

A. He has asked that yes.

Q. And in the email up the top which appears to be your reply on the 16th of February 2011 you make some comments and at the end you say “Keep in touch and as soon as I know any more I’ll let you know”.

5 A. Correct I do.

Q. Document BUICOL5930057.2 – this is the email from Holmes Consulting to you dated 11 February 2011 and if the content can be enlarged please. The email says “I’ve attached mark-ups showing the general concept for strengthening of this building. It has been split into what is required to be done now for occupancy”.

10

A. It does.

1526

Q. ‘What is required to be done now for occupancy’ can only mean that things needed to be done for occupancy. Isn’t that right?

15 A. Um, it could also be interpreted that it would be able to allow the re-tenanting and occupancy of the vacant premises. It’s not specific to whether it’s specifically in relation to the tenant that was there. There was a lot of vacant space in there and when we met on-site and talked about what needed to be done I believe there was some discussion about re-occupancy and getting those tenants and an income for the owners. It could be interpreted the other way.

20

Q. The other way?

A. And reflect that it had an impact on those existing tenants, it could be.

25 Q. Well wouldn't it have been interpreted that way given you've already answered Mr Zarifeh that you saw the attachments to this email and those attachments contained, identified in red, work which required repairs prior to resumption of occupancy in areas on the eastern or Colombo Street side directly over Southern Ink?

A. We –

30 Q. Would you like to look at those? I think you've already answered the question, but if you'd like to see them.

A. Well there's some notations associated with them.

Q. All right, so bottom right-hand corner there, you note there's a compass point up the top right which indicates north so to the right of the diagram is Colombo Street, would you agree?

A. It is.

5 Q. So the right-hand line indicates the frontage of 593, agreed?

A. Agreed.

Q. And the top right-hand corner there's some writing in red which I'll read out to you, "Number one. Required repairs prior to resumption of occupancy damaged structure must be restored to its original strength.

10 Damaged non-structural portions shall be removed or replaced."

A. It's what it reads.

Q. And then down the bottom right there's a red box, "Number one. Diagonal crack along mortar points at south-east corner of parapet. Re-point mortar". That is damage identified in red. That is one of the required repairs prior to resumption." Do you agree?

15

A. That's correct.

Q. And then turning to document 593.0050A.1. The red box up to the right there with an arrow pointing again to the eastern side. "Noticeable lateral displacement in slender steel columns, replace existing columns".

20

And the column replacement is specified. Again do you agree that this is identified as required repairs prior to resumption of occupancy in the Colombo frontage of the building?

A. I do.

Q. And they're the plans which you've already told Mr Zarifeh that you looked at as they were attached to the email from Mr Seville on 11 February?

25

A. Those plans were also provided to us after the owners had advised us that they - I'm just trying to find the relevant reference in my evidence.

30

Paragraph 21, that on the 23rd of January I received an email from Joy Chang informing me, "That they wanted to hold off any repairs to the property and they would carry out the building management themselves. Of course they'd never engaged Harcourts as a building manager." So we've had our facilitating role in getting an engineer and

contractors together we've had that role cancelled, Holmes have finished the drawings and we've provided those. So our actual involvement is being contractually cancelled earlier than those. We have provided to the owners earlier reports, handwritten ones, the
5 Richard Seville one. There was nothing in those reports that indicated to me that any tenancy in that - should not be in that building, and that's where I would have expected that information to come from, those assessments.

10 Q. The email of 11 February 2011 referring to work required to be done for occupancy attaching plans, nominating the eastern area of the building as requiring repairs would have indicated to you that the eastern side required repairs for occupancy, wouldn't it?

15 A. Those drawings indicated that there were works required, it says for occupancy, whether it was specifically for the Southern Ink tattooist or whether it was in general or whether it referred to, but there are works that were required, but it did not say in those drawings either that any – or any other information that came with those drawings that any existing tenancy should be removed before those works were undertaken.

20 Q. The strengthening of buildings in the post-earthquake environment carried life and death implications, wouldn't you agree?

A. It did.

Q. Did you not think to, if you had any doubts about this seek clarification?

A. I would suspect that the 22nd – the timeframe between those drawings arriving and the 22nd of February took that away from me.

25 Q. Eleven days.

A. Yes I would expect that would.

Q. So as at the 11th of February you knew the Southern Ink was occupied, correct?

A. I knew they were a tenant in the building, yes.

30 Q. You knew that that tenant was concerned about safety because they'd made that exact enquiry of you?

A. They made some request, yes some query, yes.

Q. You knew that Southern Ink was on the eastern side of the building?

- A. They were on the –
- Q. The Colombo Street side.
- A. Colombo Street side yes.
- Q. You knew that Holmes had identified work to the eastern side right
5 above the Colombo Street shops including right above Southern Ink and
that this work was required prior to resumption of occupancy, agreed?
- A. Those drawings show that.
- Q. So don't you think that you should have told the tenants of Southern Ink
10 about the fact that this work was required for occupancy rather than
having them stay after 11 February?
- A. Possibly.
- Q. You referred to a distinction which you seem to be drawing between
facilitator and property manager?
- A. Correct.
- 15 Q. And earlier on about the contract being cancelled?
- A. Well the email for that facilitating role, that was by an email and it was
withdrawn by an email so it's a facilitating role I suppose, whether it was
a contract or not, not really, it was a facilitating role. We had no
management contract. There was never a management contract signed.
20 There was never any finalised documentation for a management
contract and all they asked us for was to bring relevant parties together
to be able to resolve earthquake works or issues.
- Q. You may appreciate that one of the issues the Royal Commission may
be interested in in looking at lessons and so on is the role played by
25 building managers such as Harcourts in a post-earthquake environment
because they do play an important role, don't they?
- A. They do play a role, yes.
- Q. And just to clarify, it's not Harcourts' position is it that it can be aware of
a building which may require work in order to be occupiable, it knows
30 that there are people in occupation but it won't inform them in the
absence of a formal management contract, is it?
- A. Can you run that down past me again please?

