

**COMMISSION RESUMES ON THURSDAY 15 DECEMBER 2011 AT
9.30 AM**

JUSTICE COOPER ADDRESSES THE COURT – HOUSEKEEPING

5

MORRIS NORTH (RE-SWORN)

EXAMINATION CONTINUES: MR ZARIFEH

10 Q. Mr North I had covered most of the material yesterday with you that I wanted to but just a couple of things, perhaps, just to recap on yesterday. Am I correct in saying that following the September earthquake and really into towards the end of 2010, early 2011, you were concerned about the building?

15 A. On behalf of our staff and volunteers and the people coming into the building I felt I had a major responsibility to ensure that that building was safe for the purposes for which we were using it.

Q. And for that reason you got Mr Elliott in to look at it.

A. Yes, indeed, because I felt that it was very subjective for me or anybody else to look at the building and decide whether it was safe or unsafe. We needed professional advice.

20 Q. Okay, I understand that. So we've heard that he went in on the 7th.

A. Yep.

Q. And you were there with him.

A. Yes.

25 Q. He went in two days later after you rung him back and said can you come back.

A. Yes.

Q. Two days after that, the 11th of September, we've heard evidence that the building was yellow stickered, right?

A. Yes.

30 Q. So the building was closed down effectively. You couldn't operate from that point on.

A. Correct. We did not use it from the time of the quake.

- 5 Q. And you then were emailing the Council, and I don't know, I think you were in Court, I don't know if I referred you to it but there's some email correspondence between you and Mr Hector, Phillip Hector of the Council about what can you do, how do you change the yellow back to green, correct?
- A. Yep.
- Q. And then you spoke to Mr Elliott.
- A. I believe I kept in touch with Mr Elliott in terms of the process, yeah.
- 10 Q. What was your understanding of what happened to get the yellow back to the green?
- A. That we needed to comply with the Council requirements and they had set that out in terms of requiring a level 2 inspection.
- Q. Right and you passed that on to Mr Elliott.
- A. Yes indeed.
- 15 Q. Do you know when?
- A. I didn't keep a record of the date, no.
- Q. But in relation to events that happened do you know when that was?
- A. Oh I think as soon as we got anything from the Council I immediately passed it on to David Elliott.
- 20 Q. And did you accompany him on any further inspections?
- A. I don't believe I did, no.
- Q. Were you made aware of any further inspections after his initial two?
- A. I think the, I was aware of the ones which have been recorded.
- Q. In the report?
- 25 A. Yes.
- Q. Were you aware of a further inspection by him?
- A. On what particular date?
- Q. On or about 17th of September? So that would have been after you were emailing and emailed back from the Council about the level 2.
- 30 A. Yeah I believe I was aware of all the inspections which he had made but I didn't keep any record of those dates.
- Q. Did he report to you, report back to you that he had inspected the building again?

- A. Yes but I can't recall the precise detail. We had, there was good communication in terms of –
- Q. Okay I accept that. What did he say to you?
- A. In terms of that –
- 5 Q. The further inspection.
- A. The further inspection – I don't recall the detail of that conversation.
- Q. Okay well Mr Hector from the Council emails you, tells you that the level 2 assessment's required.
- A. Yep.
- 10 Q. You said that you passed that on to Mr Elliott.
- A. Yes.
- Q. What did Mr Elliott say he would do?
- A. Again I can't recall the precise detail but my understanding was there was some sort of process to be followed by him in order to satisfy the
- 15 Council requirements.
- Q. Was that a certificate that had to be signed?
- A. That was my understanding yes.
- Q. When you told him that the Council had told you that a level 2 assessment was required what did he say to that? Did he say that he
- 20 would do one?
- A. Yes I recall that he said he was aware of what that requirement was.
- Q. The level 2.
- A. The level 2 and that he would do the necessary follow-up with the Council.
- 25 Q. So did he actually report to you verbally or in writing, I presume there's nothing in writing after that report, correct?
- A. No.
- Q. So did he report to you verbally that he had done a level 2?
- A. I believe he did, yes, because I was, I wanted to make sure that the
- 30 process was continuing because –
- Q. I'm not questioning you wanting to ensure that the building was safe, I understand that.
- A. Mmm.

- Q. Just wanted to ask you about the facts and what happened.
- A. Yeah.
- Q. So Mr Elliott, you say, reported to you verbally.
- A. Yep.
- 5 Q. That he'd done a level 2. Are you sure about that? Because Mr Elliott says he didn't do a level 2.
- A. Well I, my memory is that the process that was set out or the requirement set out by the Council was, in fact, followed and that culminated in –
- 10 Q. And what process are you talking about?
- A. The one, if I can refer to –
- Q. The one in your email?
- A. Yes that exchange of emails.
- Q. Right in that exchange of emails Mr Hector says to you that a level 2
- 15 assessment is required.
- A. Yeah well if I can just –
- Q. Do you want me to get it up on the screen?
- A. Yes.
- Q. Is that what you –
- 20 A. Yes, I –
- Q. It's 0025.1.
- A. Yep.
- Q. So Mr Hector says to you I can confirm that we've received a copy of the report.
- 25 A. Yep.
- Q. That's the initial report. As there is a significant chance of further aftershocks and due to this being an earthquake-prone building the structure needs to be made secure to prevent further damage and any chance of damage from any adjacent buildings. A level 2 assessment
- 30 needs to be undertaken before occupation can be resumed. Correct?
- A. Yeah.
- Q. Is that what you're talking about?
- A. Yes, yeah.

- Q. So you got that on the 15th of September, right?
- A. Yes, yep.
- Q. And when did you pass that on to Mr Elliott?
- A. I've got no record of a date of passing it on.
- 5 Q. Well you were told that on the 15th.
- A. Yeah.
- Q. You said that you were in constant contact with him.
- A. Yes.
- Q. Would you have rung him straight away and told him?
- 10 A. I believe so, yes, I'd no reason to delay.
- Q. And then he said to you well he will look after it or he would do that level
-
- A. That was my clear understanding.
- 0941
- 15 Q. That he would do a level 2 assessment?
- A. Yes.
- Q. And then after he had done his assessment did he come back to you and say I've done the level 2 assessment?
- A. I can't – I can't recall that specific exchange?
- 20 Q. You're telling us how you were obviously concerned about the building.
- A. Yeah.
- Q. And getting back in there and safety.
- A. Yeah.
- Q. And you're emailing the council saying what do we do and how can we
- 25 speed the process up et cetera. So after you get that email from Mr Hector you talk to Mr Elliott. He says he'll attend to that.
- A. Yeah.
- Q. Surely you would have been chasing him if you hadn't heard back?
- A. Well I think at the – the bottom line was that at the end of the day the
- 30 council had to sign off on it.
- Q. Right.
- A. So I was relying on that process because I thought, well if –
- Q. Because you're not an engineer.

A. I'm not an engineer.

Q. No.

A. I was –

Q. So as far as you were aware Mr Elliott had done his part?

5 A. Absolutely.

Q. And you can't remember exactly when or how he told you that but he conveyed that to you?

A. Yep, yes.

Q. And he dealt with the council?

10 A. Yes.

Q. And the next thing you know albeit a few weeks later the yellow sticker is changed to green, or you're advised of that?

A. Yes, we –

Q. By the council.

15 A. Yes we got an email from the council.

Q. And then you're allowed to open for business again.

A. Yes.

Q. And you've read the statement about from the woman who worked at the dairy?

20 A. Yes.

Q. You accept that?

A. Yes.

Q. So why were you and your assistant or assistants wearing hard hats and fluoro vests in the shop in the weeks after you opened if it had been cleared and as far as you're aware checked over a number times and cleared by the council?

25

A. Yeah. As I said yesterday the people working in the shop did have a degree of nervousness about the whole environment. I mean by that it was a time of a lot of nervous tension, there were aftershocks and the people working in the shop for about two weeks voluntarily donned hard hats and fluoro vests.

30

Q. That including yourself?

A. No.

- Q. So do you say that statement's wrong?
- A. Oh, I think when – that statement referred to the shop manager.
- Q. Is that not you?
- A. We employ a man who works there five days a week and that's who she
5 was referring to.
- Q. Right. Because you never replied to the letter from the Commission asking you about that did you?
- A. The – well my understanding was that we got that –
- Q. Well anyway –
- 10 A. There was – I didn't understand that there was a requirement to answer that.
- Q. All right, in any event you say it wasn't you wearing the hard hat and the vest but it was your manager?
- A. Correct.
- 15 Q. And that's because he wasn't – not, you couldn't allay his and others concerns about the building?
- A. I think there was a strong environment of safety first amongst our volunteers.
- Q. But there was also a strong concern about the building and the cracks
20 and the damage wasn't there?
- A. Yes, yes.
- Q. And that was shared by you wasn't it?
- A. Certainly at the outset before we got the – before the final green sticker allowing us to go back in there was issued, there was a period when
25 there was a good deal of uncertainty because we didn't have access to the – all the professional reports.
- Q. Right, and your concern as we've seen, saw yesterday about the cracks to the facade?
- A. Yes, yeah.
- 30 Q. Contrary to what Mr Elliott said you told him that they were old and pre-existing.
- A. I'm sorry can you just pick up on –

Q. I said contrary to what Mr Elliott said that you had told him at the time, that all of the cracks were pre-existing. You don't recall that now?

A. No I'm just not sure of the – of the question.

Q. What I'm saying is that your concern about the cracks, your phone call
5 to the council, all of those things appears to be contrary to the attitude that Mr Elliott said you seemed to have in telling him that the cracks that were observable when he inspected were all pre-existing.

A. Well I think the – our attitude on the cracks was simply that we as lay
10 people did not understand or fully appreciate the consequences if you like of those cracks.

Q. But Mr North, you were concerned enough to ring the council and say that the facade was badly cracked and that you were worried it could fall down on pedestrians, correct?

A. Yeah, yep.

15 **CROSS-EXAMINATION: MR ELLIOTT**

Q. Good morning Mr North. Just a few questions on some issues which Mr Bush's family are interested in – two issues. Firstly the issue of the tenancy. This the tenancy am I right between St Christophers Community Trust and Mr Yan as owner?

20 A. Yeah.

Q. How long had the trust been a tenant?

A. Since approximately April 1998.

Q. And as at September 2010 how much rental was it paying?

A. We were paying approximately \$1200 a month.

25 Q. Did the trust continue to pay rent during the period when the building was yellow-stickered?

A. No.

Q. Did it start paying rent again once it was green-stickered?

A. Yes.

30 Q. And was paying rent through until the 22nd of February I take it?

A. Correct.

Q. But stopped paying rent at that point?

A. Correct.

Q. Thank you. The second issue relates to the instructions that you on behalf of the trust gave to Aurecon about the inspections. I'm just going to read a section from a letter that Mr Yan has provided to the Royal Commission about a conversation he says that he had with you. He says that he had contact with you about a week to 10 days after the September 4 earthquake. Since the building was yellow-stickered and the building was locked he telephoned you to arrange access for the purpose of viewing the building for damage resulting. During this meeting he calls it, Morris informed me that he had already instructed Aurecon, an engineer that he knew from his church to perform an inspection on the building for the purpose of getting the yellow sticker changed to a green sticker. Did you say that to Mr Yan?

A. Well I can't recall the exact detail of the conversation but that would have been the general purport of the conversation, yes.

Q. From your point of view was the purpose of the inspection to get the yellow sticker changed to a green sticker?

A. I think certainly the purpose was to ensure that the building was safe for all the purposes that we used it for and that would have culminated in a green sticker.

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Q. Mr Elliott's letter to you said that Aurecon's role in this review is that of structural engineering advisor to review and confirm the initial safety status based on our observations of the building. Was that your understanding of the –

A. Absolutely, yep. We wanted to make sure that building was safe.

Q. Was a fee rendered by Aurecon for its services?

A. Yes it was.

Q. How much was the fee?

A. We have got a record of it at the office. It was in the hundreds of dollars.

Q. Would you provide a copy please of the invoice to the Royal Commission?

A. Yeah, certainly.

Q. Thank you. Did you consider getting Aurecon back after Boxing Day given that there'd been an aftershock and given that you had concerns about safety?

5 A. No because we, we felt there was, there was absolutely no change in the state of the, of the building.

Q. Was that based upon any engineering assessment or your own assessment?

A. No it based just simply on our own observations.

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

QUESTIONS FROM COMMISSIONERS CARTER AND FENWICK - NIL

WITNESS EXCUSED

MR ZARIFEH CALLS**ROBERT GOH HUNG LING (SWORN)**

Q. Mr Ling can you give the Commission your full name please?

A. My full name is Robert Goh Hung Ling?

5 Q. You reside here in Christchurch?

A. Yes, yes I do.

Q. What's your occupation?

A. I'm a civil and structural consultant engineer in Christchurch.

Q. And what are your qualifications?

10 A. My qualifications are BSc physics, mathematics first, then BE Civil, 1974.

Q. From?

A. Canterbury University.

15 Q. Canterbury and since you graduated have you been working in that field, in structural engineering or not?

A. I have been working in a variety in the structural, mainly structural all these years.

Q. Overseas?

A. No, Christchurch.

20 Q. I'm sorry.

JUSTICE COOPER:

Q. Do you have the CPEng?

25 A. No. I got a MiPEng. I was a resistor engineer in 1978 but because I was getting so close to retirement I didn't convert CPEng.

Q. Okay.

A. But it is in the pipeline to be.

EXAMINATION CONTINUES: MR ZARIFEH

Q. And do you practise on your own?

30 A. Yes I do.

Q. And are you a friend of Mr Yan?

A. Yes I am.

Q. I think there's two brothers that are part-owners in 7 Riccarton Road?

A. Yes.

Q. Michael and David Yan.

A. Yes I am.

5 Q. And you know them both?

A. Yes I do.

Q. And was it Mr David Yan witness yesterday, was it he who instructed you or got you involved in 7 Riccarton Road?

A. Yes he asked me to have a look with the insurance assessors.

10 Q. Was that Mr Muller?

A. Yes.

Q. So you, were you in Court yesterday and heard –

A. Yes I was.

Q. – Mr Muller's evidence.

15 A. For most of it, yes.

Q. Do you have any issue with Mr Muller's evidence. Do you disagree with anything he said about his visits?

A. No discrepancy inasmuch as that he said he keep recalling me for reports and I only got one email from him on 18 of November instructing me.

20

Q. Just on that then both Mr Yan and Mr Muller said that they were expecting a structural report on the building from you, correct?

A. Yes.

Q. Because you said that you would provide one?

25 A. Yes but can I elaborate a little bit more than that?

Q. Well you can in a moment. Have you provided that report?

A. Half done.

Q. So it's half done but have you provided anything to Mr Muller?

A. Not yet, but since the building went down I thought we don't need any report any more?

30

Q. Well wasn't the conversation when you said you would provide it back in November of 2010?

A. Well okay that's why I said I need to elaborate a bit more before I can answer the question.

Q. Okay, yes.

5 A. The main thing was the request for a structural report plus associated repair, recommendations and cost. They are three or four report in one. That building is 100 year old and you can't do anything constructively without a plan. There was no plan in the council or anywhere else so we had to draw an assisting plan first and we were very busy so David actually offered to do the measurement on site for us so they can give
10 us a sketch plan and my office would draw the floor plan which I got here. The second thing was the place we all agreed was very neglected, so much so that the insurance assessor say we may refuse the claim for lack of maintenance. So I told, I impress on David, I say, "Look, get your A into G and get, clean out the place first before we can
15 do anything and take away all offending materials and we will line the whole thing and strengthen the whole thing. The path of strengthening will be using plywood." But there is a design structure so the brief went on and on. Now we got to design the whole thing which mean that he – then we talk about maybe we should change the use downstairs to something more commercial and have a bigger return. I said to do that
20 you got to strengthen it to, whatever code there at the time and that is, again, more work, more design, more planning. So we were all in the pipeline to do all these things for the long-term benefit of all. It is a historic building. It has not mentioned at all but that is heritage category
25 4 and I think it was for preservation. It is a very handsome façade but it is a very dangerous façade because it is so big.

Q. So Mr Ling.

A. Yes.

Q. Mr Muller inspected it with you I think it was the 10th of November?

30 A. Yes.

Q. Correct?

A. Yes.

Q. And he said, expressed the opinion that the cracks were pre-existing?

A. Yes.

Q. Right?

A. Yes.

Q. And he said that you did not agree with that.

5 A. On one count, on several counts because let's face it, that earthquake of that magnitude 7.1, which is actually quite high whether you believe it or not but if you stay in the right direction you are lucky but if not then you are not lucky but there are minor cracks elsewhere in the building. The façade there are, there were cracks and look existing, looks new
10 but without detailed investigation, invasive or otherwise you cannot determine for sure from far away. I actually was very cautious not to say they were existing or they were new until I'm certain. Even existing cracks, like what the evidence given before, would be exacerbated by the earthquake regardless of what happened. So one way or the other
15 there are going to be some claims for insurance company and my duty was to determine which is caused by the earthquake, which is not and that itself is a tall order and that itself is not an overnight affair. You cannot do a planning in that without written instruction from the adjusters, you don't act because you can't. Verbal instruction some
20 time you got to be very careful. I received a written instruction on the 18th November. I went overseas because of family reunion and then come back in early December. Come Christmas period where you've got everything, all the plans already, the place clean on the 20th of February, already to go forward.

25 1001

Q. Why hadn't you reported on the cracks?

A. Progress?

Q. No just the cracks. Why couldn't you have just done that?

A. The cracks. Which cracks?

30 Q. Well you told Mr Muller that they were earthquake cracks.

A. No there were hairline cracks everywhere yes, but we cannot see from far away and I was not the engineer, as I say, I was not C PEng and

City Council would not accept my certificate to evacuate, to placard or anything in the building because of the lack of the paper.

Q. Because you're not a C PEng, okay. Now had you visited that building before the September earthquake?

5 A. No.

Q. So how did you know whether the cracks were existing or not when you were talking to Mr Muller on the 10th of November?

A. Well I didn't say whether it's existing or not that's why I say they, some could be existing some could be new but we need to investigate further
10 but there's one, one crack definitely is new in the sense that we disagree on the internal leaning of the wall and Mr Yan and everybody mentioned about it yesterday that on the northern wall there is a slight lean of about 25 mm at the top of the wall because there's a gap in the flashing and –

15 Q. In the what sorry?

A. In the flashing, between the flashing and the wall.

Q. Is that the gap that Mr Yan spoke of?

A. That's right yes.

Q. So you saw that gap?

20 A. Yes.

Q. And was that a new gap?

A. I took it that is a new gap but again the lean is over five or six metres is 25 mm is actually within the acceptable limits of most construction walls and everything even.