Q. Well you're drawing the distinction between facilitator and property manager and saying you were never enlisted as a property manager, but is it Harcourts' position that it can be aware of a building which requires work to be done to be occupiable, it knows there is a tenant in occupation but it will not inform the tenant of any danger unless there is a formal management contract in place?

A. I believe there's a number of questions in there that require answering. It is not Harcourts' position and there is nothing that I was provided with that I have on my file or that I have in my possession that indicated a tenant should be advised not to be in that building and I would have expected that information to have come from earlier reports that I have, being the handwritten report and the subsequent typed report from Holmes. They were the experts in assessing whether the building was structurally safe to occupy and I do not have and was not provided with any information that gave me that indication. Had I been provided with that information then certainly we would have removed the tenant from the building as required, management contract or not should I add.

COMMISSION ADJOURNS: 3.36 PM

COMMISSION RESUMES: 3.51 PM

JUSTICE COOPER ADDRESSES MR ELLIOTT

CROSS-EXAMINATION: MR BEADLE

Q. I see that in your evidence you say that, at paragraph 4, "We needed to know what the placarding was for our particular buildings but we couldn't get past the CBD cordon once it was established." So evidently Harcourts was interested in knowing what the particular status of its buildings was, wasn't it?

A. We were, yes.

Q. Now you've been asked some questions about reports received from Mr Boys of Holmes Consulting and you have produced a copy of a

handwritten note of Mr Boys of his inspection of the 24th of September 2010 haven't you?

A. I have.

5 Q. And so, and I see that you had an email where you sent a copy of that note to the building owner on the Monday morning which is the 27th of September. That's right isn't it?

A. If that's the date that you have then that'll be correct.

10 Q. So we had an inspection done on the Friday afternoon. You had a handwritten note which you then sent to the owner on the Monday morning. Mr Boys says that he met with you after his inspections on the 24th. Do you remember that?

A. I don't remember every, an exact date that we met with Holmes.

Q. That would explain how you have the handwritten note though wouldn't it?

15 A. It may have been via an email or, yeah, it may well have been.

Q. Have you got an email from Mr Boys?

A. None that I've found so it may well have been hand, handed to us.

20 Q. And Mr Boys will say that he followed up with a written report and a copy of the rapid level 2 assessment form which he sent to you but you say that's not on your file.

25 A. I do not have that file. There were some delays in getting final reports, handwritten reports at times were what we got. I would have expected that handwritten note to have brought to my attention any issues with regards to placard changing which would have been followed up in the written report at the end, you know, following that.

Q. Well Mr Boys' evidence is not that there was any change in the placard colour, you understand?

A. I'm aware of that.

Q. Yes.

30 A. I'm also aware that there is some confusion over the placarding and in what I have seen from Matt, the tattooist, today is that he confirms there was a green placard on his tenancy, based on his evidence.

Q. Yes but he asks, he says he asked you whether that was right which rather suggests that that might have been an opportunity for somebody to ask the council whether it was?

A. Correct. It may have been an opportunity.

5 Q. It may explain why when Mr Boys attends on the 24th of September which is 19 days after the initial inspection on the 5th of September that by that stage it's actually yellow?

MR RZEPECKY:

10 With respect that's really asking this witness to speculate and it's not a proper question to put to him. So I object to that.

JUSTICE COOPER:

Yes well I think it is really speculation isn't it?

15

MR BEADLE:

Your Honour I'm merely looking for opportunities from the evidence as to how this may have occurred and identifying that Matt had sent an email to this witness asking that, asking that question, whether it should have been green
20 or not and that then leads to admittedly submission that it was an issue.

JUSTICE COOPER:

Well you're making a submission on, on the basis of the evidence but you shouldn't invite the witness to do so.

25 **CROSS-EXAMINATION CONTINUES: MR BEADLE**

Q. You've said that you couldn't recall the colour of the placard that was in place because you hadn't seen that in writing. That's the first point isn't it?

A. That's correct.

30 Q. And presumably that means you are saying you hadn't seen it when you visited the property?

A. I may well have seen it when I visited the property but I don't recollect what colour it was.

Q. I see. Well you've been here throughout the day haven't you Mr Chapman?

5 A. I have.

Q. I'll take you to a photograph BUI.COL593007A.4A.

WITNESS REFERRED TO PHOTOGRAPH

Q. And you'll recognise that's the front, frontage of this building at 593 onto Colombo Street isn't it?

10 A. That's correct.

Q. And this, the evidence is that this photograph was taken on the 4th of October 2010 and can you see, you'll see the entrance to the Southern Ink Tattoos building. There's no, there doesn't appear to be a placard on that building does there?

15 A. There does not.

Q. On that, on that part of the building. There is a placard on the door in the middle of the building isn't there?

A. There appears to be.

20 Q. Well do you recall whether there was a placard there or not or do you resist that that's a placard?

A. It may be a placard. I, I don't recollect.

Q. Right. That's, is that the entrance to Southern Ink Tattoo?

A. No it is not.

Q. It's the entrance to the upstairs is it?

25 A. It's the entrance to the first floor, yes.

Q. Well if, if you can fix in your mind the position of that, what I call the yellow placard on the, on the front of 593 and then we move to document BUI.COL593.0051.3.

30 **MR RZEPECKY:**

With respect and I don't wish to be on my feet too often but I don't think this witness has accepted it's a yellow placard. It would be more appropriate for my learned friend just to call it the placard.

CROSS-EXAMINATION CONTINUES: MR BEADLE

Q. The purpose, the purpose of referring to this photograph is that it's a photograph after the 22nd of February earthquake which, I'm asking the witness whether the document that he can there see on the middle of the, on the middle door of 593 whether he would accept that was a yellow placard?

A. I accept it is a placard.

Q. Would you accept it was yellow?

A. It appears to be yellow. I do know that some green placards faded to look like yellow. Whether it is green or yellow I cannot determine from the distance.

JUSTICE COOPER:

I should disclose Mr Beadle that this being in the nature of an enquiry that the answer just given reflects one's own experience having been in this town since, well for many months now. One of the issues with green stickers is that they fade and can appear yellow having done so. So you need to overcome that knowledge of the Chairman of the Commission anyway.

20 MR BEADLE:

Well, well Your Honour this is a matter for, for the Commission. The Commission will –

JUSTICE COOPER:

25 Yes.

MR BEADLE:

– look at the photographs and make its own, take its own views as far as it can.

30

JUSTICE COOPER:

Yes.

MR BEADLE:

So far Mr Chapman just says he can't recall. I'm trying to assist him in whether that assisted in his recollection. It appears not.

1601

5 **CROSS-EXAMINATION CONTINUES: MR BEADLE**

Q. Can I have document BUI.COL5930053.1 please. I'm sorry apparently this document doesn't appear to be available on the screen although there is a hard copy.

10 **JUSTICE COOPER ADDRESSES COUNSEL – EMAIL FROM MR SEVILLE TO MR CHAPMAN 6 OCTOBER ATTACHING REPORT OF 4 OCTOBER – 0053.1**

Q. See that Mr Chapman.

A. I can see that yes.

WITNESS REFERRED TO EMAIL

15 Q. This is the email where Mr Seville says that somebody called Paul, who I think is Paul Roberts from Holmes Consulting, he says "Paul and I had a look at this on Monday" and then this is on a Wednesday, so it's two days later, and he's sending you a copy of the 4th of October report. Do you remember that?

20 A. This would be the email that attaches the report that I think, I believe I have in my evidence that I refer to.

Q. The 4th of October report.

A. And the terms of engagement contract and the terms of engagement contract that was forwarded to the owners for them to exercise yep.

25 Q. That's right and that's the report that says "The following observations and temporary strengthening schemes are suggested". So this email is forwarding that report. Now on the 11th of October – can we go to BUICOL5930056.3 – now this includes the email from you to Matt at Southern Ink on the 8th of October and it says "We've been awaiting the structural engineers' survey and recommendations to enable us to be in
30 a position to establish what works are required to make the building re-tenantable and to gauge a time frame these works are likely to take so

we can advise those tenants and owners alike. From the structural engineers' report I received the other day it may be some time before the building will be able to be tenanted legally." Now when you talk there to the report you received the other day that must be the report of the 4th of October which you received by email on the 6th of October mustn't it?

5 A. Correct.

Q. Aren't you pretty much directly telling the tenant that the report you've got indicates that the building is untenable? Aren't you basically
10 telling them that consistent with there being a yellow sticker on this building the building is untenable?

A. Firstly, I don't think the issue of whether a yellow placard on that side of the building has been determined and that's a matter of speculation that's been going through this Commission hearing all day today. There
15 was a significant amount of vacant space and my reference in there would be to getting that vacant space re-tenantable. I would have expected the report that I received to have given me some, perhaps, further advice that recommended that there was no tenants in that building at all. There was none of that information in either the
20 handwritten report from Alistair or from the typed report that's come from Richard. Although I believe that there was one typed and prepared but I do not have it in any of my records.

Q. On the 24th of November 2010 there was a meeting at the premises wasn't there?

25 A. On or around that date, yes.

WITNESS REFERRED TO DOCUMENT BUICOL5930053.2

Q. Now this is not a document that you've submitted in your evidence is it?

A. No it's not one I actually managed to find.

Q. But you accept it's from you to Scott Thompson and Paul Roberts.

30 A. Agreed.

Q. Of the 24th of November 2010. Who's Scott Thompson?

A. He's the Technical Services Manager for Spotless Facilities Maintenance Services.

Q. And Paul Roberts?

A. An engineer, if I may remember correctly, associated with Holmes.

Q. And so it may be a while since you've seen this email since you haven't got it in your evidence.

5 A. It's a reasonable period of time since I've seen this one.

Q. But this is where you say "Gentlemen, thanks for your time this morning". So does that suggest to you that the meeting actually went ahead that morning of the 24th.

10 A. It confirms the exact date in agreement with my evidence that we had a meeting on site with a representative of the owners, representative of Holmes, a contractor and myself.

Q. Yes and but the representative is Mr Roberts from Holmes rather than Mr Seville isn't it?

15 A. I can't remember whether Mr Seville was at that meeting – I believe Mr Seville was at that meeting as well perhaps.

Q. He says he wasn't.

20 A. He says he wasn't. Um, that may be correct. A lot of our communication and arrangement with meetings and things was through Mr Seville so that may be where I have that recollection in my system because I do believe I did ask Richard to arrange that meeting or to attend I should say.

Q. This email sets out stages, you set out stage 1, stage 2, stage 3 and stage 4 in terms of a coordination of who is to do what at what point doesn't it?

25 A. It sets out the discussions that were had with the owners involved in that as to being able to do a number of things in order to end up with the drawings that we ended up with in February.

Q. Do you recall on the 24th of November that you went upstairs in the building?

30 A. Yes we did go upstairs.

Q. So you had to walk through that door in the middle of the building in front of 593 Colombo Street.

A. Yes we did have to go out that door.

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

1611

5 RE-EXAMINATION: MR RZEPECKY

Q. Mr Chapman, Mr Zarifeh asked you at the, and hopefully you can remember back to the start of your evidence, if the Changs knew that the tenants were still in the building, and I think you've said that you didn't collect the rent?

10 A. Correct.

Q. So your assumption is that they must have been.

A. The rent would have being paid as it had been to the Changs.

Q. So as maybe an absolutely question, but what would that tell the normal landlord if the tenant's paying rent under these circumstances?

15 A. That they're still in occupation of their building.

Q. I wonder if we could just bring up the email 20 September 2010, BUICOL5930055.13 please. If you could just have a look at that email Mr Chapman.