25 Q. Was that pointed out by you or Mr Yan to Mr Muller.

A. Muller, we all, we, ah, we collectively I notice, I point out to them all together is go to a manhole in the roofs, the hallway.

Q. Okay you saw the photographs yesterday that were up on the screen.

A. Yes I did.

30 Q. And you saw that photograph that shows the façade leaning out from the wall. I'll get it put up – 0061.3 – no sorry – 0051.3 sorry. See the top right?

A. Yeah.

- Q. That shows Mr Muller said that shows the white wall is the façade, inside wall of the façade, and that's the façade leaning out slightly.
- A. Yep that's right.
- Q. Is that the same thing you're talking about?
- 5 A. That is the same lean except that -
- Q. You're talking about the top?
- A. Yeah the top. I talking about the middle, I talk about the middle but this is on the eastern wall.
- Q. But it's the same actual lean.
- 10 A. Same, on the left of the picture is the north wall, façade wall, yes.
- Q. And so do you say that was not pre-existing.
- A. He said that it is pre-existing. I agreed that is pre-existing but I also told him that since the earthquake the thing has moved somewhat because from September to November there has been a lot of rainfall. There's no
- 15 water in the corridor where the gap is to the manhole so we assume, rightly or wrongly, that is new for insurance purpose. The lean of the wall has never been disputed by anybody. But it is about 4-5 mm per 1.2 metres so it's actually not –
- Q. Now you came in on behalf of Mr Yan.
- 20 A. Purely on insurance matter.
- Q. For the insurance claim right.
- A. Yes.
- Q. So did he not ask you to do a structural inspection of the property to make sure it was safe for the tenants?
- 25 A. No because my job is to actually say how much is it for the repair, more in term of plans only, purely on plans only.
- Q. And you told him to strip out the linings in ceilings and walls upstairs.
- A. I told him to clean out the whole place and make sure that it is so that we can come in and start working. I tell him what to do but I was not
- 30 aware he gonna take out everything.
- Q. Did you tell him to strip out the ceiling and wall linings?
- A. I say clean up old, it needs to be clean up because it looks very very untidy.

JUSTICE COOPER:

Will you just answer the question please.

EXAMINATION CONTINUES: MR ZARIFEH

- 5 Q. Did you tell him to strip out the ceiling and wall linings?
 A. Maybe the walls but not the ceiling, yes.
 Q. And did you not want the place stripped out so that it could be measured with a view to altering it later?
 A. Oh you don't have to strip the wall to measure it no.
- 10 Q. I realise that but that was going to be part of this alteration or –
 A. Yes, yes.
 Q. – refurbishment correct?
 A. Yes, yes.
 Q. Did you give any thought to what that might do to the strength of the building given that back then we were in an aftershock zone?
 15 A. The wall lining is plasterboard and it was so dilapidated that it doesn't do any job at all.
 Q. So did you think about that? Did you think about aftershocks when you told him?
 20 A. Yes, yes, yes I did but you see the walls actually has been departed from the front already. That wall is 400 mm thick and it has stood up well to the test of the earthquake and unless the earthquake come from a different direction, which it might do, there's, same earthquake I think it will still be all right but if ferocity of it on 22nd it beyond anybody's
 25 imagination, especially the vertical acceleration. It hasn't been heard of internationally – 2.2 vertical acceleration is very high.
 Q. So were you not concerned about the building's stability?
 A. I was not asked the question and I was quite happy with the scenario at that time yes.
- 30 Q. When you say 'scenario' you mean stability.
 A. The existing status quo, yes, and what I did, didn't actually reduce much of the strength because the timber wall do have cross-bracing as well

- and if you look at the, if you know much about building or engineering, the bracing provided by the board do contribute some but if it had been disturbed, rotten, hole punching everywhere, pieces thrown off, door frame removed already then by removing the board doesn't actually
- 5 reduce much of the lateral strength. The main strength is still in the timber cross-bracing that was actually a common practice in those days.
- Q. And what about the ceiling?
- A. The ceiling is lath and plaster and um –
- Q. Did that not provide any strength?
- 10 A. Not too my think because there were holes everywhere, you should have seen it, it cracks, it all cracks.
- Q. So you thought about the ceiling linings and didn't think it would make any difference.
- A. Don't make much difference at all because the whole thing is actually so
- 15 badly done already.
- Q. So are you now saying that you told him to take the ceiling linings out as well?
- A. I don't remember that part but I say clean up everything because the insurance assessor is going to come by and is all clean. He might turn
- 20 you down this time, I said.
- Q. Right and you said that you discussed with Mr Yan strengthening the building.
- A. Yes.
- Q. And he told us that there was discussions about tying back the façade.
- 25 A. That is with steel beams and steel columns, that is strengthening.
- Q. And that is presumably because you thought that it needed to be done.
- A. Well as an engineer in the long-term of bringing a building to required strength, yes.

CROSS-EXAMINATION: MR ELLIOTT

- 30 Q. Good morning Mr Ling. Were you employed by the Christchurch City Council at some point?
- A. Yes I was.

Q. What was your role with the Council?

A. I was actually a design team leader in the, as primarily the Christchurch Drainage Board first then become City Council.

Q. What did your role as design team leader involve?

5 A. I was actually primarily, believe it or not, a structural engineer in the drainage team because I did most of the pumping station designs and the superstructure design for the (inaudible 10.10.24) and believe it or not I was the one with the engineer involved in looking after the leaking problem in the PGC building.

10 Q. Yes, how long were you employed by the Council for?

A. 15 years.

Q. And when did you finish working with the Council?

A. 1996.

15 Q. Did you, as at September 2010 and subsequently, consider yourself bound by the Chartered Professional Engineers of New Zealand Rules?

A. Yes.

Q. You did.

A. Yes.

20 Q. Are you aware of the rules in part 3 relating to an engineer's general obligations to society?

A. Yes.

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Q. Can you tell us what those rules compel an engineer to do?

A. Safety first. Basically safety first, yes.

25 Q. And are you aware of the specific rule about the steps an engineer must take in relation to health and safety?

A. Yes.

Q. What does that rule require an engineer to do?

30 A. To (inaudible 10:11:31) that everything is safe, not, does not endanger life.

Q. Chartered –

A. I'm not a chartered professional.

- Q. I appreciate that but I asked you whether you consider yourself bound by the rules.
- A. I consider myself bound by it, yes.
- 5 Q. And in the course of engineering activities he or she must take reasonable steps to safeguard the health and safety of people?
- A. Yes.
- Q. You wouldn't consider that that ethical obligation is constrained or restricted in anyway by the terms of a contract with a client would you?
- 10 A. No, but then the ethical part do come in when there was already an engineer on the job already. Without direct instruction to the contrary and without seeking or informing the other engineer I don't usually get involved with any other structural design on purpose in such as they're – on that safety issue at the building at that moment.
- 15 Q. Mr Miller has given evidence that we, which I think included you, discussed the fact that the junction between the facade and the main support structure of the building had parted.
- A. Yes.
- Q. But that the very noticeable crack was pre-existing although possibly exacerbated by the earthquake.
- 20 A. Yeah.
- Q. You may not have agreed about the pre-existing issue but you agree that the junction had parted?
- A. Well at least made worse by the earthquake by the way it is.
- Q. And you agreed that the condition of the building was unacceptable?
- 25 A. No, I think it has been yes shown to be very stable and I have not cause for concern that it will collapse in anyway whatsoever if that's what you mean.
- Q. Well I'm just quoting what Mr Muller said, which was that Mr Ling agreed that the condition of the building was unacceptable.
- 30 A. Unacceptable in saying it is actually very under-maintained. All these things should be under maintenance. If there is any existing slow creeping cracks they should be maintained and fixed immediately. That is true.

Q. You say that your role was to give consideration to whether damage was pre-existing or –

A. Yeah.

5 Q. – resulting from the earthquake, so that required I imagine a relatively thorough inspection of the building?

A. Yes.

Q. And in the course of that inspection given your experience as an engineer you would have noted –

A. I haven't done –

10 Q. – any potential (overtalking 10:14:13).

A. I haven't (inaudible 10:14:14).

Q. Could I just finish my question please Mr Ling and then we'll ask you to answer. Mr Smith mentioned some possible failure mechanisms.

A. Mhm.

15 Q. Did you hear that evidence?

A. Yes.

Q. So I take it that you noticed those failure mechanisms in the course of your examination of the building?

20 A. Hindsight is a beautiful thing. At that moment no, we didn't actually go into details of mechanism of failure and things like that, we were more likely in terms of how do you prevent any future work and all I was interested in, what can I do and how much going to cost my client to strengthen the building to its former glory if he can, bearing in mind that we cannot demolish. My client would love to demolish that building and start again, but we can't demolish that because it is a historic building so
25 we had to find ways and means of trying to preserve it.

Q. Your analysis included inspecting cracks?

30 A. Yes, we, yes we do. We have got on it photograph as well. We have not actually made any attempt to climb up high to look at the cracks. I have looked at the cracks at the back of the building, putting aside for one moment, putting the facade aside for one moment, my job involved the whole building, not just the facade only, so we have been inspecting

the low part and seeing whether there any obvious crack caused by the earthquake and not, and things like that, yes.

Q. You would have seen the crack behind the face of the facade on the north-eastern corner of the building?

5 A. Mhm, yes.

Q. And that would have indicated to you just as Mr Smith has noted, that that was a sign of a potential failure mechanism, namely –

A. Yes.

Q. – the facade falling outward?

10 A. Yes.

Q. That was obvious to you (overtalking 10:16:16) that crack.

A. As I say we were all celebrating and so elated that magnitude 7 earthquake we have magically survived so well and that we must have done something right so we were in the process of doing detail analysis and I just got a plan and the place cleaned a day, a couple of days before that we were in the process of doing that analysis that you're talking about.

15

Q. You went back to the building after Boxing Day?

A. Yes.

20 Q. By which time there had been an aftershock (overtalking 10:16:52).

A. That was just barely to inspect and see how the progress of cleaning and things like that was going on.

Q. Based on your experience as an engineer employed by the council and otherwise, you would have been aware in September of the particular danger posed by parapets?

25

A. Yes.

Q. Was your client as far as you could see concerned about safety or about insurance?

A. They are very, shall we say average kiwi, who has not much knowledge about buildings or otherwise. They are hard-working first generation kiwi who only want to protect their investment because that is all they know because they want to survive. They came with nothing, they have built themselves up to something and that is what their life is about.

30

Q. So they were relying upon you were they?

A. So they were relying on other engineers and insurance assessors and everything and yes myself too in that sense, how to make the lively, the building, how to protect the investment. I was more like the investment
5 advisor as well as everything else.

Q. I see. Did you charge a fee for your services?

A. No. Not yet. So I haven't charged.

Q. Was your client anxious to protect the investment you've talked about by keeping tenants in the building if possible?

10 A. Yes. No, not, yes of course to protect his investment but that was already dealt with by the time I got involved anyway, so there's no issue.

Q. Do you agree Mr Ling that given the particular danger posed by this type of building and the cracking in the parapets and the potential failure mechanisms that after Boxing Day at least you should have told the
15 council or the owner or the tenant, preferably all, that this building should not have been occupied?

A. Two things. Firstly that question should be asked to the Historical Places Trust. Secondly, had the building not been occupied the end result would not be – would be the same. Thirdly even with all the walls
20 intact and no lean, I can tell you the end result would be the same too. So the protection order on that building could be the main cause for the whole disaster in the sense that we cannot do anything without having long lengthy resource consent applications and building permit applications to do anything, so much as to deface it or something like
25 that, so we have a lot to learn, we know the historical places need to be kept, but at a price and unfortunately somebody had to pay the price which is very unfortunate and very sad and I actually am on the campaign to sort of remove some of the teeth that this trust have got.

CROSS-EXAMINATION: MR LAING

30 Q. Good morning Mr Ling.

A. Good morning.

Q. You gave evidence that you told Mr Yan to remove the wall linings didn't you?

A. Yes that is, I beg your pardon, I'm getting to an age memories can be funny so I may have given him that total instruction or I may not have
5 but yes I have given some instruction to clean out the place and remove all of the offending materials which mean all the problem parts of the wall, everything looks so unhealthy and unfriendly and just looks terrible.

1021

Q. Well did you or did you not tell him to remove the wall linings?

10 A. Some of it definitely but not, I don't know whether I did the whole lot or not because as I say I cannot remember the instruction totally.

Q. So you can't recall –

A. There are only two walls involved anyway.

Q. Well did you tell him to remove the wall linings off both those walls?

15 A. Most likely yes because it looks so bad.

Q. Most likely?

A. Yes, yes, yep.

Q. So did you supervise the work that Mr Yan was doing?

A. No I said, "When you've done the job call me. I will come and look at it."

20 Q. So Mr Yan went, did that work unsupervised by you. Had you prepared any plans for the strengthening works?

A. Not yet. I only got the floor plan done so far, assessing floor plan and elevations. So it takes, this old historic building, especially 100 year old building, takes a long time to actually put a strengthening but it is on the
25 way. As I say Murphy's Law is a fantastic way of solving problem. We finish this plan, we start the plan, we start it on the 1st, 11th of January because that was when Mr Yan give us that sketch plan and we have finished the sketch plan and they had just finished cleaning the place just before the earthquake.

30 Q. So is it your evidence that you start – you prepared some plans –

A. Yes.

Q. – before the February earthquake?

A. Yes, yes. We had done a lot of work already.

Q. And so what did those plans involve?

A. The plans, you mean this, the plan we both worked on?

Q. Yes the plans, the plans you obviously have in front of you there.

A. Yes, yep. It is just the floor plan of the ground floor and the floor plan of
5 the top floor and that would give me all dimension and also from the
photograph I can actually identify the cracks and things like that.

JUSTICE COOPER:

Would you like to see these plans Mr Laing?

10 **MR LAING**

Maybe he could just tell us in a bit more detail what they involve. It'd be quite
useful to see them if they were available.

JUSTICE COOPER:

15 Well I'm perfectly happy for you to see them.

MR LING:

Well it is now a historic document because the building is not there anymore.

20 **JUSTICE COOPER ADDRESSES MR LING – AWARE OF THAT**

CROSS-EXAMINATION CONTINUES: MR LAING

Q. The plans are called "Proposed Alteration" aren't they?

A. Yes.

Q. But essentially they are –

25 A. Existing plans.

Q. Existing plans?

A. Yes.

Q. Layout, what you would describe as layout plans?

A. Yes, yes. Floor plans.

30 Q. So they were the only plans that were prepared before February 22nd?

A. Yes.

- Q. So you told Mr Yan to start doing what I would call building work without any plans being finalised?
- A. No. I was actually doing work that is totally permitted in the Building Code by replacing wall lining. We don't need permit for replace wall linings.
- 5 Q. But Mr Laing you weren't replacing wall linings. You were doing strength, that was the intention, to do strengthening works?
- A. What you are asking, telling me that we are doing something illegal. I'm saying, no, we are not at that stage but if I want to I normally plan my job so that whatever I do temporarily will be used in a permanent scenario. So if I were to replace the wall lining from plaster board to plywood, for example, we don't need any consent for that.
- 10 Q. So do you normally tell your clients to start doing building work without a building consent?
- 15 A. No, this is a different case. As in the clean out, the clean out is at, clean out the place because he is so, he would run the risk of losing the insurance claim. I said clean it up and we will look at it properly. That way then we can see where we are going.
- Q. Mr Ling taking off wall linings is building work isn't it?
- 20 A. I know where you're coming from.
- Q. Just answer the question.
- A. To a certain extent, yes.
- Q. To a certain, it's either building work or not Mr Ling. What is it?
- A. Okay, yes.
- 25 Q. Thank you. So you told Mr Yan to start doing building work. Did you tell him he was going to need a building consent for his work?
- A. When we got the plan done we will go for the consent to strengthen the building.
- Q. Right, so did you tell him that?
- 30 A. Yes. That is the plan.
- Q. So –
- A. That is why we want to make use of the floor that is not being used at the moment.

Q. So your idea of cleaning out the building was to remove wall linings which was building work, correct?

A. Okay if you had seen the place you wouldn't ask these question because the walls actually are falling off and is over the show so what do you do, you leave it there or just take it off?

5

Q. Just answer the question please Mr Ling.

A. No, no, no – certain questions have to be explained.

Q. Well I'm not going to belabour the point but in essence your evidence is that you told Mr Yan to start doing building work without a building consent and where plans had not even been finalised.

10

A. No I asked him to do work that don't need building consent.

Q. So that's your reason for telling him to go ahead with that work?

A. Yes because he don't need building consent to remove the wall and put something back.

15

Q. Do you think that was prudent to remove wall linings in that building given its state, given that the work was not even, the strengthening work wasn't even fully designed?

A. What, what we were doing is not going to compromise the state any further than what it is in. In fact it might improve the whole scenario if we were able to do it properly, fast enough.

20

Q. But the plans hadn't been prepared had they? Detailed plans had not been prepared?

A. Well the detailed plan is for the strengthening, not for the usage of the room upstairs. The usage of the room would be as per normal, we were going to clean it out, do it properly but making sure the whole building, while we were doing that we were strengthening the whole building so that the place – there is no point spending 50 hundred grand if the building's going to last –

25

30 **JUSTICE COOPER:**

Q. Mr Ling?

A. Yes.

Q. The question you were asked was whether the plans had been prepared. I think the answer to that question must be no but you could say that and save a lot of time.

A. Okay, no.

5 CROSS-EXAMINATION CONTINUES: MR LAING

Q. Thank you. Well finally was it prudent to remove the wall linings given the state of the building and given the fact that you had not got consented plans for strengthening works?

A. That is not a fair question to ask.

10 Q. Answer the question.

JUSTICE COOPER:

Q. Just –

A. Yes, because that part will be easy improvement as far as I'm
15 concerned.

QUESTIONS FROM COMMISSIONERS FENWICK AND CARTER – NIL

JUSTICE COOPER:

Q. You inspected this building after the September earthquake?

20 A. Much later.

Q. When did you first inspect it after the September earthquake?

A. In, in November when the lost adjustor made a visit because they were feeling a bit shall we say lost with the loss adjustors because they don't know what to expect so they say, "Can you come along and be our
25 middleman."