20 JUSTICE COOPER ADDRESSES MR RZEPECKY

Q. It's actually 27th of September.

A. I beg your pardon sir.

Q. There is one on the 20th September which is 0056.1 if that's the one you're looking for.

25 A. It may be Sir, I'm sorry. I think it's BUICOL5930055.13/14 which is 26 September. I must have transposed it incorrectly Sir.

Q. Well there's one of the 26th September on the bottom of the page.

A. Yes.

Q. I thought you said 20th of September.

RE-EXAMINATION CONTINUES: MR RZEPECKY

Q. If you could just go over to, if we could just go to page 14 please, you see the email there Mr Chapman?

A. I do.

5 Q. That was to Joy Chang wasn't it, and you talked there about Matt, so that's reference to the tenant?

A. It is.

10 Q. And in paragraph 17 of your evidence when you talk there about the meeting on the 24th of November, who if anybody was present from Southern Ink?

A. Matt would have been – well it would either have been Matt or somebody he'd organised to provide us with access and I believe it was Matt.

15 Q. And what was the circumstances of his shop when you went in there, having got access?

A. It appeared as though the lath and plaster was the cracking in the ceiling that he'd been referring to.

Q. Did it appear occupied?

A. It was occupied, yes.

20 Q. And finally I think you negotiated, you say at paragraph 30 of your brief a rent reduction in early 2011 for Matt?

A. We did.

Q. So, and that was a direct negotiation with the Changs?

A. It was.

25 Q. So from all of that what was your view in terms of what the Changs knew about the occupancy of the building?

A. They knew that they had a tenant in the building.

30 Q. Just moving onto another topic. You asked about reference by Matt to a telephone discussion with you where he asked about the reliability of the green status of his building. Do you recall that question?

A. I do recall that question.

Q. Did you – how often if ever did you talk to Matt on the telephone?

A. Very rarely. In amongst all the phone calls and emails that we got daily, weekly, it would have been on a one in a thousand basis if not a higher ratio.

Q. So how did you mainly communicate with him?

5 A. Through email.

Q. Through email. Do you have any recollection of the conversation that was put to you by Mr Elliott?

A. I have a recollection of a – not a recollection of a lot of telephone conversations with a lot of tenants, owners.

10 Q. Thank you. And now just finally Mr Elliott asked you about the Holmes Engineering drawings which you received around about the 11th of February 2011 and the reference to resumption of occupancy, but what was your understanding of what Holmes knew regarding Southern Ink?

15 A. Holmes knew that the tenant was in occupation at the time we inspected.

QUESTIONS FROM COMMISSIONER FENWICK – NIL

20 **QUESTIONS FROM COMMISSIONER CARTER – NIL**

JUSTICE COOPER:

25 Q. Can I just ask you to have a look at an email dated the 20th of September which has the suffix 56.1. The bottom of that page, the – Mr Parkin sends you an email in which he records his understanding that you are the new property manager for 593 Colombo Street, all right.

A. 593B Colombo Street, correct, yes.

30 Q. Now is that a reference to this building which is the subject of this hearing today?

A. It is the subject of this building, yes, this hearing today.

- Q. And you replied to that by the email which is the next, up the page I think on the same day in which you say you thank him for his email and you say our first priority is to get the building structurally checked.
- A. Correct.
- 5 Q. You didn't say we're not the property manager, did you?
- A. No I did not.
- Q. Why was that?
- A. I dealt with some specific issues and we were still going through a negotiation phase with the Changs over the property management aspect at that time.
- 10 Q. And am I right in thinking that you didn't tell him that you were not the property manager until the Changs dispensed with your services in January 2011?
- A. I can't recollect when we might have told him that. It would have certainly definitely been then, it may well have been earlier because we never entered into a management contract. We were just purely working with engineers and contractors to assess and repair the building or get repairs, designs done.
- 15 Q. Were you in fact engaged by the Changs to deal with earthquake issues in relation to the building?
- 20 A. Specifically for earthquake only.
- Q. So there was an agreement but it was related only to earthquake issues?
- A. The only agreement that was ever related to, entered into and that was an email and I did ask for some specific instruction from them that that's what they wanted us to do, to deal purely with the assessment and organise design repairs for the repairs.
- 25 Q. Well having had that exchange on the 20th of September though, was it apparent to you that Mr Parkin was relating to you as if you were the property manager?
- 30 A. I don't know who fed him that information of the fact that we were going to be the property manager, we were in still negotiations over that. That may have come about from the Chang's earlier visit prior to September

earthquake where they met him and said, "Hey look, we're going to talk to Harcourts about managing our building." I don't know where that came about or how that came about.

Q. Well I wasn't asking –

5 A. No, no, no, so he had that, perhaps that understanding and we were still in negotiations with the Changs over our management services after the September quake.

Q. Well, yes, well it's apparent he had that understanding because that's what he said to you, isn't it?

10 A. Yes, but that management function never eventuated.

Q. Well I understand that but you didn't tell him that did you?

A. I'm not sure if we did or when we did. I certainly didn't respond to it at that particular point in time because we were still working through the process of negotiation for a management function.

15 1621

Q. Well the result of the way you did reply was that you left him with the impression that he was right and that you were the property manager?

A. That may have done so, yes.

Q. Well is that what you intended, in fact?

20 A. I believe at the particular time I was dealing with the specifics of the fact that we, we're going to get the building structurally checked and left out anything that wasn't particularly relevant at that particular point in time with regards to management. If we had completed a management contract then we would have certainly been going through some processes that we would have Matt paying us rental et cetera, and we
25 didn't have that information so we couldn't go that far. So it's still a little bit open at the beginning here, if and when we advised Matt that we weren't the property managers I don't know.

Q. Well at this stage anyway you didn't tell him that you were not the
30 property manager because it was not relevant to do so?