Q. Did you ever form a view on whether the September earthquake had exacerbated or made worse the pre-existing cracks?

A. Yes.

Q. What was that view?

30 A. They have, well I believe from my experience that with that sort of earthquake the existing cracks would definitely be enlarged

proportionately and there will be some new failure points in other important key positions but if I may elaborate further. The September earthquake like explained by Mr Smith was that it came from the direction in to –

5 1031

Q. I don't want you to comment about the earthquake I just wanted to ask you, to have you answer about your view on whether the September earthquake had made the existing cracks in the building worse. Now what's the answer to that question?

10 A. Um, marginally, very marginally.

Q. Very?

A. Marginally because they don't seem to be much degradation in strength in that sense of the word.

15 Q. So did you understand that Mr Yan wanted you to report on the consequences of the earthquake for the purposes of a claim that he wanted to make from the insurance company?

A. Yes.

Q. And did he ask you to do such a report?

A. He asked me to produce a damage report, yes.

20 Q. Did you do that?

A. I was on the way of doing it.

Q. Sorry?

A. I was, part of that damage report included preparing a plan so they can actually go to the (inaudible 10.32.39) where the damages are.

25 Q. Well I think you're saying you started to prepare such a report. Is that what you're saying?

A. Yes.

Q. And when you first began giving evidence this morning you said you were halfway through that report, is that right?

30 A. That is the halfway the preparation beforehand.

Q. Sorry?

A. Getting all the plans done and –

- Q. Why did you need plans done to prepare a report on the consequences of the September earthquake?
- A. Because it's very difficult to actually, the insurance assessor sometime want exact location of damages, especially in the case of building like this. We got to be very careful and foolproof that we got everything, all the Ts crossed and all the, all the I's crossed and all the T, whatever anyway, we gotta do it properly and I try to do it properly.
- 5 Q. So do you have the damage report in its uncompleted state with you today?
- 10 A. As I say, in this plan, I got all my own plans to look at.
- Q. Those are photographs that you've just held up.
- A. Yeah and then I gotta get those plans so I know where everything is to start off with yes. These are the groundwork I got the staff to do first before I start to analyse the detailed report.
- 15 Q. Well are you saying that you got to the stage of putting together a plan which showed the building, described the basic structure of the building is that what you're saying?
- A. The layout of the building.
- Q. Yeah, so you hadn't started on any kind of report about the consequences of the September earthquake other than to that extent.
- 20 A. Not in the written form yet.
- Q. Not in written form.
- A. Not yet.
- Q. And when do you think you might be finishing that report?
- 25 A. Once you start it takes about three days but is a matter of getting started. As I say I don't like to do jobs having to run back all the time and do measurement and things like that. I want to be able to do it once and record it on a plan and –
- Q. So when are you intending to do it.
- 30 A. As I say I was intending to actually go back with Mr Muller to do a final inspection before I produce a report for that.
- Q. So you're not going to complete the plan now, the report, the damage report?

A. Well since 22nd of September, ah, February I thought it is futile to produce a report.

Q. Is what?

A. Is futile to produce a report when (inaudible 10.35.26 – overtalking)

5 Q. So Mr, the owner's insurance claim will not, in fact, be supported by any plan prepared by you.

A. Is a total loss anyway so...

Q. I see, all right thank you.

FURTHER CROSS-EXAMINATION: MR ELLIOTT

10 Q. Mr Ling my last question to you was just about whether you, in fact, should have notified various people about the possibility of danger and you gave evidence about the Historic Places Trust. The information we have is that this property is not registered with the Historic Places Trust.

A. It is heritage for Category 4.

15 Q. I see so you're reference is to it being heritage group 4 in the city plan.

A. Yes that's what I was told.

MR LAING ADDRESSES THE COMMISSION

DISCUSSION RE MR LING'S PLANS BEING IN THE RECORD AT
20 **BUI.RIC007.0010.5**

WITNESS EXCUSED

HEARING CONCLUDES INTO CIRCUMSTANCES OF THE FAILURE OF 7
RICCARTON ROAD

25

COMMISSION ADJOURNS: 10.38 AM

COMMISSION RESUMES: 10.46 AM

30

391/391A WORCESTER STREET**JUSTICE COOPER:**

We now commence our enquiry into the failure of the building at
5 391 Worcester Street and those of you who are interested in this I am sorry
that you have had a wait this morning. May I acknowledge members of the
families of those who lost their lives on the 22nd of February at this address.
Mrs Betty Dickson who was there as a customer in the shop and Natasha
Hadfield who was working in the business that she ran with her husband,
10 Geoff Hadfield. We express our condolences to you for the sad events that
occurred on that day. We have a process, I know Mr Hadfield senior will be
aware of the processes that we follow. We have to enquire as best as we can
into why the building failed and why there was loss of life and to do that we
need to approach it in a calm and dispassionate way and you may have very
15 different feelings if you've been directly affected by it but that's the process
that we have to go through.

MR ZARIFEH OPENS

If the Commission pleases, 391, 391A Worcester Street was a two storey row
20 unreinforced masonry building in a suburban shopping block housing a
Pizzeria on the ground floor, 391, and a residential flat upstairs 391A.
Following the September earthquake the building sustained damage including
to parapets and chimneys and to the roof of the building. Emergency repairs
were carried out by Contract Construction Limited and tarpaulins placed over
25 the roof and walls of the upstairs and that is evident in the photograph that is
now on the screen. The owner, Mr Pak Loke made a claim with EQC in
relation to the residential flat upstairs and his insurers, AMP in relation to the
downstairs premises. The building was inspected by a Tim Gwatkin of TM
Consultants, a structural engineer on the 10th of October on behalf of a loss
30 adjustor. David Whyte who is a registered builder of Whyte Construction
Limited inspected the building on the 8th of November to quote on repairs.
Present were the owner and his engineer, Mr Robert Ling. Mr Whyte
expressed the view that the upstairs was unsafe and should be demolished.

There does not appear to have been any inspection of the building immediately following the Boxing Day aftershock either by council or by privately retained engineers. However on the 1st and 2nd of February of this year EQC assessors inspected the building and concluded that the east and west walls of the upstairs flat were cracked and unstable and in danger of collapse. In the February earthquake some three weeks later the west wall of 391A Worcester Street collapsed onto the roof of Wicks Fish Shop which was situated next door at 389A and a large volume of bricks fell through the roof.

10 **JUSTICE COOPER:**

Q. Mr Zarifeh, just confirm for me we're looking at the photograph with the suffix 002. This is Worcester Street travelling north so that the view we have is roughly from the south-east. Is that right?

A. Yes Sir and the west wall of 391, 391A is covered in the blue tarp, and obviously the fish shop had two actual shops but the shop, the first shop is immediately adjacent to that.

MR ZARIFEH CONTINUES:

As I said, a very large volume of bricks fell through the roof of Wicks Fish Shop and Natasha Hadfield who ran the business with her husband, Geoffrey Hadfield, was behind the counter serving a customer, Mrs Betty Dickson. As a result of that very large volume of bricks and coming through the roof and onto them, they were crushed and were killed as a result. The proposed witnesses are Peter Smith of Spencer Holmes Limited structural engineer, and perhaps list them in the order that hopefully they will be called, then Contract Construction Limited and I have got Gary McGill down there but it transpires that although he's provided information to the Commission he did not actually go to the site and I think he's going to present it but with a foreman I think, who did go but it will just be one witness, take up the space of one witness. David Whyte who I mentioned from Whyte Construction, Tim Gwatkin the structural engineer I mentioned, the Christchurch City Council Mr McCarthy, Mr Pak Loke the owner, and then there are three witnesses that Mr Carter intends calling from EQC including

the chief executive of EQC and that's to deal with one of the main issues that will arise and that's this issue of communication of potential danger. Robert Ling is listed there as a written statement and there is a statement in fact, it's an affidavit from Geoffrey Hadfield and some photographs that he refers to. He is now living in Australia, he provided that and it says information from Warren and Lewis, that's because it's referred to by a couple of a witnesses. It was a structural engineering inspection of Wicks Fish Shop so not directly relevant but it's in the material.

10 As I've indicated one of the main issues is going to be whether EQC and / or Mr Loke as the owner should have communicated to the council and / or to neighbouring owners of the potential danger posed by the building in the state that it was in, after that assessment early February of this year and in general sense the application of the council's earthquake-prone policy.

15

MR ZARIFEH CALLS

PETER SMITH (SWORN)

1056

20 Q. Now Mr Smith you've already given the Commission a run over your CV but just for those who aren't aware of it you are a qualified structural engineer of some 43 years' experience and you have been engaged by the Commission to prepare reports on a number of buildings including the building that was at 391, 391A Worcester Street?

A. That is correct.

25 Q. And you have prepared a report on that building dated November 2011?

A. Correct.

30 Q. I just want to take you briefly through that report, the salient points. The building as I've already said was a – and we can see in the photo before us – was a two-storey unreinforced masonry construction in a row of buildings and in the middle of that row, correct?

A. Correct.

- Q. It is obvious from the photograph that 391 was a two-storey building and that the buildings on either side and in fact I think I'm correct in saying in that block were single storey?
- A. Correct.
- 5 Q. Does that have any bearing on the structural stability or earthquake resistance capabilities?
- A. It means that the adjoining buildings do not provide any restraint of the levels, the walls above the height of the adjoining buildings but little else.
- 10 Q. So it's a factor to take into account when you're assessing a building?
- A. I think the biggest danger is the, the lateral support of the walls above the adjoining buildings where they can fall onto the adjoining buildings or onto the footpath.
- Q. Right. Okay now that building was essentially in its original condition?
- 15 A. It appeared very much in original condition.
- Q. In other words it did not appear to have had any structural strengthening in the past?
- A. Correct.
- Q. We're going to hear a bit more evidence about this so I just want to run through it so that we understand what happened but in the September, 20 4th of September earthquake the building suffered some considerable damage?
- A. Correct.
- Q. And make-safe work or temporary make-safe work was completed by 25 Contract Construction and we'll hear from them but that involved I think essentially removing a chimney or two towards the back of the property, reducing a parapet on the east side, so that's not the side we're looking at in that photo.
- A. That's correct.
- 30 Q. And putting tarpaulins over to make the roof weather-tight?
- A. I believe there was a chimney removed in the sort of centre area, the blue tarpaulin on the –
- Q. West side?

- A. – west sides or the remains of a chimney.
- Q. Because in the September earthquake the parapet and chimneys had fallen onto the roof of 391 and damaged the roof hadn't they?
- A. The parapet, front parapet had fallen onto the roof. I believe some of the chimney on the west wall fell onto the adjoining roof.
- 5 Q. Onto the Wicks Fish Shop roof?
- A. Correct.
- Q. Correct and I think that had to be repaired or replaced?
- A. I understand it was, yes.
- 10 Q. But in terms of 391 itself there was damage to the roof and some of the beams in the, under the roof?
- A. Yes.
- Q. Correct?
- A. Yes the collapse of the parapet clearly damaged some of the roof framing in behind the parapet.
- 15 Q. Does damage to a roof, does that have any effect on the structural stability of the walls?
- A. Damage to the roof itself may not but if it damaged the roof framing it could certainly affect the strength of the building.
- 20 Q. And we'll hear from Contract Construction about their work and the tarpaulins and we'll also hear from Mr Gwatkin who did a structural inspection on the 11th of October after that work had been done and the tarpaulins put in place. You'll have heard me mention the EQC assessors. They visited on the 1st and 2nd of February this year and I think you'll have seen their report, the assessors' reports and file notes they made. They expressed concern about the east and west walls. Correct?
- 25 A. Correct.
- Q. And they were described as nine metre double brick walls with parapet?
- 30 A. That's correct.
- Q. You've described that in your report. So is that nine metre from ground to top?
- A. I would assume so.

- Q. And the east wall that we can't see and we'll see a photograph of it later had had bracing put up against it so bracing from the roof of the adjoining property and against the east wall after September, correct?
- A. Correct. The east wall was the most significantly damaged.
- 5 Q. In September?
- A. In September, yes.
- Q. But no bracing was put up on the west wall?
- A. Not that we're aware of, no.
- Q. And the EQC assessors had noted that both brick walls had multiple
10 cracks and were unstable and moving?
- A. That's correct.
- Q. So that was some three or so weeks before the February earthquake?
- A. Correct.
- Q. I just wanted to set that scene. Now I want to turn and ask you from
15 your review of the documents and photographs about the failure if you like, failure mechanism and what caused the, in particular the deaths of the two women Mrs Hadfield and Mrs Dickson. Just before I come to that, page 4 of your report, have you got that there?
- A. Yes.
- 20 Q. Can I just get you to correct something? The paragraph just before structural failure. See that. You've got the reference to Colombo Street, should that be Worcester?
- A. Yes, definitely.
- Q. All right. Thank you. All right now dealing with the structural failure.
25 Perhaps if I get you to read from your report under Structural Failure, the second paragraph, "The parapet and portions."
- A. "The parapet and portions of the west wall collapsed onto the roof of the building at 389A Worcester Street during the 22nd February 2011 earthquake. Extensive damage occurred to the Worcester Street
30 façade and to the east wall. Examination of photographs taken after the 22nd of February 2011 earthquake, refer appendix 3, establishes that the failure of a substantial portion of the west wall and parapet in the 22nd of

February 2011 earthquake was an out-of-plane failure of the wall primarily above first floor level.

Q. So just tell us, what do you mean by an out-of-plane failure of the wall?

A. Is it possible to bring the photographs?

5 Q. Yes. They are on 0050.19.

WITNESS REFERS TO PHOTOGRAPHS

A. There's one that looks at the –

Q. You've got the pages there, which page do you want to refer to? You've got page 19 of your report up at the moment.

10 A. Yes. There's not actually a brilliant photograph of that.

Q. What are you looking for?

A. I'm looking for the actual photograph of the west wall. Probably the photo on page 22 is, it's a matter of looking at that photo I think and probably the ones on page 19. If you look at the page 19, yes now if
15 you can recognise from –

JUSTICE COOPER:

Q. This is page 22?

A. This is page 22.

20 Q. Yes.

A. You can recognise the Wicks sign still on the front of the building at 389. You'll notice the upper portion of the building at 391, 391A has fallen off and you can make out that there is a short length of the west wall at the south-west corner still present but from that point, about that point –

25 Q. Would be the south-east corner isn't it?

A. South-west is it not – if you're looking at, where that striped?

Q. Well if I was standing notionally in the middle of that building it would be the south-east corner wouldn't it?

A. I'm looking at the, if you, what was the remnants of the west wall.

30 1106

Q. Yes, which runs in a west –

A. It's on the left-hand side of the building, 391, and you'll see there's still a length of the wall present there. But if you look at the photos on page

19 it's possible to see that just beyond the length of wall that's remaining there the rest of the wall has largely fallen. If you look at the bottom left-hand corner, I'm sorry these photos don't really pick up exactly what we want to show but you can see that there's a short length of, have we got
 5 a, above the white wall you can see there is some brickwork there which was the original southern portion of the west wall but you then, the brickwork is missing coming to the left. So that that it is from that point heading north that the west wall failed. Clearly the parapet above the remnants of the west wall at the southwest corner also fell.

10 **EXAMINATION CONTINUES: MR ZARIFEH**

Q. I'm just gonna get a clearer photo of that one. Just stop using the mouse please and.... The top right one. Now that's looking inside, looking through the hole in the roof caused by the bricks falling through, correct?

15 A. Correct, yes.

Q. And so we can see into Wicks Fish Shop and that, in fact, is the front door to Wicks that we can see, can you just put that –

A. Yes that's there.

Q. And the brick –

20

JUSTICE COOPER:

Excuse me, through that door is Worcester Street.

MR ZARIFEH:

25 Correct.

EXAMINATION CONTINUES: MR ZARIFEH

Q. And the bricks that are out there on the road as will become apparent in Mr Hadfield's statement that's going to be read are bricks that were thrown out there in the process to try and get, try and recover and
 30 rescue his wife and Mrs Dickson.

A. Yeah I understand that there's a case. It is possible that some of those bricks may have been the portion of the collapse of the –

Q. And the wall that you're talking about, the west wall of 391/391A, you've got the cursor there, is to the start of the hole.

5 A. That, from there, yeah, that section of the west wall, the south end was still in place but from that point heading north the wall had failed.

Q. Right.

JUSTICE COOPER:

10 Q. Heading west?

A. West wall. Am I right? It's the west wall of 391.

Q. If you're travelling in that, if Worcester Street is running north/south.

A. No east/west,

Q. East/west.

15 A. That's looking south that photograph. The south wall of the building has frontage to Worcester Street.

Q. Just had the lawyer's disease there for a moment Mr Smith I'm sorry.

A. That's all right. So the wall we're looking at that I have the cursor on there is the east wall of the single storey building, the fish shop, and it's

20 what we're seeing above there is the remnants of the west wall of 391.

EXAMINATION CONTINUES: MR ZARIFEH

Q. And perhaps we'll just look at another photo 0045.7 to show a slightly different shot of that same view but with the tarpaulin for obvious.... If that could just be turned around please. Now that's a shot looking from
25 further back.

A. That's right.

Q. And again you can see the tarpaulin's still up and still held by the south end of that west wall.

A. Yes the tarpaulin's obviously fixed to the roof and the brickwork from
30 where I'm showing the cursor, which looks like about a couple of metres from the southwest corner, has fallen outward and that's vaguely in the area where that chimney, I think, existed.

Q. And the, we can see the corrugated, the bricks have gone through the corrugated iron on that side.

A. Yes.

5 Q. And just looking at the right-hand side of that picture, so that's the parapet and you can see still the southern end that's still intact. That was a parapet in-between the two shops that Wicks occupied, correct?

A. Yes.

Q. On this roof and it's fallen in the earthquake.

A. I think that there is the remnants of that parapet.

10 Q. Yes and it's sitting, the parapet's sitting on the existing roof, correct.

A. Correct yes.

WITNESS REFERRED TO 0043.23

15 Q. This is another photo that's referred to by Mr Hadfield in his statement. 0043.23. It's not the one I've got. If we can go to the bottom left one please. Okay we can see this is the west side of the second of the Wicks shops.

A. So that's not showing the building that we've looked at this is the –

Q. No this is the, that's the Wicks first shop and the second shop is the roof that is not disturbed.

20 A. Yeah the area of parapet that we looked at on the previous photos is that area there and that's on the –

Q. And so what it shows is the parapet on the very west end of the second of the Wicks shops failed in the February earthquake as well.

A. Correct.

25 Q. And those are some of the bricks sitting on the roof, correct?

A. Yeah.

30 Q. And just to complete that, and again another photo Mr Hadfield refers to – 0043.5 – and it's the bottom left if you can turn it round. So the top left photos what I wanted to show you. That, according to Mr Hadfield's statement is the wall, the internal wall of that far west wall that we just looked at where the blocks had fallen.

A. So that, that wall's the, that's the west wall of the western (inaudible 11.14.55)

Q. Right, although the parapet had fallen, collapsed in the February earthquake, that photo shows the internal wall hadn't.

A. Correct.

5 Q. Can I take you back to your report. So I was asking you what you meant by an out of plane failure of the wall that we looked at and what that meant so it basically meant that the wall or part of it collapsed outwards then onto the roof of Wicks and through the roof.

A. Correct.

Q. And I think you were about to read "While the south end of the wall....".

10 **WITNESS CONTINUES READING BRIEF OF EVIDENCE**

A. "While the south end of the wall remained standing it is evident that a substantial portion of the wall above first floor level rotated at or near the first floor support and fell onto and through the roof of the adjoining single storey building at 389A Worcester Street. It appears that the chimney may have contributed to the failure."

15

Q. Was that a chimney that was still intact or had it been altered or removed?

A. As I understand it the top of the chimney had been removed following the 4th of September earthquake.

20 1116

Q. All right.

A. But as I understand it the remains of the chimney which were probably built integrally with the wall had not.

25

Q. But the volume of bricks that went through the Wicks Fish Shop roof and into the premises came from the wall itself, double-brick wall?

A. And possibly the chimney too.

Q. The chimney that's built into the wall?

A. Mmm.

30

Q. Right. Thank you. Now I just want you to turn over to page 6. You make a comment about rapid assessments under the heading "Rapid Assessments?"

A. Correct.

Q. Can you read that first paragraph out please?

- 5 A. “No rapid assessment level 1 was undertaken on the building following the 4th of September 2010 earthquake despite the building having suffered a partial failure of the street façade and other damage. While there are resourcing issues in undertaking rapid assessments, level 1s, inspections of all unreinforced masonry buildings in the period immediately following a significant earthquake in a large metropolitan area there is a concern that such an assessment has not been undertaken on a visibly damaged building within a six month period.”
- 10 Q. And the 6 month period you're talking about between the September earthquake and February?
- A. Correct.
- Q. Now the other thing I want to refer you is the heading “Co-ordination of Assessments” under, on page 7. Perhaps you could read those, that section out please. Those two paragraphs.
- 15 A. “Co-ordination of Assessments.” The building was not inspected as part of the Civil Defence rapid assessment process as it was outside the Christchurch CBD. The building was, however, inspected by several engineers and an EQC assessor. The EQC assessor’s assessment of the building was that the building was in danger of collapse and that the
- 20 nine metre double-brick walls were unstable. While this assessment appears to be at variance with other assessments, however, it appears to have been the only assessment after the Boxing Day earthquake. The opinion raises serious concerns over the safety of the building and the appropriateness of the building and the adjoining buildings being
- 25 occupied. Such opinion should not, in our opinion, be retained within the Earthquake Commission files. Public safety requires that in the event of any party undertaking an assessment, identifying the condition of the building differs from the current status of the placard or lack of a placard displayed on the building they notify the territorial authority.”
- 30 Q. Just a couple of points to clarify that, that section. You said, “Several engineers.” We know that Mr Gwatkin looked at it on the 11th of October and that there were at least two building firms that went, one to do the make-safe work and another one to give a quote.

A. I was referring to, there was an inspection of the adjoining building by Lewis and Barrow –

Q. That was of Wicks though not 391.

A. Indeed at the same time the apparent damage to the building at 391
5 may be, could have been triggered.

Q. All right. Just so we're clear –

A. Yep.

Q. – the building 391 that we're concerned with was inspected by Mr Gwatkin on the 11th of October?

10 A. Yes.

Q. I think he was the only engineer that we're aware that inspected that building, correct?

A. I think so, yes.

Q. And in terms of the Earthquake Commission issue, I think you're aware
15 that we're going to hear from the Earthquake Commission on the policy at the time and the policy that exists now. Were you aware of that?

A. I wasn't aware, no.

Q. Are you not, all right. Well I'm just telling you that we are.

CROSS-EXAMINATION: MR ELLIOTT – NIL

20 **CROSS-EXAMINATION: MR LAING**

Q. Mr Smith I'd like to ask you some questions around the rapid assessment process and I think you've acknowledged that that process took place within the CBD?

A. It did, yes.

25 Q. And that was obviously the priority by the then Civil Defence authority wasn't it?

A. It was, yes.

Q. And is it fair to say that decisions had to be made as to priority areas at that time. Is that your experience?

30 A. Undoubtedly there were limited resources available –

Q. Yes.

A. – and priorities had to be established.

Q. So there was a finite resource in terms of engineers, USAR personnel and others wasn't there?

A. Yes.

5 Q. And after the state of emergency was lifted those resources certainly had to be applied to dealing with buildings that had been yellow, red stickered, didn't they?

A. That was obviously a priority.

10 Q. Yes and so it wasn't unreasonable for the council to continue to prioritise its resources as to where it made inspections and what it did in terms of the post emergency response was it?

A. I do have concerns that up to six months after the earthquake a building which was clearly damaged and hadn't been repaired had not been placarded.

15 Q. Yes, but neither of you contacted the council to tell them the building was in a damaged state had it?

A. I don't know, have that information.

Q. So isn't it really still a question of prioritising resources? It wasn't possible to look at every damaged in the whole city was it?

20 A. Obviously resourcing is an important part of it. I think, we had concerns that the owner and various people who inspected the building were aware of its condition and yet didn't refer it to council.

Q. Yes, yes and if a building hadn't been inspected during the state of emergency and given whatever placard it was really then a matter for the owner just as much to ensure the safety of their building wasn't it?

25 A. I think I'd like to think that council was by, you know, once the initial emergency had taken place was looking at the safety of other buildings.

Q. Yes.

30 A. This building having been a two-storey building adjoining single-storey buildings would seem to be a high risk property.

Q. Yes. So in terms of the future though isn't it correct that if we did have another very large earthquake there still would be a need to prioritise those resources wouldn't there?

A. Absolutely.

Q. Yes and it would not be possible to look at every unreinforced masonry building in the whole city even within a reasonable sort of period would it?

5 A. I think that has to be prioritised according to the risks.

JUSTICE COOPER:

What do you mean by a reasonable period Mr Laing?

10 **MR LAING**

Well I would say the period Mr Smith was mentioning was six months but.

JUSTICE COOPER:

Yes so what's the, perhaps if you could put the question more directly on that
15 basis.

CROSS-EXAMINATION CONTINUES: MR LAING

Q. Do you think it's reasonable for the council to inspect every unreinforced masonry building in the city within six months of a major earthquake event such as we had following September?

20 A. It is possibly not reasonable to do that but I do think that council could place a high priority on inspecting damaged buildings which pose a threat to either the public on the street or to adjoining properties. Clearly if you've got a row of single storey buildings the priority is much less than if you have a two-storey building amongst those single-storey
25 buildings.

Q. So it's the process of trying to determine which buildings are –

A. It is a risk assessment.

Q. – more at risk is that the right –

A. It's a risk assessment, yes.

30

JUSTICE COOPER:

Now I'm not sure who is sitting next to you Mr Carter. Are you, are you counsel are you?

5 **MR HARDIE:**

Counsel Hardie is my name Sir, Mr Hardie. I'm appearing for Contract Construction who's going to give evidence in relation to this building but I have no questions of this witness.

10 **JUSTICE COOPER ADDRESSES MR HARDIE –SPELLING OF NAME****CROSS-EXAMINATION: MR CARTER**

- Q. Mr Smith at page 5 of your report you make a comment that the above figures by which I mean your, the discussion in your report as to the lateral forces et cetera in relation to the 22 [sic] September earthquake –
- 15 you say the above figures indicate that the west wall may not have survived the Canterbury earthquake sequence even if the façade had been adequately secured at a roof level.

JUSTICE COOPER:

- 20 Q. That's correct but really referring to the severity of shaking that took place in February.
- A. Yes sir.

CROSS-EXAMINATION : MR CARTER

- Q. Can you just explain what you mean by adequately secured there?
- 25 A. Normally if a building was strengthened the engineer would provide a diaphragm at the roof level and first floor level. Those calculations we undertook assumed that there was a diaphragm at roof and at first floor level and that the loads that went into the diaphragms at roof and first floor level had a suitable load path to the ground.
- 30 Q. Mr Zarifeh talked to you about the make-safe repairs which had occurred in relation to the building and in your report you have a

photograph at 0050.15 which appears to show propping or timber bracing in relation to the east wall of the building. Is that correct?

A. Yes, correct.

5 Q. And as I recall you said to my friend that there was no such timber propping or bracing in respect of the west wall.

A. That's my understanding.

Q. In your professional opinion is that surprising where we have propping or bracing on one side of a two storey unreinforced masonry building but not on the other side?

10 A. It's always very difficult when you can't inspect the building to make that call. From what I've seen in photographs the east wall was more significantly damaged by the 4th September earthquake so that the propping on the east side didn't surprise me that there wasn't propping on the west as I assume someone had assessed that the wall was
15 relatively undamaged.

Q. In your report you also mentioned that the EQC assessors' assessment of the building was at variance with the other assessments.

A. It appeared to be.

Q. What other assessments are you talking about there?

20 A. There was the TM consultants that had a look at the building and there was also, I think, a comment by the owner.

Q. Are you referring to the assessment of the adjoining building, that is Wicks Fish Supply –

A. No.

25 Q. – on the 27th of January 2011.

A. I'm thinking of TM consultants inspections on behalf of the insurers on the 11th of October.

Q. So it's really an assessment rather than multiple assessments.

30 A. I think there was comment made by the owner. I know that's not a technical assessment, but it was a comment that we did place at least some credence on it as to the extent of damage.

- Q. The report by Lewis and Barrow to which you refer, I think you said it was dated the 2nd of February, related to an inspection on the 27th of January, now that inspection was not of this property was it –
- A. Correct, no.
- 5 Q. It was of the property Wicks Fish Supply. Now to the best of your recollection when you reviewed that report did that disclose any damage or concern about the stability of the common eastern wall between the two buildings?
- A. I don't recall.
- 10 Q. If there had have been damage to that common wall between the two buildings would you have expected that to have been highlighted in that report?
- A. I think it supposes a risk to the, while the engineer was looking at that particular property I would expect the engineer to also consider a risk
- 15 from an adjoining building if it was damaged.
- Q. In other words you would expect that the engineer might look at the two buildings as they are and consider whether or not, for example, the western wall, unsecured as it was, no timber propping, might pose a risk of failure or collapse.
- 20 A. If there was visible damage I'd expect the engineer to raise the matter.
- Q. And in the present case, based on the photographs which Mr Zarifeh showed you, there appeared to be a tarp of some description put over that western wall wasn't there?
- A. Yes.
- 25 Q. And that inspection by the engineers, Lewis and Barrow, that was a few days before the inspection by the EQC assessors wasn't it?
- A. Correct.
- Q. I believe it was the 27th of January.
- A. Mmm.
- 30 Q. Now in response to a clarification question from Mr Zarifeh about the, I think you mentioned the several engineers, you clarified that, in fact, you were referring to the one engineer – TM Consultants.

A. And the fact that Lewis and Barrow had had a look at the adjoining building and I would have expected they may have looked at that wall during that inspection.

5 Q. Are you aware that Mr Whyte, who inspected the building for the purposes of a building repair estimate, has told the Commission that Mr Loke had an engineer, Mr Ling, with him in the course of that inspection?

A. I believe that's right, yes.

CROSS-EXAMINATION: MR ELLIOTT

10 Q. Mr Smith you were asked a question just about your statement, "the above figures indicate the west wall may not have survived the earthquake sequence even if the façade had been adequately secured at roof level".

A. Yes.

15 Q. And just for the sake of completeness I did ask you a question earlier in the week about this statement which appears in a number of your reports but obviously people who are here today weren't here the other day. So can you just confirm that even if the façade had been adequately secured it may have survived the earthquake based upon
20 the analyses that Associate Professor Ingham has done.

A. It may or may not. In other words the level of shaking which occurred in February exceeded the code requirement for restraint, combined with the vertical acceleration effects which have highlighted the weakness of the masonry walls.

25 Q. And this particular wall you say was not adequately secured at roof level.

A. No it was not.

Q. Nine metres high, is that right?

A. I'm assuming that dimension is correct. It would be in that order.

30 Q. And the mortar may have been degrading.

A. Could easily.

Q. Given the hundreds and thousands of aftershocks was there a sense of inevitability that that wall would collapse do you think?

A. I don't, I think this is a very difficult question because the aftershock of February was something of almost unheard of precedence. Perhaps
5 the performance of the wall on the 26th of December may have been a better guide as to the condition of the wall for aftershocks as it did survive that, as I understand it, without further damage.

RE-EXAMINATION: MR ZARIFEH

Q. Really on that same point you talked about a roof and floor diaphragm
10 providing support for the walls.

A. Correct.

Q. I just wanted to read you out something that one of the EQC assessors said in a letter in reply to the Commission talking about his inspection on the 1st and 2nd of February – “I recall a large piece of” – this is Mr Attrell
15 – “I recall a large piece of timber which had speared the ceiling of the upstairs bedroom directly above the double bed and wind lifting the bedroom floor and the same room moving dramatically while we were in it conducting our inspection.” Does that give you any indication of the kind of support that roof and floor might have given or not given those
20 walls at that time?

A. Clearly it indicates that the ceiling was damaged, not that the ceiling diaphragm that would have been provided there would have been very effective. It was probably rib lath and plaster and reasonably weak. The movement of the floor does raise concerns as to the stability of the
25 building.

QUESTIONS FROM COMMISSIONERS FENWICK AND CARTER – NIL

QUESTIONS FROM JUSTICE COOPER:

Q. I wonder if we could just display the photograph that was first displayed which showed the building at 391 roughly from the south-east. I'm not
30 sure what the number was. Now looking at that photograph you've

- made the point that the building that failed has the west wall and east wall which rise above the level of the neighbouring properties. Can you tell from the documentary evidence that you've seen whether it's likely that that reflects removal of parapets in the neighbouring buildings at some stage in the past?
- 5
- A. I suspect not. I suspect that the adjoining properties were always single storey and they do appear still to have quite a high parapet.

WITNESS EXCUSED

COMMISSION ADJOURNS: 11.37 AM

10

COMMISSION RESUMES: 11:56 AM**MR HARDIE OPENS AND CALLS**

As the Commission pleases I call Gary McGill who has been of course
5 summonsed and what I've done to assist the Commission is that I've asked
him to prepare a written statement which encapsulates the matters that
enquiries had been made of him and he gave answers. I've tried to
encapsulate in a written statement, and importantly circulated it to counsel but
have copies here for the Commission and others and importantly attached to it
10 is the TM Consultants site report and the evidence will explain that indeed the
company went to answer the concerns raised in that report and I'm not sure
that document is before you but I've got separate copies together with the
statement.

15 GARY RICHARD MCGILL (AFFIRMED)

Q. Mr McGill, could you please give the Commission your full name?

A. Gary Richard McGill.

Q. You are the general manager of Contract Holdings Limited and that
trades as Contract Construction does it not?

20 A. That's correct.

Q. Now your company was asked to carry out some emergency work at
391, 391A Worcester Street following the 4th of September earthquake?

A. That is correct.

Q. Could you please, you've got a written statement in which you've
25 outlined the way in which your company became involved. It might be
helpful if you would read it and I'll stop you at some point if I think that
needs clarification.

A. I will do.

30 WITNESS READS STATEMENT

A. I've already said who I am, Gary McGill general manager of Contract
Construction. Contract Construction was engaged to carry out
emergency work at 391, 391A Worcester Street following the

September 4 earthquake. Bruce Sims, our construction manager, received a call from Mrs Loke a few days after the 4th of September earthquake asking if we could come to site to carry out emergency work on their property at 391 Worcester Street. Our company had been
5 recommended to Mrs Loke by Kevin Simcock engineer from TM Consultants following an inspection of the building next door. That was the Lakes Pharmacy on the eastern side of the Loke's property. The Loke's property is a two storey brick wall. There's a second storey brick wall above Lake's Pharmacy was unstable and needed bracing
10 support to prevent it falling onto the pharmacy roof. Bruce Sims our construction manager was given a copy of Kevin Simcock's report.

EXAMINATION CONTINUES: MR HARDIE

Q. Now I just want you to pause there. Is the report that he was given a copy of, the document which you have in front of you and I've circulated
15 dated 6th of September 2010, headed up site report and it's to Lake's Chemist for the attention of John Kenny?

A. That is correct.

Q. Could you just pause for a moment because I'd like the members of the Commission and counsel here to have the opportunity of reading that
20 just to refresh their memory. They're likely to have seen it before but just in case just pause for a moment. Well now could you just keep reading from where I asked you to pause. You were in that paragraph that began Bruce Sims was given a copy of the Kevin Simcock's report and you've identified it.

25 A. That's correct.

WITNESS CONTINUES READING STATEMENT

A. Following which he was asked by Mrs Loke if we could carry out the necessary emergency work. Loke's property comprised two ground
30 floor shops with a residential tenancy above. The street front parapet in Worcester Street had collapsed during the earthquake onto the roof of the first floor tenancy. Bruce advised Mrs Loke that we would need an

EQC claim number or an instruction from their insurer prior to undertaking the work. Mrs Loke did not have an EQC number but gave Bruce the contact phone number for their insurer's assessor. Bruce rang the assessor and advised there was some doubt concerning the extent of cover held on the property and their insurers were unable to confirm responsibility for payment of the emergency work at that stage. The following work a TV programme was aired showing the damaged block of shops in Worcester Street and the owners' concerns about the ongoing viability of their businesses. As a result of this TV programme we decided to go ahead with the emergency work on the understanding that the work would be paid for by the Lokes. The work we carried out was limited to: removing bricks and debris that had fallen onto the roof of the property from the parapet collapse and the damaged chimney on the southern end of the building. To stabilise the eastern boundary parapet wall above Lake's Pharmacy by removing several courses of unstable bricks; installing a metal parapet capping and providing timber support and propping back onto the pharmacy roof; and provide internal support propping to the second storey roof that had fallen in from the collapse of the front parapet wall; and the supply and installation of tarpaulin covers to provide temporary weather proofing of the damaged roof.