A. Correct.

Q. Now one other email I wanted to just briefly discuss with you was the email of the 8th of October to which you've already been referred by Mr Beadle which has the suffix 56.3.

WITNESS REFERRED TO EMAIL 8 OCTOBER

5 Q. And on the basis of the email at the bottom of the page where Mr Parkin writes to you saying there's going to be a problem with the rent, he was telling you that the rent would not be paid for the month of September and he explains the circumstances. That email from him is consistent with one he would have sent to you on the supposition that you were the
10 property manager I think, is that right?

A. It's a supposition you could make. He didn't have any details of where to pay, to pay rental to us, so where his expectation that rent was going to be coming to us without that information, bank account details et cetera I don't know how he got that or how he came to that assumption.

15 Q. Well perhaps he thought that that was because you were the property manager. That would be a reasonable inference wouldn't it?

A. It could be an inference yes.

Q. Do you receive rents as the property manager?

A. We do but those, the details and, and, of the amounts et cetera and
20 where they're to be paid is provided by us.

Q. Yes.

A. In this instance –

Q. You hadn't done?

A. We have provided that information to Matt.

25 Q. Yes. Well anyway, the email above that is your reply to that email is it?

A. It is.

Q. And you don't say to him there do you, "You'd better speak to the owners about the rent"?

A. Ah, no I don't.

30 Q. What you do say is that you've been awaiting an engineering survey and recommendations to enable you to establish what works are required to make the building re-tenantable and to gauge a timeframe

the works are likely to take. Now why was that a relevant thing to say to Mr Parkin?

5 A. He's a tenant in the building and, um, there may be works that are required to his tenancy. There may be works to other parts of the building. We know that a fair percentage of that building is not tenanted. We do know at some stage there's an email from Joy that says that they have people enquiring about their tenancies, about tenancy space in that building and I would suggest that I'm referring to the vacant space becoming re-tenantable rather than any specifics to the existing
10 tenanted portion of the building.

Q. So why would you say that to Mr Parkin?

A. I was giving him an update of where we're at. He knows parts of the building are vacant and it's just given him an understanding that, "Hey the owners are looking at wanting to fix, repair the building and get
15 further tenants in there", which you know may or may not attract custom to his business, who knows?

Q. People may have been wanting tattoos?

A. They may, may walk out of a potential coffee shop and get themselves a tattoo, they may not, may detract from finding other tenants who knows?

20 Q. And why, why did you ask him for a copy of his lease in that email?

A. Ah, this email is after, is it not after when he said something about the rents not coming out?

Q. Yes.

A. So I'm trying to establish where his lease sits with the current owners.
25 Ah, perhaps he might be coming up with some questions that I'll be able to answer, having a copy of that lease, I don't know.

Q. That would have been consistent with his view of you as the property manager I suppose, would it?

A. And there's an assumption I'm going to make at the moment because I
30 don't have all the information in front of me but this may be at a time too where we're still going through waiting for the decision on the owners as to whether they're going to appoint us as a property manager or not and in that instance we would need a copy of the lease so we can set up a

tenancy schedule, know what rentals the tenant is paying and arrange for those rents to be paid for, to us.

Q. All right well let's go to the top of the page. There's a brief reply on the 11th of October from Mr Parkin, "Here is the lease mate, let me know your thoughts". So what action did you take when you received the lease from Mr Parkin?

A. That I was obviously at some stage going to look at his lease and if there were some things that I could perhaps feed him information on or he had some queries on I was going to be able to answer.

10 Q. So what action did you take?

A. I would've saved the, the lease document in our, in our computer system. I'd've had a quick read through that and ultimately I did confirm with him but it was sometime in the new year that his lease actually hadn't been renewed and that he could leave if he so desired by giving basically one month's notice.

15 Q. I think that was January. Does that sound right?

A. That would be about right.

Q. Yes.

A. There were, I don't believe there was –

20 Q. There's –

A. – questions or issues he raised leading up or from the time he provided it leading up to when I gave him some other information in relation to another query or a query that he'd had.

Q. If we could have a look at 56.23.

25 **WITNESS REFERRED TO DOCUMENT 56.23**

Q. Is the email at the top of the page there the advice that you're referring to of the 24th of January in which you say, "by this stage", well you're telling him that the owners don't what to do the repairs. Is that right, in the second paragraph?

30 A. Correct.

Q. And then you tell him that his lease hasn't been renewed and he's free to go?

A. Correct.

QUESTIONS ARISING – MR RZEPECKY - NIL

WITNESS EXCUSED

JUSTICE COOPER:

Mr Zarifeh, Mrs Chang and the rest of the owners are overseas are they?

5

MR ZARIFEH:

Yes sir, that's my understanding.

**MR BEADLE ADDRESSES COMMISSION – AVAILABILITY OF BRIEF OF
EVIDENCE OF ALISTAIR BOYS**

10

1631

MR BEADLE CALLS**ALISTAIR GEOFFREY BOYS (AFFIRMED)****5 MR BEADLE:**

Members of the Commission, the system with other counsel I don't propose any other, any opening or say anything before I might lead my witness save to say that I'd like the opportunity to file written submissions later if required.

EXAMINATION: MR BEADLE

10 Q. Is your full name –

JUSTICE COOPER ADDRESSES MR BEADLE – AUDIBILITY**EXAMINATION CONTINUES: MR BEADLE**

Q. Is your full name Alistair Geoffrey Boys?

15 A. It is.

Q. And are you a structural engineer in the employ of Holmes Consulting Group Limited?

A. That's correct.

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

20 A. I have.

Q. Can you please read from paragraph 3 of your statement?

A. I hold a Bachelors and Masters Degree in Civil and Structural Engineering, BE Civil and ME Structural, conferred by the University of Canterbury. I have three years of post-graduate experience in engineering.

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Scope of Evidence. I on behalf of Holmes Consulting Group provides this brief of evidence in response to the Canterbury Earthquakes Royal Commission email dated 16th of November 2011 in relation to the building at 593 Colombo Street.