Later that month we were called back to re-fix the tarpaulin covers. Our construction manager, Bruce Sims, noticed the second northern chimney had become unstable and recommended its removal. The Lokes agreed and gave instruction to remove the chimney. The last time he attended site was to carry out the above work on the 30th of September and the 1st and 5th of October. We received no instructions concerning the western wall above the fish supply shop from Mr or Mrs Loke. The brick parapet on this boundary wall was plastered and clad with a metal flashing. The condition of the brickwork could not be viewed but there was no obvious sign of damage or instability apart from the first, that's the southern chimney that had collapsed back onto the roof of the Loke's property. We were not engaged to undertake nor

were we qualified to carry out structural assessments and / or safety inspections of the building. We were engaged to carry out temporary emergency work only.

EXAMINATION CONTINUES: MR HARDIE

5 Q. Mr McGill, could you confirm that although it is you who's received the summons from the Commission to appear and give evidence today, you in fact have brought with you Bruce Sims and Bruce is available to answer any questions directly should any counsel or members of the Commission ask and require him to do so.

10 A. That is correct, because Bruce was the point of contact.

Q. And indeed although Bruce Sims was the contract manager. Indeed actually undertaking the work on site and the foreman responsible for that work is no longer working for your company is he?

A. That is correct.

15 Q. He still is in New Zealand, just not working for your company.

A. That is correct, he's –

Q. And what was his name?

A. Bob Smith.

Q. Bob Smith.

20

MR HARDIE ADDRESSES THE COMMISSION

Now those are the matters I thought might assist the Commission very much.

CROSS-EXAMINATION: MR ZARIFEH

25 Q. Mr McGill, obviously the focus in this hearing is on the western wall. You understand that?

A. Yep.

Q. And you said that you received no instructions about the western wall. Is that essentially because your instructions came following the TM Consultants' inspection of Lakes and the concern about the east wall?

30

A. That's pretty much it, yeah.

Q. And as you say you weren't there to carry out any kind of inspection of the building as a whole ...

A. That's pretty much it yeah.

1205

5 Q. And, as you say, you weren't there to carry out any kind of inspection of the building as a whole.

A. I wasn't personally no.

Q. Or Contract Construction Ltd wasn't.

A. No we weren't asked to inspect the building. We were just asked to
10 attend to the recovery or to making secure as best we could of the damage that had been caused by the earthquake.

Q. Did you actually go to the site at all?

A. No I didn't.

Q. But Bruce, sorry –

15 A. Bruce Sims.

Q. – Sims he went on more than one occasion presumably.

A. Yes.

Q. So where you say in your brief that the condition of the brickwork could not be viewed but there was no obvious sign of damage is that what he
20 has told you?

A. I can see that from the photographs and that's the feedback I got from both the foreman on site and from Bruce Sims, yes.

Q. So we probably should question him about that rather than you. Is that fair?

25 A. Yes.

JUSTICE COOPER ADDRESSES MR ZARIFEH RE SWEARING IN MR SIMS

30 **MR ZARIFEH CALLS**

BRUCE GRAEME SIMS (SWORN)

Q. Mr Sims you heard the question I've just – can you give the Commission your full name please.

- A. Bruce Graeme Sims.
- Q. And your position?
- A. I'm a Construction Manager.
- Q. With?
- 5 A. Contract Construction.
- Q. And how long have you been there?
- A. 14 years.
- Q. And I presume you're a qualified builder?
- A. Yes I am.
- 10 Q. How long have you been in the building industry?
- A. 28 years.
- Q. And as the construction manager for Contract Construction were you involved in the repair work at 391 Worcester Street?
- A. Yes.
- 15 Q. How many times did you go to that site?
- A. Three times work related.
- Q. And that would have been following, obviously, the September earthquake.
- A. Yes it was.
- 20 Q. In the weeks after that.
- A. Yes.
- Q. Mr McGill's just told us how the Contract Construction became involved in that building and that Contract Construction were never asked to do an inspection of the building itself or anything like that. Is that your
- 25 understanding?
- A. Yes.
- Q. So apart from the works that Mr McGill has outlined was that it really as far as your involvement?
- A. Yes.
- 30 Q. Well just dealing with this western wall, you've heard Mr McGill say that the condition of the brickwork could not be viewed, presumably because it was plastered and clad with a metal finishing, flashing sorry.
- A. Yes.

- Q. So did you actually, presumably you would have had the opportunity to see the wall when you're moving around the building?
- A. Um, I was the first one there, had a look at it. My role was to send the right people to the right job. I didn't go up onto the second tier roof because of lack of access. I looked at it once my team were there and we were on top of the roof looking over onto the adjacent roof, which is the fish shop.
- 5
- Q. Okay so you're on 391 roof and so you can see presumably part of the, so how are you looking at the wall then from that position?
- 10 A. Just over the parapet wall.
- Q. What looking right over the wall at the wall itself?
- A. Correct.
- Q. So you're fairly close to it?
- A. Yes.
- 15 Q. And why were you doing that. What was the purpose?
- A. Because there was a chimney that was fallen down at the front of the building and we were just assessing if we needed to get down to take any bricks off the adjoining roof.
- Q. And did you need to do that?
- 20 A. Yes.
- Q. So you got onto the adjoining roof.
- A. I didn't.
- Q. Someone did.
- A. But Bob or one of his men would have.
- 25 Q. Going back to this wall then when you looked at it and that would be sometime in September.
- A. Yes.
- Q. How, can you recall the general condition of it?
- A. Well both and I, Bob and I were leaning on the wall and over the wall so if it was in a bad state of repair we wouldn't have gone near it.
- 30 Q. So are you able to draw any conclusions from, I know it wasn't an inspection but from that observation as to its stability at that point?

- A. At that point it didn't appear to myself or Bob that any work would have to be done to it or raised to the building owner.
- Q. And what about cracks, things like that, in the side of the wall. Did you see any of those?
- 5 A. Um, no. From looking over the top you couldn't see anything. On the inside you couldn't see anything because of the capping that had been placed over the bricks.
- Q. Because of the what, sorry?
- A. There is a parapet capping had been put over the bricks.
- 10 Q. Right, 'cos it's a double brick wall isn't it?
- A. Correct.
- Q. And so the flashing or capping, that was intact?
- A. Yes it was.
- Q. And the plaster, were there cracks in the plaster at all?
- 15 A. Not that we could notice.
- Q. Or anything significant.
- A. No.
- Q. Nothing, right. And that was different from what you've said or what Mr McGill said compared to the eastern wall?
- 20 A. Oh definitely.
- Q. It was much more damaged.
- A. Definitely.
- Q. And that was the one that was propped up as we've heard.
- A. That's correct.
- 25 Q. So if that western wall had been in a similar condition to the eastern wall or had raised concerns for you would you have propped that up as well?
- A. Yes we would have. We would have gone back to the Loaks to inform them of what we'd done.
- Q. So, can we take it then that even though you weren't there to necessarily inspect that wall that by working on the roof and observing
- 30 the wall as you've said, you were in effect checking the wall and if you'd had a concern you would have done something or certainly talked to the owners?

A. If the wall needed work done to it in our opinion we would have done it then and there.

Q. And part of the make safe works was including making the roof waterproof 'cos there'd been damage to the roof hadn't there?

5 A. Correct.

Q. And we can see in the photograph on the screen in front of you that tarpaulins that your workmen put on.

A. Correct.

10 Q. And obviously there's one, or the blue section we can see over the western wall comes right over the wall and is tied down, looks like somewhere on the front of the shop.

A. That's correct.

Q. And also it would be tied at the back.

A. Yes.

15 **CROSS-EXAMINATION: MR ELLIOTT**

20 Q. The families of those who died have a concern that there may have been an opportunity here to see the potential danger of the western wall and you've been asked about this to some extent already so just a few supplementary questions on that. Given the problems with the eastern wall of that property, did that not suggest that the western wall might have similar problems?

A. In my opinion no.

GARY MCGILL:

25 A. Can I add that the damage to the eastern wall was very obvious. Bricks had collapsed and fallen down and the engineer's report from Kevin Simcock specifically raised his concern about the stability of that wall. Also the front parapet had collapsed onto the roof of the tenancy and that had collapsed in. So, basically, we were there to recover all the
30 damaged bricks and debris, prop up the eastern wall and prop up the roof that had collapsed due to the front parapet collapse. We weren't to, we've attended to a number of these emergency calls and Bruce

indicates probably 10 or 12 a day immediately following the earthquake and our scope of work was generally to tidy up what's there and make it as safe as we can and protect it from the weather as best we can on the understanding that follow-up inspections by engineers or other people would take place and work would be commissioned to do whatever was necessary, strengthening or otherwise.

MR ELLIOTT:

1215

Q. Is it possible that by obscuring the wall with the tarpaulin it may have obscured the possible danger of the western wall?

MR SIMS:

From what event?

MR ELLIOTT TO MR SIMS:

Q. Well if, if somebody, if there was some evidence to someone looking at the wall of a problem with it would the tarpaulin have obscured that?

A. I believe that Bob and our guys would not have got the tarpaulin over that wall. They wouldn't have worked on the roof next door to tie that tarpaulin down if they could see something wrong with that wall.

Q. And they would have had to be outside the western wall to –

A. Correct.

Q. – to apply the tarpaulin?

A. Correct.

Q. In fact right up against it?

A. Correct.

Q. Right and this is just more a generic question but from a builder's point of view, let's say that a builder does see some danger, is there an obligation to disclose that to people other than your client?

A. As far as I'm concerned, yes.

MR MCGILL:

I think it goes without saying that if we'd identified or seen any damage we thought was risky or dangerous, mostly definitely we'd have alerted the owner to that.

5

MR ELLIOTT TO MR MCGILL:

Q. What about and I'm not suggesting this was the case here but what about an owner who says, "Well I'm not going to do that work. It's too expensive," or whatever. What does a builder do in that situation?

10 A. We can only carry out the work as directed. Yeah.

Q. Does the builder not notify for example the council or, or, or potentially affected parties?

15 A. I, I guess if, I guess if we thought it was dangerously unsafe and we weren't getting appropriate response from the owner to do something about it, if we were concerned enough, I think morally we'd have an obligation to take it further and probably would.

Q. Is that something which others in the industry would do as well do you think, based on your knowledge?

A. I believe so.

20 MR LAING: NO QUESTIONS**MR CARTER TO MR MCGILL:**

25 Q. I just have a couple of questions, really more for the assistance of clarifying the, the damage and the emergency repairs that you were doing. If you could just look at a couple of photographs which I understand that you, Mr McGill, provided to the Commission. The first of them is at 005B.3. Now could you just explain to the Commission what we are looking at here in terms of the, the damage.

A. I'll let Bruce answer that question.

30 MR SIMS:

That's the front parapet walls at, is adjacent to Worcester Street.

MR CARTER TO MR SIMS:

Q. And that's in terms of both of those photographs?

A. That's correct.

Q. And these were taken at the time that you were present at the building
5 undertaking those emergency repairs?

A. That's correct.

Q. Can you now look please at photograph 005B.4 and could you similarly
explain what it is that we're looking at there and the direction that we're
looking as well please.

10 A. That's looking at the west wall where the first chimney had collapsed.

MR MCGILL:

Looking towards Worcester Street.

15 **MR CARTER TO MR SIMS:**

Q. And the first chimney you're referring to there, is that the, the brick
chimney or part of the chimney we can see in that picture?

A. Yes it is.

Q. So this is the, the western wall which adjoins the neighbouring property,
20 Wicks Fish and Chip shops?

A. Yes it is.

Q. And then just finally the next photograph in the sequence which will be
005B.5. Again if you could just explain what it is that we are looking at
in that photograph?

25 A. That's the eastern parapet wall that we took seven layers of bricks down
from and capped off and then propped.

MR HARDIE: NO QUESTIONS**QUESTIONS FROM COMMISSIONER FENWICK AND CARTER – NIL****QUESTIONS FROM JUSTICE COOPER – NIL**

30

JUSTICE COOPER:

We are grateful to you for your evidence and the straightforward way that you've replied to questions.

5 WITNESSES THANK JUSTICE COOPER

JUSTICE COOPER ADDRESSES MR HARDIE

WITNESSES EXCUSED

MR ZARIFEH CALLS**TIM GWATKIN (AFFIRMED)**

- Q. Mr Gwatkin can you give the Commission your full name please?
- A. Timothy Richard Melville Gwatkin.
- 5 Q. Thank you and you live here in Christchurch?
- A. Just out of Christchurch in Springston.
- Q. And you are a structural engineer?
- A. That's correct.
- Q. Can you just tell us, firstly, your qualifications?
- 10 A. Qualifications are NZCE and BE in Civil.
- Q. Right and was that from Canterbury?
- A. Yes it was.
- Q. And just tell us briefly your experience since graduating and the length of it?
- 15 A. I've had 18 years as a practising structural engineer.
- Q. Right and are you still with TM Consultants?
- A. Yes I am.
- Q. How long have you been there?
- A. Two years.
- 20 Q. Prior to that were you with another firm or firms?
- A. Yes I was, with Powell Fenwick.
- Q. For how long were you there?
- A. Thirteen years.
- Q. Okay. Now you've been sitting listening to the evidence so far?
- 25 A. Yes I have.
- Q. So you know the issues that we're concerned with?
- A. Yes I do.
- Q. And as I said in opening the case you went to the building concerned, 391 Worcester Street on the 11th of October of last year?
- 30 A. That's correct.
- Q. And that was as a result of being asked to do so by Cunningham Lindsey loss adjusters who were acting for Mr Loke – the owner's insurers correct?

A. Yes.

Q. What was the purpose of that inspection. Was it a standard inspection in those kind of circumstances?

5 A. Yes it was. It was to check for structural damage as a result of the earthquakes.

Q. And when, when you are instructed by a loss adjustor do you have a certain angle that you're looking at the building from?

A. No.

10 Q. What I was getting at was, would it be any different, your inspection, if you had been say instructed by a tenant of the building to check the building out to see if it was safe for them to be in it as opposed to the loss adjustor asking you to give them a report on structural damage?

A. No it wouldn't.

Q. So the same process would be followed?

15 A. Yeah absolutely.

Q. And just tell us about that process that you would apply. We've heard, you may be aware of it, we've heard from structural engineers, not in relation to this building but other buildings, about the tests they apply and they're looking at damage, observable damage to see whether there's any diminished capacity in the building as a result of that damage. In other words is it significant enough to make a difference to the building's capacity?

A. Yes.

25 Q. Is that, it's probably a lay description but does that fit in with how you approach the building?

A. Yes it does, yes, looking for damage and signs of damage in non-structural items.

Q. Right and if it's significant you would note it and it might lead to different conclusions if it's not significant?

30 A. Yes that's right.

Q. So in terms of 10th, 11th of October of last year that was what you might call in the aftershock zone following the September earthquake, correct?

A. Yes it would have been.

- Q. And there'd been a number of significant aftershocks between 4th of September and 11th of October hadn't there?
- A. Yes there had.
- Q. And more came afterwards of course?
- 5 A. Yes.
- Q. Were you aware of that pattern or the fact that there were aftershocks imminent?
- A. Yes.
- 1225
- 10 Q. And did you take that into account in not just this assessment but in assessments around that time?
- A. Yes we do.
- Q. What information did you have as a structural engineer on aftershocks? Do you remember where you got that from? I'm asking that more as a
- 15 general – because we're asking structural engineers questions like that. Can you remember where that information came from?
- A. No I can't specifically.
- Q. Did you take part in the emergency process that followed in the couple of weeks after 4 September where some of the engineers volunteered and did inspections? Were you involved in that?
- 20 A. I wasn't in the September one, no.
- Q. So let's turn to 11 October and you've done a, what's called a site report.
- A. Yes.
- 25 Q. Have you got that in front of you?
- A. Yes I have.
- Q. Right. Probably the easiest thing is to get you simply to read that out. We've got it on the system anyway and I'll get it called up, 0003B.1. So can you read that out to us please?
- 30 A. Yes.

WITNESS READS SITE REPORT

A. An external and internal walkover inspection of the building was completed. At the time of this inspection of the roof and upper west side walls are covered in tarpaulins. The upper portion of the front brick facade fell onto the building badly damaging the roofing and roof framing. The parapet to the eastern wall has been removed to just above roof level. The eastern brick wall near the front facade has several cracks, some old and some new. The mortar in the brick joints is very soft and crumbly in this area. The west brick wall above the adjacent lower roof is plastered. The wall appears in good condition. We could not inspect the brick walls at ground floor level as the walls are all lined. There was no sign of excessive movement that would indicate structural distress in these walls. There was no sign of recent movement or structural distress to the single storey rear portion of the building. It was difficult to inspect all of the front facade wall due to the presence of the tarpaulins. The areas of wall that could be seen appeared in good condition. Remedial work. The roof needs to be reinstated, the front facade to be connected to the roof framing members providing some support to the facade. The eastern wall near the front facades need to be rebuilt, re-mortared. The parapet to this wall may need to be reinstated for fire rating purposes. The upper portion of the front facade that collapsed is not to be reinstated.

EXAMINATION CONTINUES: MR ZARIFEH

Q. And that was it?

25 A. It is.

Q. And I think you have provided some photographs, correct?

A. That's correct.

Q. And we might have looked at one, but 0058.2, we'll get that up. That's a photograph that you took at the time?

30 A. Yes it is.

Q. And it shows the tarpaulins that you mentioned and we heard from Contract Construction about?

- A. That's right.
- Q. And the other photograph that you provided is .3, 0058.3. It might need to be turned around. That's it thank you. Can you just tell us where that is in the building?
- 5 A. It's at the northern end of the western wall.
- Q. So it's at the very back of the building if you're standing on Worcester Street?
- A. That's right.
- Q. And as you say the part of the western wall at the back?
- 10 A. Yes.
- Q. And the part of the tarpaulin's there and in fact they've used the part of that top of that gable wall or the capping to tie the tarpaulin. Is that right, is that a loop of the rope?
- A. That appears to be yes.
- 15 Q. And there's another rope that appears slightly loosely down at the back of the building?
- A. Yes that's right.
- Q. So is that wall, it appears to be and we've seen a photo just a moment ago from Contract Construction, it appears to be plastered on the inside, the piece we can see above the roof?
- 20 A. No I think that's a metal flashing coming down the inside.
- Q. That's the metal flashing, right. And we can see the double brick at the end?
- A. Yes.
- 25 Q. Of the wall. On the other side what was the construction? Was there plaster over the brick?
- A. There's a plaster finish to the brickwork.
- Q. Now presumably if you took that photograph on the 11th of October, you were looking at that area of the building and the wall?
- 30 A. Yes that's right.
- Q. Did you also look at the wall face on, so from the other side or from the west of the wall?
- A. Yes I did.