Inspection 24th September 2010. I am asked whether I arranged for a yellow placard to be affixed to the building following my inspection on the 24th of September 2010.

5 Response, I did not affix a yellow placard to the building as there was an existing yellow placard already affixed, presumably from a previous inspection carried out by another party. My handwritten site report and typed up site report dated 24th September 2010 and rapid assessment form level 2 are attached. It is noted that in my report I observed the yellow tag should remain in place. The yellow placard was located on or
10 adjacent to the front entry into the lingerie store on Colombo Street.

Assessment Form. I am asked if the assessment form which refers to 593 Colombo Street relates to the building as a whole. I confirm that my assessment form related to the building located at 593 Colombo Street as a whole.

15 Communication of the Yellow Placard status. I am asked whether I advised the occupiers and NAI Harcourts of my conclusion that the building be yellow placarded and as a result have only short-term entry.

Response. I advised NAI Harcourts of the continued yellow placard status of the building. This advice was provided verbally during a
20 meeting held on the 24th of September 2010 whilst providing an update of the building inspections carried out to that date. This was subsequently confirmed by my site report and L2 inspection form of the same date. Due to the existing yellow status of the building there was no tenants in occupation at the time of my inspection. I do not recall if I
25 specifically informed Harcourts verbally that the building was to remain unoccupied but it was understood that yellow placarded buildings were restricted to short-term entry only and my level 2 assessment report confirmed the building to be suitable for short-term entry only. My site report confirmed this building was safe – not safe to occupy.

30 Christchurch Council. I am asked whether I advised Christchurch Council of my assessment and conclusions.

Response. I provided NAI Harcourts with my typed up site report and a copy of the completed level 2 assessment form. I did not specifically

provide these to Christchurch Council given there was no change in the building status.

Photographs. I am asked to identify the photographs which were taken during my inspection.

5 Response. The photographs taken during the inspection on the 24th of September 2010 are those referred to as CING1526 to CING1535 as previously supplied to the Royal Commission.

10 Structural Concerns. I am asked to advise in more detail if possible about the structural concerns I had with the building and, in particular, the separation of the floor and walls as noted in my report.

Response. The primary structural concerns I had were in relation to potential fall hazards and the potential instability of the southern wall.

15 Potential Fall Hazards. The fall hazards noted concerned the parapets to the rear of the building. I observed that they displayed evidence of cracking and displacement when viewed from ground level. The parapets to the remainder of the building did not display any obvious signs of damage from ground level.

20 Potential Instability of the Southern Wall. The potential instability of the southern wall related to the apparent separation of the southern wall on the St Asaph Street façade from the first floor diaphragm. The separation was measured to be approximately 10 millimetres in width and showed some evidence of pre-existence. Due to the level of displacement in evidence I did not consider this a collapse hazard. I was also aware of the existing barriers beneath this wall protecting the pedestrians below the building. As noted in my site report I was of the opinion that further investigation of the building structure was warranted with particular reference to the south wall connection to the first floor, noted as the second floor in the site report as a result of designating ground floor as level 1. There was minor damage to the interior masonry walls, timber partitions and lath and plaster lining.

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Q. Mr Boys, the documents you refer to are attached to your brief but it may assist the Commission if we identify them by number. I have the numbers and for the record in paragraph 6 Mr Boys refers to his

5 handwritten site report, the typed up site report of 24th of September and the rapid assessment form, level 2. Those are at BUI.COL593007E.1 and 007F.1 and 0007G.1 and 2 and the photographs referred to in paragraph 14 of Mr Boys' evidence are BUI.COL593.0007A5 through to 8.

JUSTICE COOPER:

10 Can we just take a moment to look at these photographs I think.

JUSTICE COOPER:

15 Q. Can I just clarify, you're concerned, you were concerned about the stability of the southern wall. That's the wall overlooking St Asaph Street. Is that right?

A. That is correct.

Q. And if for some reason that wall had failed there would have been a flow-on effect to the stability of the rest of the building. Is that a fair inference?

20 A. That is one of the things that I wanted more work to be looked at, yes, correct.

Q. But that was, are you saying that that was a justification for the whole building to be yellow stickered?

25 A. The reality is that due to the observed damage and the fact that I couldn't go around in the timeframe and the tools that I had expose all of the other critical sections. I'd seen one piece of damage and I thought it relevant to go and have a look at the whole building to a higher level of inspection so that we provided surety about the whole thing. As a consequence, I am sure, made it yellow.

30 **CROSS-EXAMINATION: MR ZARIFEH**

Q. Mr Boys when you went on the 24th of September that was the first time you went to the building?

A. It was the only time I went, correct.

Q. The only time, and where was the yellow placard that you observed?

5 A. The one I recall, I had to refer to the photographs that have come through. Subsequently I believed it was adjacent to the tenancy entry to Adam and Eve's. It turns out it was just round the corner on the access to the upstairs.

Q. So which frontage was it on, Colombo –

A. That was in the east, Colombo Street frontage.

10 Q. So you've, you've been in Court I think, have you seen the photo with the sticker that was, there was discussion about whether it was green or yellow?

A. Correct.

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Q. Is that the one you're talking about.

15 A. That's the one that I believe is yellow, correct.

Q. And did you look at it?

A. Ah, I believe my typical process, I don't recall exactly, but my standard process was as I went through the building I would typically update any existing placards, possibly it was an L1 so no internal inspection was available so I'd go and say I've done an internal inspection confirmed
20 yellow and, I think, name, phone number.

Q. Right so can you say that on this occasion you did look at that yellow placard or not?

A. I did.

25 Q. And was that on the way in?

A. We'd always look on the way in. You always inspect the outside of a building before you put yourself in danger.

Q. And so that was before you'd decided any of your thoughts on the building?

30 A. Before I'd looked at the building entire? The only things that I was concerned about was when I got inside. The parapet was marginally cracked, it was protected underneath. My main concern for the interior

structure of the buildings when I noticed the separation of the southern façade from what appeared to be the diaphragm.

Q. And you weren't aware of any other placards on any of the other entrances to the building?

5 A. There were no other placards.

Q. Did you look at the other entrances?

A. I tried to gain access to the tattooist and because, obviously, I only had a selection of keys, couldn't get into there. I gained access into Adam and Eve. There was no placard on there and I gained access upstairs and I gained some partial access into the back of what I believe is the acupuncturist's but it was not from the front entry.

10 Q. Right so you didn't look at the doorways to Southern Ink?

A. I looked at the front to see if I could see through the window to see what was going on.

15 Q. Was there any placard there?

A. No there was not.

Q. And any of the entrances on St Asaph, were there any placards?

A. There was a placard on the St Asaph Street window adjacent to the entry to 187.

20 Q. And what colour was that?

A. It was yellow.

Q. And could you see what was written on this yellow placard that you saw on the Colombo Street frontage?

A. I do not recall exactly what was written on there.

25 Q. Would you have read that considering you were going to conduct an inspection of the building?

A. I believe so, yes.

Q. You can't remember doing so though?

A. No I cannot.

30 Q. How did you get the keys?

A. Would have met with Chris -

Q. Chris Chapman, the previous witness.

- A. – Chapman, either early that morning or late, yeah, the previous afternoon to get all the relevant keys for the last remaining buildings.
- Q. And do you say that Southern Ink was locked?
- A. Southern Ink was un-tenanted and no-one there, like there was no-one on site.
- 5 Q. But you didn't go into that building, that shop?
- A. I had no access to it.
- Q. Right so did you try that door?
- A. I had no keys for it but would have given it a wiggle, yeah.
- 10 Q. Was Chris Chapman with you?
- A. No he was not.
- Q. So he just provided you with the keys.
- A. He gave me a bunch of keys and I had to figure out which one was which door and so forth.
- 15 Q. Did he tell you whether any of the building was tenanted before you went?
- A. I don't believe so. I've not specific recollection.
- Q. Would it have surprised you then to be told, if you were told, that it was tenanted at that time?
- 20 A. Not terribly. There was lots of –
- Q. Given that it was yellow placarded.
- A. Given that it was yellow I would have been surprised, correct, but there was lots of incremental gains in knowledge as people were going through inspecting buildings so it could well be, or could well have been that there was a disconnect at various levels of the process.
- 25 Q. And that's the only day you went so you didn't see any tenants in the building?
- A. Correct.
- Q. And talked about the problems that you saw with it and the main one being, one of the main ones being the south wall, the St Asaph Street wall coming away from the diaphragm.
- 30 A. Yep.

- Q. And you also, you might have been in Court when I referred it to Mr Wall, you made a note 'middle bit of façade on east side appears to have moved outwards, visible from outside'.
- A. I recall you referring to it but that was not part of my site notes. They
5 were part of Richard's site notes on a subsequent date.
- Q. Oh were they?
- A. Yeah we didn't know whether to yell out and correct you but we thought we'd correct it on the stand.
- Q. Okay, 'cos they're not dated are they? I just –
- 10 A. No they would have just been attached to the copy of what my site notes were so you've got –
- Q. Right, I got them on the back of your ones so I presume they're yours but okay, so it was the south wall moving away.
- A. Correct.
- 15 Q. And your conclusion, as you've said, was because of that and the other things that you saw the whole building should be yellow placarded.
- A. Correct, which is as I believe it was at the time.
- Q. Which is why you didn't draw up a placard yourself?
- A. Correct.
- 20 Q. And can you specifically recall speaking to Chris Chapman and telling him about the yellow placard, that it should remain yellow?
- A. I don't specifically recall saying that it was yellow but I would have given him the information. It's just part of the process of transferring all the information.
- 25 Q. Right, but you've said in your statement that you advised Harcourts of the continued yellow placard status of the building.
- A. Correct.
- Q. "This advice was provided verbally during a meeting held on 24 September 2010."
- 30 A. Yes.
- Q. So when was that meeting.

- A. It would have been about 4 o'clock in the afternoon when there was a brief 20 minute/half hour summary of the things that I'd done over the previous day and a half.
- Q. Right, so your one visit to the properties on that day.
- 5 A. Correct.
- Q. And after that you go and see Chris Chapman.
- A. Correct.
- Q. And is that when you gave him your handwritten....
- A. It appears so.
- 10 Q. And he hasn't got a record of the typed one. Have you got a record of sending him that or not?
- A. I had a bit of a chase through the system and it appears that it may have got lost in the backwash.
- Q. Okay so it wasn't sent or may not have been sent?
- 15 A. Yeah, I provided through our admin people believing it would get through to Chris but it appears that he has no record of it so maybe it didn't get there.
- Q. Right I was asking if you'd checked your side. There's no record of it being sent?
- 20 A. I can't see any.
- Q. So it was more verbal advice from you at the meeting to him that it should remain yellow.
- A. Yes correct.
- Q. And was there any mention by him at that meeting what about the tenants in Southern Ink, or anything to that effect?
- 25 A. I don't believe so.
- Q. That's something you presumably would remember if he'd said it given the fact that you're telling him it should remain yellow. You can't remember him saying anything like that?
- 30 A. No sorry.
- Q. And did you have any further involvement in the building after your visit on the 24th of September?

A. I don't believe so. I may have had a brief discussion with Richard or Paul regarding what I'd seen but I could have given them no more information beyond what was already in my reports.

5 Q. Right well I was going to ask you about that. When, what's the procedure at Holmes when someone like yourself goes for that initial visit? You fill out your report or your site report and then you get it typed up.