Q. Did you access the neighbour's roof to do that?

A. Yes I did.

5 Q. So we see from photograph, or the other photograph you've supplied, 0058.2, that the tarpaulin comes down and covers what appears to be in that photograph, most of the west wall. Is that fair comment or not, most of these (overtalking 12:30:20)?

A. Yeah, a reasonable part of it, I'm not sure how, whether it slopes up towards the back, I'm not sure but it covers a reasonable part of the wall.

10 Q. That's what I wanted to ask you. How much of the western wall, the face of it, could you see in that inspection? Can you recall?

A. I don't recall how much was below the tarpaulin, no, but with a tarpaulin like that it's very hard to secure it flat against the wall so you'll be able to lift it off the wall and look up behind it.

15 Q. Did you lift it?

A. Yes I did.

Q. Right, and tell us when you lifted it what were your observations of the wall?

20 A. Well it was a plastered wall and I saw no signs of cracking or distress in the wall.

Q. And at what point in the wall did you lift it and look, can you say (overtalking 12:31:09)?

A. No.

Q. (overtalking 12:31:11) middle?

25 A. Well it would have been along the wall.

Q. All right, so did you move right along looking under the tarpaulin? Did you look at the whole of the wall?

A. Yes I did look at the whole of the wall.

30 Q. And what about the front there where it joins onto the facade at the front where the tarpaulin's wrapped around, did you lift any of that area?

A. I would have tried to see as much as I could around there. It's a significant area.

- Q. And generally then from that lifting the tarpaulin and looking at it, what was your observation of that side of the wall in terms of stability and damage?
- 5 A. That it was in reasonable condition and hadn't suffered any earthquake related damage.
- Q. Did you look from the other side? I appreciate the tarpaulin goes right over the roof, but could you look at it all from the other side of the wall where it's –
- A. From the inside of the first floor?
- 10 Q. Yes or on the roof where it's –
- A. Well I couldn't get onto the roof because of the tarpaulin's up there.
- Q. And because of the roof damage presumably?
- A. Yes.
- Q. What about inside the building, did you look inside?
- 15 A. Yes I did.
- Q. You said that the building, that the upper portion of the front brick facade had fallen onto the building, badly damaging the roof and roof framing, correct?
- A. Correct.
- 20 Q. And that was how it was when you inspected in terms of the roof framing being damaged?
- A. Yes.
- Q. You talked about the eastern brick wall had several cracks, some old and some new. How did that appear in terms of condition?
- 25 A. Well it was in reasonable condition but there were some cracks in there, and as I said some of the mortar was quite soft and crumbly.
- Q. And was it plastered over as the western wall was?
- A. No it wasn't.
- Q. So it was just exposed brick?
- 30 A. Yes, there may have been portions painted but it wasn't plastered.
- Q. Am I right then that if it's not plastered over it's obviously easier to see the mortar and any deterioration to that?
- A. Yes it is.

Q. Which you couldn't see from the western wall?

A. No but with plastering over it the mortar's usually in better condition because it's not –

Q. Exposed.

5 A. – exposed to the weather.

Q. We've got an assessment by EQC assessors, two of them, of the wall on the 1st and 2nd of February and you won't necessarily be aware of that, but they talk about both walls being damaged and unstable. Obviously there was the Boxing Day aftershock in between your inspection and their inspection?

10

A. Yes.

Q. And other aftershocks as well. Did you inspect other buildings that had deteriorated following, what I'm getting at is did you experience inspections say in November, October / November and then later of the same buildings and inspect damage that had been inflicted by Boxing Day aftershocks?

15

A. Not a great deal from the Boxing Day aftershock from what I'd seen.

Q. You didn't inspect a great deal or you didn't see a great deal of damage?

20

A. Didn't see a great deal of additional damage –

Q. (overtalking 12:34:45).

A. – there would have only been a very limited number of buildings that I would have inspected before and after that.

Q. Now Mr Loke who's the owner of the building, did you meet him on that day?

25

A. Yes I would have done.

Q. He would have been there to let you in or –

A. Yes.

1235

30 Q. – show you around? And did you have any conversation with him about the building?

A. I would have had some conversation, the extent of that I don't remember.

Q. I just wanted to put a comment in a letter he's written to the Commission and we've written to him asking him for information, and he wrote back on the 22nd of July this year and talking about your inspection on that day, he said Mr Gwatkins reckoned it was safe for the tenants to carry on occupation of the premises. Can you recall making that statement?

5

A. I don't recall the conversation.

Q. All right, but from what you saw is that the view you had?

A. Yes it would have been.

Q. What about the upstairs portion given the damage to the roof?

10

A. Well I don't think the damage to the roof would have as far as the overall building stability wouldn't have created too much in the way of instability.

Q. Right, but what about the occupation of the upstairs as opposed to the downstairs commercial part?

15

A. Well I don't know that there was damage that would have made it significantly more unstable, but obviously the lack of roof and waterproofing issues.

CROSS-EXAMINATION: MR ELLIOTT

Q. Mr Gwatkin, what was the purpose of your report?

20

A. It was to assess the building for structural damage as a result of the earthquakes.

Q. Was that for the insurer?

A. Yes.

25

Q. The test that you applied appears to be that you were looking at damage, seeing whether there was any damage and then reporting on that issue alone. Is that right?

A. That's right.

Q. Where did that test come from? Why was it that you decided to ask that question of yourself in preparing this report?

A. Because that's what we were asked to do.

30

Q. By –

A. The insurers.

Q. I see.

A. For the loss adjustor. That's the purpose of inspections was after the earthquake, has there been damage and what needs to be done to rectify it.

Q. So the insurer can make a decision about what to cover?

5 A. Well.

Q. Is that right?

A. Ask them.

Q. So was safety on your mind at all when you were carrying out this inspection?

10 A. Yes.

Q. The safety of the building.

A. Absolutely.

Q. So in carrying out this inspection and looking at damage in considering safety do you think you should also have been looking at the structural capacity of the building to withstand ongoing aftershocks, not just the presence or absence of damage?

15

A. Not really, no.

Q. Your report refers to the west brick wall above the adjacent lower roof and you say that appears to be in good condition. You're referring there to the wall which now seems to have fallen.

20

A. That's right.

Q. I'll just ask you to comment on this. It may have been that there was an opportunity here as an engineer at this location to identify the potential danger posed by that wall and to inform people of that. Would you comment on that please?

25

A. Well the wall was, well it appeared to be undamaged. It was in no worse state than it was before the earthquake so it was deemed to be in a safe and reasonable condition. There's no point in doing that to every building around town.

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

CROSS-EXAMINATION: MR CARTER

- Q. Firstly I just want to clarify one matter with you, can I get you to look at document 0056.4. You won't have seen this document before. Can we just zoom in please on the upper half of that document if that's possible, particularly the – about the second paragraph down, second to third
- 5 paragraph down. Yes that's fine. So Mr Gwatkin, this is a letter which was provided by the building – by the property owner Mr Loke to the Royal Commission on the 22nd of July 2011, and Mr Loke says, by the date 11 October, it talks about, so your appointment and that you conducted a detailed inspection of the building, he says there that this
- 10 was the second visit of TM Consultants' engineer, as the first visit did not have a written report, and then he goes onto say and this is the comment that my friend put to you, "Mr Gwatkins reckoned it was safe for the tenants to carry on occupation of the premises." Do you know what he's referring to there in terms of the reference to this being your
- 15 second visit to this property?
- A. No I don't recall.
- Q. So to the best of your recollection you only visited that property and undertook an inspection on one occasion?
- A. That's my recollection.
- 20 Q. Now when you inspected the property, it's correct that the eastern wall had timber bracing applied to it?
- A. That's correct.
- Q. And I think you said in response to a question from my friend that that eastern wall was in reasonable condition but it had some cracks in it?
- 25 A. That's right.
- Q. The western wall didn't have that kind of bracing applied to it, did it?
- A. No it didn't.
- Q. Did you consider whether or not the building owner should take the same sort of repairs to the western wall as they had in terms of the eastern wall in terms of propping?
- 30 A. You say repairs?
- Q. Emergency repairs or make-safe repairs in terms of propping the western wall.

A. There was no damage so there was no point in (overtalking 12:41:53).

Q. So you didn't see that there was any potential risk of that wall perhaps collapsing in the event of a further aftershock?

5 A. Well there's always potential for a building or a part of a building to collapse in a major earthquake.

Q. But because – your evidence is that because that wall was in a good condition?

A. That's right.

10 Q. That sort of propping wasn't necessary whereas the other wall was in a reasonable condition but had some cracks and therefore needed to be – or you considered that propping to be appropriate?

A. Well the propping was there when I did my inspection.

Q. So you didn't consider it necessary that similar sort of propping or make-safe actions be undertaken in respect of the western wall?

15 A. No I didn't.

20 Q. Can I now just refer you to another document, you may not have seen, or you probably haven't seen this document before as well. It's document 003A.1. Can we zoom in perhaps on paragraphs 1 and 2 of that letter if that's possible, we'll just expand those slightly. Mr Gwatkin this is a letter to the Royal Commission from Whyte Construction. Now Mr Whyte from Whyte Construction hasn't given evidence yet, but he was the person who inspected the building and he says in this letter, "On the 26th of October 2010 for the purposes of providing an estimate in terms of repairs to that building," and he says in the letter that he met
25 Mr Loke on site with his engineer, Mr Robert Ling, to go over the details for remediation. And then in paragraph 2 which hopefully you can read there, he says that there was a visual inspection and that he expressed grave concern for the upper level frontage because of the state of the brick walls and then he goes onto say that "Mr Ling and I discussed this
30 at length and agreed that the timber propping to the neighbouring properties was inefficient and that the structural integrity of the facade was in poor condition and showing signs of movement and multiple cracking and bowing in the line of the wall".

MR ZARIFEH ADVISES DATE IS 8 NOVEMBER**MR CARTER ADDRESSES THE COMMISSION**

That is correct, 8 November rather than 26th of October as I said.

5 CROSS-EXAMINATION CONTINUES: MR CARTER

Q. So that was approximately a month after your inspection? Does that surprise you, do those comments surprise you?

A. Well the saying that the propping to the neighbouring properties was inefficient, I don't know on what basis he's making those comments, and
10 then he goes on to say about the facade was in poor condition, showing signs of movement and cracking and bowing, and it's not movement that I'd seen.

1245

Q. So it's fair to say it doesn't accord with your view as expressed in your
15 site report?

A. That's correct.

RE-EXAMINATION: MR ZARIFEH

Q. Just to make one point, perhaps it's clear anyway. Your visit on the
20 11th of October, you're not sure of, you don't recall a visit before that you said?

A. Whether I visited and couldn't get access to the building I can't remember but (inaudible 12:45:30) one inspection.

Q. After 11 October, that visit you've spoken about, did you have any further inspections of the property at all?

25 A. No I didn't.

QUESTIONS FROM COMMISSIONERS FENWICK AND CARTER – NIL**QUESTIONS FROM JUSTICE COOPER – NIL****WITNESS EXCUSED**

MR ZARIFEH CALLS**DAVID WHYTE (SWORN)**

Q. Mr Whyte can you give the Commission your full name please?

A. David William Whyte.

5 Q. And your occupation?

A. Manager and director of Whyte Construction Limited, Christchurch.

Q. And Whyte Construction are builders?

A. Yes, builders, yes.

Q. So in terms of your own qualifications?

10 A. Trade qualified carpenter, time served through an apprenticeship scheme, yep.

Q. How long have you been in the building industry?

A. Thirty two years.

Q. And is that residential and commercial or, or?

15 A. Basically architectural, residential and then through, and a lot of commercial as well.

Q. Now you've been sitting in Court this morning –

A. Mhm.

20 Q. – so you've heard the evidence that's gone before you and in particular Mr Gwatkin who's just given evidence?

A. Mmm.

25 Q. So I want to turn to your involvement in the building and ask you about that. Mr Loke who's the owner of 391, or was the owner of 391 Worcester Street. I think he contacted you on the 26th of October of last year?

A. Thereabouts. I think it was the first, 1st of November, I made a record of.

Q. Well anyway –

A. Yep.

30 Q. – late October, early November he contacted you.

A. Mmm.

Q. And did he want an estimate for repair of his building?

A. That's correct.

Q. And did you meet him I think on the 8th of November on site?

A. Yes.

Q. And did he bring someone called Mr Robert Ling?

A. Yes he did.

5 Q. And did you understand him to be an engineer?

A. Mr Loke introduced me to him as being his engineer, coming on his behalf, yes. He gave me his business card and it had engineer so, yeah.

10 Q. Now I just want you to tell us about what you did on the site visit that day on the 8th of November. What you looked at?

A. Effectively we'd started at the, across the street and a brief assessment of the building from the visual from the front, from what, basically the photograph you've shown repeatedly. We, I think we had to wait for the tenant to come with the key so we could get in for a start. Basically
15 went in, he was preparing some things for business later that day. We went through the places that were downstairs and there was really no, I think I'd been given the report from TM Consultant that outlined some of what was suggested as remediation. There wasn't any significant work on the down, on the lower ground, well on the ground level and that so
20 we proceeded upstairs. We went through all the interiors of the rooms and it was pretty obvious what had, where the bricks had come through the roof and what not so –

Q. That's from the front parapet?

A. No in the centre of the room. There's quite a lot of propping, did you
25 get, I think you've got some photographs and things of (inaudible 12:49:57)?

Q. Yes and I'll get them brought up as you're speaking, yeah.

A. So there was some propping and things on the ceilings inside and described the, the bracing, the diaphragm bracing and things that
30 typically would be put in. So I got measurements and things as we went through. Went outside, we discussed the, the damage that had happened to the adjacent building. That was the pharmacy and that was then, we were looking at that and looking in the buildings in general

around the neighbourhood and Loke actually said to me, well the building over the back to the north, north-east on Stanmore Road was actually one that was going to come down.

Q. Right I think there's a photo come up that's of this building, correct?

5 A. Yes.

Q. What does that show us?

A. That was Mr Ling and Mr Loke and myself went out, went out on the roof there at the pharmacy and basically it was showing some, the bricks had actually started to, there was some lateral movement on those bricks down the junction between the column on the front and the, and the wall.

10

Q. Just point that out to us. You've got a mouse there you might –

A. Just, just down this line in here.

Q. Right so –

15 A. It wasn't signif – it's not significant. There was also some cracking, there was cracking down this, I don't know if you can see this line down through the side here.

Q. Right.

A. In the, in the (inaudible 12:51:23) and also this, there was, the mortar had, you know, some of this was historic, there was mortar had come out of the brickwork on the front parapet. So this was a point that I considered as being, when I made my comment and I, talking before when you asked about the, on that article of what I'd written in the letter, I was pertaining only to this eastern wall. There was, there was no relevance to the, to the western wall whatsoever as to the cracking.

20

25

Q. All right so, that's all right. So this is the eastern wall obviously?

A. That's true, that's right.

Q. And so that, what you're pointing out now is an example of a crack?

A. Yes there was this, there's a crack coming down a step, a step crack coming down this wall here, you can see through here. So that's what I considered was, you know, there was and that was what was refer, I was referring to in the report.

30

Q. When you say report you mean your letter?

A. No the TM Consulting report.

Q. Okay.

5 A. I don't know if you noticed in our letter, in our letter of offer there's actually two prices in there. There's actually one, one offer there for 185,000 and also a offer for 130,000. We'd actually offered two solutions. So one was to go through the remediation process which I considered would be more expensive than virtually a complete rebuild and to achieve the two, the two options we felt it was going to be far more beneficial to put a new structure, lightweight structure on top of the building.

10 Q. And that was your recommendation?

A. Yes.

Q. But the remediation, what would that have involved in general terms?

15 A. I talked at length with Mr Ling on this about the fact that we had, we looked at this and figured that we would have to get some sort of containment on those, the double brick wall because of the damage that had happened to the adjacent properties in the past that, my experience in the past has been a lot with, and I lived in Oamaru for 30 years and had a lot of work with restructuring Oamaru stone buildings down there and my understanding was to contain, to contain the façade you have to actually be able to stabilise it back to a structure on the inside or contain it. So we talked at length about being able to contain those, those bricks on the boundary walls but then we considered well then we ran into problems with fire rating and weathertightness and all those sorts of issues as well so there was – this is where I felt we were getting to the point that it would become unfeasible to actually, to secure that building, getting it to the 33% of the code and basically bringing it back, well that was 33% of the original code, it wasn't the new, at that time we hadn't talked the new code. But the practicalities, the diaphragm is a, is a simple do but the actual retaining of all those bricks and especially the brick façade on the front I felt was, was going to be very, very difficult.

30 Q. So that's the eastern wall. Was that the one you were more concerned about than the western wall?

A. Typically the eastern wall and the, and the front parapet. There was the two pillars that were standing up above the roof line on the parapet, on the front of the building.

Q. Right, as part of the parapet?

5 A. Yes. They were in excess of the parapet.

Q. And in terms of remediation though and the concern you have with the side walls was it the eastern wall that you were more concerned with than the western wall?

1255

10 A. Yes.

Q. And –

A. Well sorry –

Q. In terms of damage to it?

A. The damage yeah, the visible damage was certainly there, yes. There
15 was no visible damage on the western wall at that time other than the little parapet extension on - right at the front on the – yes.

Q. So it's important that we get this clear because –

A. Yes.

Q. – perhaps myself and others might have misunderstood, I think your
20 letter as to the damage you observed. Well you heard Mr Gwatkin give evidence, so do you take any issue with any of his evidence from what you saw on the 8th of November?

A. No, no there was no – I didn't find anything contradictory to that. I was –
25 there may have been more cracking on that eastern wall that was visible, I mean we were not – we were approximately 30 days further on so I mean we'd had a you know significant number of aftershocks after that.

Q. Right.

A. That would be all I would say, there was no – there was nothing of
30 significance that I would say that was, you know, glaringly obvious that you would say, well there was a problem. One conversation I did have with Mr Ling was, this is, sorry to digress a little bit, was when we talked about this adjacent property on Stanmore Road, we did discuss the

adjacent buildings and that if through the events of deconstruction or demolition of adjacent buildings, that building, this two level building could become a problem.

Q. Okay, so was that with Mr Ling or Mr Loke?

5 A. Mr Ling. Mr Loke was there at the time but Mr Ling was the, yeah.

Q. All right. But that was a concern if that happened in the future not an immediate concern?

A. That's correct, yeah.

Q. So where you said in your letter of 6 September to the Commission –

10 A. Mhm.

Q. – “at this stage I express grave concern for the upper level of frontage because of the state of the brick walls”, can you recall that sentence?

A. Mhm.

15 Q. Are you saying that, when you say the upper level of frontage, are you talking about the front facade?

A. Yes I am.

Q. And when you say because of the state of the brick walls, which walls are you talking about?

20 A. I'm talking that – once again that time, that step cracking coming down from the, don't know if you can – if this is enlarged a bit more you can actually see the step cracking comes down through this brickwork on here.

Q. Right.

25 A. Don't know if you see that through there, and these extensions on the parapets at the front here. Does that –

Q. Okay.

A. Because of this, if there was a crack that ran down the back of this line in the back of the wall here as well.

Q. And so what did you consider, if anything, to be unstable?

30 A. What did I consider (overtalking 12:58:22).

Q. Did you consider any of the –

A. Well that's what I'm saying, I considered that these extensions on top of the parapets would be unstable.

Q. Right.

A. I mean they weren't, they hadn't rotated or anything, there was no – or there was only the cracking I mean basically I was notifying Mr –

Q. If you just leave the mouse –

5 A. Sorry.

Q. – then we can enlarge it, thank you.

A. I was basically notifying Mr Loke that, and this is in the context of reconstruction, that it would be very, very hard to re-establish those in a safe state.

10 Q. You can see a closer up view of the walls.

A. Yep.

Q. And do we see that cracking you're talking about?

A. Yes. And that, to contain that and actually ensure that that was going to be safe in the future, even with the ongoing aftershocks that we were having, I had a concern of that at that time. Now I don't know if that was there when Mr Gwatkin was there doing his inspection.

15 Q. You're talking about this cracking?

A. Yes. I don't know that, I mean I wasn't there on the day, so.

Q. So your solution or suggestion was the cheaper way was to demolish the top storey and rebuild a lightweight top storey?

20 A. Yes.

Q. And it was cheaper as you say than (overtalking 12:59:40).

A. I justified it by giving costs to do what was the suggested solution by putting diaphragms in and actually steel structure and tying things back.

25 Q. Right.

A. But then I also gave an option to demolish the top and then re-establish a lightweight construction on the top.

Q. So let's have a look at those – a quick look at those photographs, we've got the first one there, if we turn to the next one. Now I'm correct aren't I that that is not a photograph of this building that we're concerned with, correct?

30 A. No that's correct. That's the one I was explaining was, that was due for demolition.

Q. Right, and that's an example of a two storey surrounded by single storeys, correct?

A. Yes, and if you enlarge that red wall there, that'll actually show the separation in the bricks there.

5 Q. And that's on Stanmore Road I think, looking across towards the north-east?

A. That's correct.

Q. Thank you, and the next one. Are these the photographs you sent in?

A. Mhm.

10 Q. So presumably ones you took?

A. Yes.

Q. Correct. That shows the front facade of the building?

A. Yes.

15 Q. As tarpaulined by Contract Construction as we've heard. And so your concern was with that facade in the main?

A. Primarily the two extensions on the parapets, to the top of the parapets. And there was a crack, there was one crack on the western, if I just use the mouse, just on here, if that was enlarged there, there's a crack in that, oh it's probably not a very good photo, I think there's another
20 photo, there's a crack going through that parapet diagonally, through there. That was one that I had a concern of.

Q. Did you say anything about that,

A. Oh yeah, I expressed concern to Mr Loke and Mr Ling about these parapets, right at the beginning and, yes. Not in specific term.

25 Q. What terms did you use?

A. I expressed it in the ongoing nature of the parapet of the building that it could typically give problems you know to the public on the footpath and that in the future and trying to retain it in place which I think was outlined in the TM Consulting that had to be removed eventually.

30

COMMISSION ADJOURNS: 1.02 PM

COMMISSION RESUMES: 1.45 PM**EXAMINATION CONTINUES: MR ZARIFEH**

- Q. Mr Whyte, I think you were just going to take us through those photographs that you took and I'll get them up on the screen again.
- 5 A. Okay.
- Q. You had – we dealt with .2 which was the property across on Stanmore Road so if we go to .3, 0003E.3. So that's a photo of the frontage we referred to before.
- A. Yes.
- 10 Q. Correct?
- A. Yes it is.
- Q. And .4, that's the eastern wall above Lakes Pharmacy, correct?
- A. That's correct, yes.
- Q. And the propping that Contract Construction had done.
- 15 A. Yes.
- Q. And the lowering of the parapet that they'd done, correct?
- A. Yes. That's right.
- Q. If you go to .6, it's a similar shot. Go to the next one please, and that's just another view of the frontage. Correct?
- 20 A. Yes.
- Q. And can we go to .5 please? Now that's the eastern wall again and the back of 391, correct?
- A. Yes, that's correct.
- Q. And we can see the tarpaulin, the blue tarpaulin over the west wall?
- 25 A. Yes.
- Q. And there's a ladder there and a ladder on the roof?
- A. Yes.
- Q. Are they your ladders?
- A. No, it was on site, I'd actually been up on the roof, yes.
- 30 Q. Now you go to .10 and is that a close-up of that western side of the facade and shows part of the wall?
- A. Yes.

- Q. And we can see a slight bit of exposed wall at the south end there?
- A. Yes.
- Q. Just above the – Wicks' facade?
- A. Mhm.
- 5 Q. Now .11, what's that?
- A. That's the propping that was inside the – it's actually up the – if you rotate at 180.
- Q. All right.
- A. That was the propping that was in the roof structure.
- 10 Q. Okay.
- A. Where the chimney – I think the chimney may have come out of that, or the chimney, sorry had fallen through the ceiling at that point.
- Q. And .12, and that can be turned at similar view props, correct?
- A. Yes.
- 15 Q. Point 13.
- A. Yeah same thing, it's a –
- Q. That's ceiling panels (overtalking 13:49:48).
- A. It's the next room that's on the – that's the west room.
- Q. Point 19, is that the east wall?
- 20 A. Yes it is.
- Q. Point 20, which wall is that? Is that the east as well or is it the west?
- A. No I think that's the west, it's the west, no that's the west wall. That's wrong, yes, that's the west wall.
- Q. And the roof of Wicks.
- 25 A. Yes, that's correct.
- Q. And the tarpaulin held down by pieces of timber by the looks of it?
- A. Yes, yeah.
- Q. And can we see part of the west wall there where the tarpaulin –
- A. That's the plaster –
- 30 Q. – doesn't come down?
- A. – that's the plaster on the west wall (inaudible 13:51:18).

Q. Thank you. And, so Mr Whyte how did you leave things when you left the property. How were things left with Mr Loke in terms of your visit and your estimate?

5 A. We would have prepared a – two options. So of the estimate, one would be to follow the TM Consultant suggestions. Obviously they still needed to be a design builder remediation specific design, worded on the basis of the knowledge that we knew, which probably be applicable so just to give a guide and then we gave another option to do it, as I say lightweight construction.

10 Q. All right.

A. So we offered both of those. We were going to get back to I think, within a couple of days of doing that assessment. All things were quite urgent I think at that time, so.

15 Q. And did you express to Mr Loke any general concern about the building?

A. I expressed the long term concern of the remediation that it, you know, would pose a lot of problems, or could pose a lot of problems as far as trying to remediate it.

Q. Right.

20 A. In the sense of the trying to secure the front parapet and the side walls. I saw an issue between half, with it being half and half, being half commercial and half EQC could have been a – could have created some issues.

25 Q. But in terms of the structural stability if that's the right word, did you express any concerns or -

A. I expressed the concerns about the front parapet.

Q. Right.

30 A. That was on the street frontage, not the west side or that. The east side seemed pretty secure at the time. Other than that you know as I say it was identified by those cracks that we were starting to see.

Q. All right, on the east side?

A. Yes.

Q. Now I asked you before lunch, you'd heard Mr Gwatkin's evidence and you said you didn't really have any issue with or there wasn't any inconsistencies with what you saw and what he reported, apart from perhaps the cracks on the east side?

5 A. Yes.

Q. Don't know if you're aware or not but there was an inspection on the 1st and 2nd of February by EQC assessors, and they had real concerns about the – both the east and the west walls –

A. Mhm.

10 Q. – of the building and appreciate that you didn't go back to the property after the 8th of November?

A. That's correct.

Q. Were you involved in inspecting many buildings over this period between September and February?

15 A. Yes, yes, we did, and like we were doing a lot of brick removal on a lot of properties.

Q. And did you ever inspect buildings in similar constructions to double brick wall buildings, between before Boxing Day and after Boxing Day?

20 A. Yes, we did. We had a number of clients that we would revisit. We started in September taking chimneys down and fire walls, party walls and the likes. We got to some commercial premises we – so yeah, we did a lot of that and we found that there was a difference or you know, every time we'd go back we'd have, we would have to take more bricks down and then yeah, so there'd be the ongoing damage happening.

25 1355

Q. Okay and you may or may not be able to help us I don't know but did you look at any in a similar area, that sort of vicinity to town, the city, the CBD?

30 A. We had, we've got the Konica Minolta building in Moorhouse Ave that we continually went back to.

Q. What's that construct, what was that constructed of?

A. It was a brick, I've actually got a photograph here of a wall.

Q. So it was double brick?

- A. It's double brick, it's a, it's a boundary party wall. It's a very high wall but it had we, we continually kept going back to that one.
- Q. Okay well I don't want to go into another building in any detail but what I was interested in, was there any noticeable damage after the Boxing Day aftershock?
- 5 A. Yes to the point we had to go back and actually start shoring up and removing more bricks from parapets and things so, yes.
- Q. What happened to that building in the February?
- A. It suffered quite extensive damage to the party wall. It, it's still standing.
- 10 Q. Thank you. Now Mr Loke will be giving evidence after you and he's not represented but he had some questions that I think he put to you and I think I sent them to you. Did you get those?
- A. I just got them the other day.
- Q. I don't want to go into all of those but I just want to put them for him to you for comment. Firstly, I think one of the issues he has with you, with your account is, in terms of who you spoke to at the site. At the building on the 8th of November you spoke to both he and Mr Loke?
- 15 A. Yes I did.
- Q. Did you speak to Mr, Mr Ling sorry, Mr Ling separately as well?
- 20 A. Yes I did. That was a correction. He was actually correct in his first statement of, in his letter to you that following being on site Mr Ling did come back to the office. Mr Loke didn't come back so he's correct on that but then I did speak at length with Mr Loke on the 10th I think when he came in to pick up the quote or the estimate.
- 25 Q. All right and I'm just going to go into the main one.
- A. Mmm.
- Q. And it's probably this that, and you may have covered it anyway. He's essentially saying if Mr Whyte were to have any immediate concerns about the building's safety then, "I was not informed of those." Okay.
- 30 Q. Now you've told us that you were concerned about the parapet at the front?
- A. Mmm.

Q. The corners. Can you remember who you directed that to. Was it Mr Loke or Mr Ling or both?

A. Both.

Q. And where was that?

5 A. I was standing on the roof right beside the, I think Mr Loke's actually in the photograph, in one of the photographs.

Q. Is that that first one you showed us?

A. Could be, could well be. I'm not sure which one. I haven't actually got the ...

10 Q. There was a head in – yeah.

A. There it is.

Q. It's on the screen is it?

A. Yes.

Q. Okay.

15

JUSTICE COOPER:

Q. Down the bottom there?

A. Yes.

EXAMINATION CONTINUES: MR ZARIFEH

20 Q. And can you remember if when you expressed that concern did he say anything to you? Did he acknowledge it or not?

A. I think we're talking two things here. One was the fact I was there on the assumption that we were moving forwards rapidly trying to get a conclusive remediation to the building. So I was never on the perception I was there doing an inspection for leaving the building standing as a safety, safety issue so. As I say I was there on the expectation that he was going to engage us, that we were going to continue on with the rebuild process so.

25

Q. So you weren't there to give safety advice as such?

30 A. No, no.

Q. You were talking about damage and remediation as opposed to –

A. And I will say everything was very urgent at that time. Mr Loke actually made a number of calls to our office to get, to get us there. I was supposed to have one of my supervisors go but it ended up that it was actually me that called out to do the job in the end. So it was all under urgency so I figured, well, this is urgent, let's get going so.

5

Q. And then what happened after you provided the quote or the estimate?

A. Basically everything just went quiet. We made a number of follow-up calls. I actually provided the quote to Mr Ling because that was what I was directed to do. He was going to evaluate it and, and take it from there, from Mr Loke.

10

Q. And did you hear any more or not?

A. No we, we made a number of follow-up calls, myself and my development manager Sheldon Pink actually rang him on a number of occasions and it ended up, basically it came to the conclusion that we were too expensive so.

15

Q. That's what you were told or you presumed?

A. Bit of both it was, yes.

CROSS-EXAMINATION: MR ELLIOTT

Q. Did you contact the council about your concern about the front parapet or any other –

20

A. No I didn't.

Q. – aspect of the building?

A. No I, I was on the understanding it was two engineers and that they would, well TM Consulting weren't party to what we were, were actually doing but I was on the understanding that Mr Ling was looking after Mr Loke's commitments on that.

25

Q. Just as a general question.

A. Mmm.

Q. Where a person in your position or your industry becomes aware of potential danger with the building but the owner doesn't necessarily do something about it do you feel obliged to tell the local authority?

30

A. If, if it's, if it's in complete dispute. I don't, we wouldn't typically go beyond our engineer, sorry the client's engineer. I think there's a responsibility in the, in the hierarchy that we've actually followed there but if it's, if it's blatantly obvious, if I gave you a situation like currently
5 driving down Riccarton Road, there's two properties on Riccarton Road that have situations in front of them right now, that I could notify you of right now that should be addressed. They're sat there for the last 10 months and now there's actually some containers sitting out in front of one that are non-engineered. Should I notify council of that?

10 Q. Well council's here, we can check it out.

JUSTICE COOPER:

I suggest you speak to Mr McCarthy before you leave, yes.

15 **WITNESS CONTINUES:**

A. So I, I don't know. I've spent the last 12 months in the city, all over the city notifying council and, and engineers of things all the way but, I mean, in this particular situation, I don't believe it was at this stage when I saw it that it was a notifiable situation, if that's what you're asking.

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

CROSS-EXAMINATION: MR CARTER

Q. Can you, can we please bring up photo 003E.3? Now that's a photograph of the building's frontage and the parapet there, isn't it?

A. Mmm.

25 Q. Now your letter to the Royal Commission stated that you expressed grave concern for the upper level of the frontage because of the state of the brick walls and my, my friend asked you some questions in terms of

–

A. Mmm.

- Q. – clarifying that and I think you said that your concern was as to the potential, was in relation to this, the frontage area which is the front of this building and in particular the eastern parapet and wall?
- A. Mmm.
- 5 Q. And also I think you mentioned that there was some cracking in the western parapet wall area as well and you pointed to (inaudible 14:03:49)?
- A. Only the abutment at the, at the very front.
- Q. And the, in that picture the rest of the western wall or at least a significant part of it is covered by that tarp isn't it?
- 10 A. That's correct.
- Q. Did you inspect the western wall under, underneath the tarp?
- A. Yes I did.
- Q. And what if anything did you, did you see when you did that?
- 15 A. It was, as TM Consulting had said there was no, nothing obvious, there was no, there might have been some superficial hairline, minor hairline cracking but really nothing of any significance.
- Q. So your primary issue was that crack in the upper parapet area of that wall?
- 20 A. Yes, yes.

QUESTIONS FROM COMMISSIONERS FENWICK AND CARTER – NIL

WITNESS EXCUSED

1405

MR ZARIFEH CALLS**PAK LOKE (SWORN)**

Q. Mr Loke, can you give the Commission your full name please?

5 A. Pak Loke.

Q. You reside here in Christchurch?

A. Yes I am.

Q. And what's your occupation?

A. A real estate agent.

10 Q. How long have you been doing that?

A. 21 years.

Q. And what qualifications do you hold?

A. Real estate licence I got every year licence eight and other than that you mean academy?

15 Q. Yes academic qualifications?

A. Academic BE.

Q. So is that a bachelor of engineering?

A. Bachelor of engineering of chemical discipline.

Q. Where was that from? Which university?

20 A. University of Auckland.

Q. Right. And you just said a moment ago in chemistry, chemical engineering?

A. Chemical.

25 Q. So I don't know a lot about the degree, engineering degree but is there any structural engineering component to a chemical engineering degree or not?

A. No. All structural matters that I will have to refer to is specialist but I have not been practicing engineering for 25 years.

Q. Alright. So you are in no different position from a lawyer say?

30 A. Yes.

Q. Alright. Now you are, were the owner at the building that was at 391, 391A Worcester Street?

A. That is correct.

Q. How long had you owned it?

A. Seven years.

Q. And in that seven years had you done any structural strengthening to the building?

5 A. No.

Q. Are you aware whether or not there had been any structural strengthening carried out at all in the past?

A. No, not at all. I think there was some changes in 1964 quite some time back.

10 Q. Do you know what they were or not?

A. No.

Q. Did you know anything about the council's earthquake prone policy?

A. Well I expect yes that will be the one that applies will be the Christchurch earthquake-prone process 2006 which come under the Act of Building Act 2004 and I think they are going to implement something next year.

Q. So before the September earthquake did you know anything about the earthquake prone policy or not?

A. Earthquake prone policies that were applied to as far as I know all buildings built before the 1976 unreinforced and that would come under the 7000 buildings in Christchurch that applies.

Q. Did you ever give any thought to having your building assessed prior to the September earthquake to see if it was earthquake prone and whether or not you should do any strengthening?

25 A. Most likely would be if the building still exist will be next year by July.

Q. That's when you have to you mean?

A. Yes.

Q. My question was had, leave aside any council requirements.

A. Sure.

30 Q. Had you ever given any thought to as an owner of such a building had you given any thought to getting it strengthened or whether you should?