A. Yep.

10 Q. That presumably would be available and viewed by someone who's going for a second visit.

A. Correct. Because this was my last day of inspections down in Christchurch – I returned to Auckland that evening – I actually handed over the paper copy to Chris and then took the carbon and wrote/typed up the actual site report or the typed version of the site report and filled out the L2 assessment form when I was in Auckland and then I provided them to, I filed them in the folder that we have for Harcourts and then suggested to the admin team or told the admin team that they were ready to be sent out but obviously there was a little disconnect in that process. So they were definitely available for the ongoing engineering support and previous knowledge shall we say.

20 Q. Okay. Did you see the or have you seen the 4th of October site report that Mr Seville or Mr Roberts prepared?

A. I have.

25 Q. And that talks about various temporary works doesn't it and there's some photos attached to it?

A. Correct.

Q. Would you agree with me that they obviously relate to the building as a whole?

A. Indeed they do.

30 Q. And would that be consistent in terms of make safe works for the building as a whole, be consistent with what you saw on the day and what was required?

A. It would have been an extension of the knowledge that I had, like I said I was only there quick, partial, needed some more investigations and so forth.

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5 Q. Understand that. Have you seen the plans that were eventually drawn up or the –

A. I've had a brief look at them, yes.

Q. And again they go into more detail in terms of damage and repair required than what you saw on the day?

10 A. Absolutely. They had some investigations done to the building so you could actually see more of the structure and some weights and some loads and worked out the appropriate strengthening scheme.

Q. And you probably heard Mr Chapman was questioned about those plans and how they related to the Colombo Street facade, or some of them did, you recall that?

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A. Correct.

Q. So would you agree with me that they related, the make safe works if I can put it that way, the temporary works that were required or the immediate works related to the building as a whole?

20 A. Yes.

CROSS-EXAMINATION: MR ELLIOTT – NIL

CROSS-EXAMINATION: MR LAING – NIL

CROSS-EXAMINATION: MR MCLELLAN – NIL

CROSS-EXAMINATION: MR RZEPECKY

25 Q. Good afternoon Mr Boys, I just want to talk to you for a moment about the placarding of the building. Is it your understanding that when a building was placarded after the 4 September earthquake, that a notice had to be provided to each tenant?

A. As there were no tenants on site that's slightly irrelevant.

- Q. Well perhaps I should rephrase that, that each tenancy in the building, each part of the building that might have been affected had to have a separate placard on it?
- A. That is correct.
- 5 Q. So when you went there on the 24th and you had a look into the Southern Ink Tattoos shop, you wouldn't have seen any placard at all?
- A. No. There was nothing that I was aware of.
- Q. And you realised of course that the door that had the placard on it that you've referred to in your evidence, that was to a totally different part of
- 10 the building?
- A. Correct.
- Q. Now when you formed the view that the building, that there was no one in the Southern Ink premises, was that just through looking in the window?
- 15 A. Correct.
- Q. How long did you look for?
- A. Two minutes, I would have been on that street frontage immediately adjacent, I was obviously outside the building for a considerably longer period and I was in the whole building for, I would suggest, 45 minutes
- 20 at least. I can't say that I was using all of those 45 minutes to bang on their door.
- Q. And what time of the day was this again?
- A. It was about three o'clock on a Friday.
- Q. Three o'clock on a Friday, thank you. Do you accept that with the
- 25 knowledge that you have now that they actually were in occupation?
- A. They were there by all accounts.
- Q. Do you accept perhaps that your inspection was just not sufficient to be able to tell whether it was occupied or not?
- A. To my, to the best of my knowledge at the time it was a yellow-stickered
- 30 building which is limited or no occupation, there was no tenant in the premise, how was I supposed to second guess to go, I'm going to stay here forever to suggest to them that they shouldn't be there?
- Q. Did you actually get access through that middle door?

A. Yes I did.

Q. But based on your evidence today you'd have to say that it was that tenancy that was yellow-stickered, that was the only evidence you had really wasn't it?

5 A. The reality is that if we've got concerns about a wall falling away from the first floor diaphragm in the southern facade, you have to extrapolate that that's a potential on the northern facade, (inaudible 16:55:40) there's a full risk for the tenancy at the base, it has to be yellow as well.

10 Q. Have you heard evidence today that in fact the first assessment was created green placard across the Colombo Street and yellow down the St Asaph Street?

A. I have heard that evidence, correct.

Q. So anybody with that green designation would be quite entitled to the view that it was all right to occupy?

15 A. I can see how somebody having seen the original green placard would assume that their building was occupiable, correct.

Q. Now you've given evidence about a discussion with Mr Chapman over the placard status of the building, when you reported to him after your inspection on 24 September?

20 A. Correct.

Q. But Mr Chapman has given evidence that he didn't know what the placard status was and that you didn't bring to his attention that the Colombo Street side was in fact yellow.

25 A. If I might clarify, he said he did not recall that I advised him and because he had nothing written –

Q. Thank you.

A. – he did not know it was yellow.

Q. Is it possible in your discussion with him that you confused St Asaph Street with Colombo Street?

30 A. I knew the building was one entire –

Q. Pardon could you speak up?

A. I knew the building was one entire structure, and no I did not confuse the relative streets.

Q. Is it important to report back to the owner and the property manager the placard status of the building at this time?

A. Yes.

5 Q. So when you wrote your handwritten notes, you didn't mention anywhere in that the placard status did you?

A. Correct, inadvertently it appears that I have left it off the handwritten notes, however in the two days later when I type up the typed report it's all there.

10 Q. But of course if all the information on your handwritten note that you're passing to Mr Chapman, that was in fact the most critical piece of knowledge for him as the building manager wasn't it?

A. Potentially.

Q. And I think you've accepted in evidence that he didn't get your subsequent written information?

15 A. It appears not.

Q. So he never took away from your meeting any written information about the placard status of the building?

A. Correct.

RE-EXAMINATION: MR BEADLE – NIL

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QUESTIONS FROM COMMISSIONERS - NIL

WITNESS EXCUSED

COMMISSION ADJOURNS: 5.01 PM

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