A. No not really because no decision on how I'm going to have the building over the next few years. No talk about that.

Q. Whether you were going to keep it you mean?

A. Yes. Likely talk was keep it for another five years depending circumstances may change.

5 Q. And can I ask if you own any other similar buildings, unreinforced masonry –

A. No this is the only commercial.

Q. Now I want to ask you about the events after the September earthquake.

A. Yes.

10 Q. As at the September earthquake I think you had a tenant in the building who was running a pizzeria in the ground floor?

A. That's right.

Q. Someone called Shane Taton is that correct?

A. Yes.

15 Q. And was he also living upstairs, in the flat upstairs?

A. That's right.

Q. Now in the September earthquake there was some considerable damage to the building?

A. That is correct.

20 Q. When did you discover that? When did you first visit the property and seen it had been damaged?

A. Well I saw the place sometime in end of September, 28th of September.

Q. So not till the end of September?

25 A. 28th of September after the September earthquake yes because I was overseas when the earthquake struck and I was sick and could only get back to Christchurch by 27 September so I must have done it the next day.

Q. All right. So the repairs that we've heard were done by Contract Construction, the emergency repairs. Who organised those?

30 A. At that time my wife was around.

Q. And so she started that?

A. And yes she attended to all those issues of the earthquake on behalf of me.

Q. Okay. But in any event you made a claim to AMP your insurers for the ground floor and EQC for the flat upstairs correct?

A. Yes I did that.

5 Q. And we've heard from Contract Construction that they came in and did those make-safe repairs, particularly the east wall, put the tarpaulins over the roof.

A. Yes as far as I understand at that time the insurance assessor was the source of the person that the Contract Holdings, person by the name of Bruce Sim and my wife got in touch with the local insurance company who says yes that is correct and she went ahead and rang up Contract Holdings and asked them to do the job.

10 Q. And you came back round 27, 28 September?

A. Landed on the 27th of September.

15 Q. Okay. Did you have any contact with the council, the Christchurch City Council after you returned?

A. When I came back yes I did approach the City Council because there were no colour code ratings for the properties and I was a bit concerned.

Q. So no placard on your building?

20 A. No placard.

Q. Who did you contact at the council?

A. I don't know. The first thing I did was that I remember ringing them up and they told me that they had no file for this property or something to that, either no file or no records, no issue for that property and after that I said that's not good enough. I went to the council personally.

25 Q. The council office in Hereford Street was it?

A. Yes in Hereford Street. And spoke to the gentleman there and I asked him on the properties. At that time I asked him more than one properties so he told me the other property is a no go whereas this one 391 Worcester Street they have no file on it and no issue. On that basis I asked him could you please arrange someone to do an assessment and the answer was no, they can't do it.

30 Q. Okay. Now you don't know the name of the person you spoke to ?

A. No, no I don't.

Q. Do you know what department that person was in?

A. When I get into the City Council I was directed to see the lady there and I told her about the issue. She rang up a number and some other person came down from the, from upstairs and showed me the gentleman in the room on the ground floor over there and then I begin to talk to the gentleman and he has the computer in front of him and he work out.

Q. Okay. So you don't know what the department was called?

10 A. I don't know. I mean (inaudible 14:14:28) to see what these plans at that time or not. I'm not sure.

Q. Now you mentioned some names of people in the council in an email you sent on the 8th of August?

A. That is correct yes.

15 Q. Were they people you dealt with?

A. I was dealing with other properties –

Q. Is that as a real estate agent?

A. Yes as a real estate agent. So I had the other property on Manchester Street more dealing with council so I could not actually remember which is which.

20 Q. Okay now the names you mention here are Maria White, Victoria Murdoch, Vincie and Laura B and someone called Hannah.

1415

A. Mhm.

25 Q. Now are you able to say other than this listing those names, are you able to say whether you spoke a bit to any of those people in relation to this property?

A. Not sure. It (inaudible 14:15:24) under properties that came across it, yeah.

30 Q. And you mentioned someone called Neville. Again can you say that you spoke to him about this property or not?

- A. No, I don't – I only mentioned, I just want you know, I think my recollection goes more towards the property on Manchester Street that I was dealing with some of these people.
- 5 Q. But in relation to 391 Worcester Street, you said that when you went to the council personally you were told, they have no issue with it, and you asked if they could do an inspection or an assessment.
- A. That's right.
- Q. And what was the reply?
- A. Well they said you cannot do it, why, they don't do it anymore.
- 10 Q. So when was this?
- A. That would be around first October, because I remember 7 of October, then I contact the insurance assessor. My way of looking at it is that safety come first, safety has to be decided by the authority of territory agency and since I can't get that then I went over to get a decision from
- 15 the, from a CPE, CP Engineer , that's my thought you see.
- Q. So you think around 1 October's when you went, soon after you got back from overseas? Soon after you got back from overseas you went in to the council?
- A. Yes, yes, came back on the 27th, so I had contact that (inaudible
- 20 14:16:59) with council on the 1st of October. I wrote it in diary but I could not remember, whether it is a phone call or I went in.
- Q. Okay, but you said that you did go in there?
- A. Yes.
- Q. So was that around that time?
- 25 A. Yes.
- Q. And you said when you asked for an assessment they said, "No." Were you given a reason?
- A. Well they don't do that anymore. The time is – like the period, I get is like the period's over, "Oh we don't do that anymore."
- 30 Q. For the placarding you mean?
- A. Yeah.

- Q. All right, so then you said you went after being told that you wanted to get a CPEng. Is that right? CPEng report or inspection, is that what you said?
- 5 A. Yes, after that on the 7 of October I wrote to the insurance assessor, and I say safety is of – safety is of no compromise. If the building has to come down, it comes down and I would like to have a written report on the property since we did not have one.
- Q. So did you write to the insurance did you say?
- A. Insurance assessor, yes.
- 10 Q. What by email or –
- A. By email.
- Q. Have you got a copy of that?
- A. Mmm, I do, not with me, I do have a copy.
- Q. You haven't provided that to the Commission have you?
- 15 A. Mmm.
- Q. You haven't provided a copy of that email?
- A. I'm sorry, I didn't, I should.
- Q. But you could do?
- A. I could, yeah.
- 20 Q. So that's your letter 7 October to the insurance assessor?
- A. That's right.
- Q. And what happened as a result of that?
- A. The result is that four days later we have this TM Consultant came over here and do the tests, you see, and yes, in between there was a call from TM Consultant to me, and then we make all the arrangement to go
- 25 over to the property on the 11th of –
- Q. October.
- A. – October.
- Q. Right, and Mr Gwatkin who gave evidence was the person, the engineer
- 30 who came over?
- A. That's right.
- Q. And you've heard his evidence?
- A. I heard it yes.

Q. Do you have any issue with that?

A. I have – well from my – not really issues.

Q. That accords with your memory of what happened on that day?

5 A. Yes, if I remember correctly what he say, yes, that should be by and large.

Q. And you'll remember that I put to him your comment that he said, in your letter you said Mr Gwatkins reckoned it was safe for the tenants to carry on occupation of the premises?

A. Yeah.

10 Q. Just tell us about that, what do you say that he said exactly to you?

A. That was correct, when – as he was about to leave I was thinking, some other possible crack, was some crack, was not a crack, (inaudible 14:20:14) and I also mentioned that the – there's some smaller items like a glass door shatter a bit, or make a bit of noise, when the big bus came well he doesn't seem, I said, (inaudible 14:20:30) not much issue, well he did not really tell me no issue, but I gathered from that statement was written, after I got the report because the report shows is green, you see, and I have to take the directions from that, the whole thing is green. That's why I put it as that no issue, it was green all right. Before that my mind was just blank, it can be anything, can be red, can be green, with that report I go by that professional that is green and is safe.

20

Q. Okay, understand. Were you concerned about the level of damage?

A. I don't like that. I don't like the look of it, I would it to restore it as soon as possible so as to speak, you see, and I –

25 Q. What concerned you most?

A. Mmm.

Q. What part of the building's damage concerned you the most?

A. I just – I don't like to think of it tarpaulin draping on top of it.

Q. The tarpaulin.

30 A. The tarpaulin and that is a damaged roof and I expect it to get it done as soon as possible.

Q. Now following that visit by Mr Gwatkin, did you hear back from the insurance, from AMP?

A. No, the insurance send me a copy of the report and say, a copy of it goes to their insurance Wellington, and for their comments, if any.

Q. Now upstairs was residential so you had as I said to claim it with EQC. Was there any link between the AMP claim and the EQC claim in terms of having them processed?

5

A. Well I will say that the, in terms of payment of premium we pay one premium.

Q. No, I'm talking about the claim you make.

A. Oh the claim.

10

Q. You've made a claim.

A. Yes.

Q. And presumably you were following up the claim?

A. Yes.

Q. Just tell us how did that go. Did you have any trouble following up your claim?

15

A. I – yes. It took a lot of time.

Q. With you chasing who?

A. Well I chasing both. I was chasing on the – our private insurance and then they send me the email on the 15 of October I remember and they says that they are not going to try to repair until EQC has come in and make their decision on the property.

20

Q. Okay.

A. And I kept on protesting, I said we can't wait that long. They came back with another confirmation letter, email on 2nd of November and says that Wellington still say so, so that is their decision, have to wait to the EQC process go too.

25

Q. Okay, did you follow up with EQC?

A. I did.

Q. What did you do?

30

A. Well I noticed that the, before the claim on EQC on September 11th, which is seven days after the September earthquake.

Q. September the 11th is seven days after.

- A. Yes, seven days after the September earthquake and we only get EQC member to knock onto our door in the month of February which is the month that the earthquake struck.
- Q. And – (overtalking 14:24:04).
- 5 A. Yep, we in between, I did follow up a number of times on the EQC and even with emails writing, adding words like urgent, help wanted, help needed and send it to a case manager, there wasn't much of a response.
- Q. All right, now and I think in your letter you mention the dates that you followed up, have you still got the emails if that's necessary?
- 10 A. I got the emails, I have – they have, there was six no show appointments by EQC, two of three days each in October, and three days in January.
- Q. What, when they made arrangements but then couldn't come?
- 15 A. Yes, yes, they rang me up and says they are coming, so waited for them, no didn't, maybe the next day, not three days ...
- Q. And so we know that assessors came on the 1st and 2nd of February, correct?
- A. Yes.
- 20 1425
- Q. Was that the first time they came?
- A. Yes.
- Q. All right and you must have got notice of that. They must have made an arrangement to come on those days?
- 25 A. Yes, yes, yes.
- Q. When was that made?
- A. I think normally a day before.
- Q. But you say before that you'd followed up and there'd been arrangements made five or six times before that?
- 30 A. Yes the other five, yeah six, six times no show, yes.
- Q. I'll come to that in a moment. So going back to your insurance claim with AMP, did you have to get an estimate or a quote for the repair?
- A. That is correct. AMP told me that, to get a quotation for the repair.

Q. And is that why you went to Mr Whyte?

A. That's right and I rang around and I got two builders together with, Mr Whyte was there, there was a person, a friend of mine, Mr Ling at the site.

5 Q. Mr Ling's an engineer isn't he?

A. Yes.

Q. Okay you've heard Mr Whyte give evidence just before you?

A. Yes.

Q. Okay but you, he came on the 8th of November as he said, correct?

10 A. Yes we had a site meeting 8 of November. I went to his office, I had a little bit of previous dealing with the other person but to Mr Whyte, I met him first time on the 5th of November, that's a Friday.

Q. Okay we're not too worried about the dates –

A. Yep.

15 Q. – but Mr Whyte gave evidence of coming in, looking at 391 and then later preparing an estimate, okay?

A. Yes.

Q. Which you received, correct?

A. Yes.

20 Q. And did you send that to AMP?

A. Yes I send it the next day after I received on the 10 of November.

Q. Now Mr Whyte said that he spoke to both you and Mr Ling at the property and expressed concern about the parapet at the front particularly each side of the parapet where it sticks out slightly above the rest of the parapet. You know what I'm talking about don't you?

25

A. I guess –

Q. But do, do you accept that or not?

A. No my (inaudible 14:27:29) close to, I work (inaudible 14:27:35) of the details of engineering because all was well spoken to him. The whole purpose for him is to undertake the quotation for the insurance and I –

30

Q. Which is what he said, yes.

A. Yes.

Q. But I'm just asking do you accept that he told you that he was concerned about that?

A. No not that I am aware of because of the time during the meeting I was not with him. I was with my tenant downstairs and I left them –

5 Q. He and Mr Ling?

A. He and Mr Ling because I would not go onto the, onto the balcony and all those, I left it to him.

Q. Well is that not your head in that photo. Did you see that photo with the person's head in it?

10 A. Yes I walk it up and then, yes, that is the head. I –

Q. Okay but some of the time you were together?

A. No after that I left them alone because I'm not going to go through the rest of the property. We walk along the roof, the roof on the east side was pretty safe and it was easy to walk over there. After that I leave them because I was not engaged with the discussions of what has to be done. As long as there's a quotation that comes.

15

Q. Were you not concerned though about whether the property was safe or not?

A. As a matter of fact if Mr Whyte feel very strongly about the unsafe of the property I would be very happy that if he put it down –

20

JUSTICE COOPER:

No you were asked whether you were concerned. Answer that question.

EXAMINATION CONTINUES: MR ZARIFEH

25 Q. My question was were you not concerned about the safety of the property?

A. I am concerned on the safety of the property, yes.

Q. Okay because that's why you went to the council isn't it, earlier on, you were concerned about it?

30 A. I didn't go to council because of that.

Q. I thought you wanted them to inspect it.

A. I went to council when I came back right in the beginning and that was in October, October, yes I, our meeting with Mr Whyte was in November.

5 Q. When Mr Whyte came and after he'd left the property, what was your understanding about the state of your building, in terms of whether it was safe or –

A. My understanding is that there was no issue with him and I was just waiting for his quotation. He has not, it's not I remember anything that he would have highlight to me of any single (inaudible 14:30:06).

10

JUSTICE COOPER:

So again you're not answering the question.

EXAMINATION CONTINUES: MR ZARIFEH

Q. When he left your property -

15 A. Mmm.

Q. - what was your understanding of the state of your property. Were any concerns expressed to you about it?

A. Nothing.

Q. None at all?

20 A. None at all.

Q. And you don't even recall this discussion about the front parapets?

A. No I haven't hear anything about the front parapet.

Q. Okay because that's I think all he's saying. He was concerned about that.

25 A. No it wasn't, it wasn't brought to my attention. I remember, no.

Q. He wasn't talking about the western wall, it was the front parapet. You don't remember that?

A. No, no not that no, no.

Q. So then we have the Boxing Day aftershock.

30 A. That is correct.

Q. The tarpaulins remain over the building all that time don't they?

A. The tarpaulin, yes, some of them had the ropes came off.

- Q. Right and did anyone come and tie them back down or not?
- A. No. I got an email to the Contract Holding –
- Q. We don't need to go into it. Were they tied down or not? Were they re-tied or not?
- 5 A. Not all them were, was loose, I remember was loose.
- Q. And did you arrange for anyone, any engineer or builder to inspect the building after Boxing Day, immediately after Boxing Day?
- A. No I didn't.
- Q. No and we know that the council didn't inspect it, correct? You didn't, you weren't aware of anything from the council?
- 10 A. The council didn't inspect it, that is correct, yeah.
- Q. Then you told us before that after a number of arrangements EQC assessors came on the 1st and 2nd of February?
- A. Yes, mmm.
- 15 Q. And I want to talk to you about that now. So tell us, tell us what you recall about that visit. Firstly on the 1st of February were you there?
- A. Yes 1st of February they came. The team of two members came, the assessor and the other estimator. They went up, have a look at the damage and then five, five minutes or so came down and asked me for a copy of the insurance and they study it. After that he ask what, he ask for to bring it back to his office. Then they came back to the property again telling me that now they are okay to do the inspection from the, that's to say they get the approval from the EQC to do the inspection. So they carry on the inspection thereon and -
- 20
- Q. So was that on the 1st of February?
- A. On the 1st of February.
- Q. So they came, spoke to you about your insurance, correct?
- A. Yes.
- Q. And do you say they went away?
- 30 A. They went back, yeah they took the copy to their office, yeah, yeah.
- Q. And did they come back the same day?
- A. Yes I now remember, now I remember it's the same day, yes.

Q. Right because we know from the records that they came on the 1st of February and on the 2nd of February.

5 A. What happened is after the inspection of 1st of February, after the inspection they gave me a copy, they gave me a copy of the document, I will call it the EQC assessment form, one page document, two sides with a logo and the other side with the two names of the assessor, the assessor and the estimator.

10 Q. Okay now I think, Mr Carter might be able to help me there. I think that this might have been one I didn't get put on, unless he's put it in with his, it is, thank you. It will just go on in a minute.

A. No it's different copy, different copy.

Q. Just the first two pages please. So they, it will come on in a minute, but this document they gave it to you when they came back from the office?

15 A. Yes they gave, they came back from the office and after completed inspection.

Q. Okay so it's not that one?

A. Not this one.

Q. The other one please. It's 0062A.1. All right. See that?

A. Yes.

20 Q. See on the screen?

A. Yes, that is correct.

Q. Next page.

A. Yes.

Q. Please. Right do you see that?

25 A. Yes.

1435

Q. And it has Lindsay Attrell and Bruce Glasgow. They're the assessors.

A. Yes.

Q. Or the assessor and estimator as you said.

30 A. Yes.

Q. So they come back and give you that form?

A. Yes they came back. They did the inspection and before they go they give me that form.

- Q. All right. So just tell us about the inspection on the 1st of February. Did you go with them around the property?
- A. No I didn't.
- Q. And the tenant you had at the time Shane was it was he there?
- 5 A. He was there. He was there yes.
- Q. Okay. Did he go round with them?
- A. I'm not sure but possibly because he is the only person in the property and whether he really go along with them or he does something else I'm not too sure.
- 10 Q. Okay. Now what, did you see them leave?
- A. Yes.
- Q. And was there any arrangement made when they left?
- A. Yes he told me, asked me for permission is all right for them to come back the next day to do some measurements and I said why not, that's
- 15 not a problem. The tenant was nearby and the appointment was made and I did ask him do you want me to be there tomorrow? No not necessary and I left it to them.
- Q. Okay. So the next day were you there?
- A. The next day I, the next day I happened to catch them the last minute
- 20 just before they left.
- Q. Okay. So just tell us about that. They obviously came back to do further inspections?
- A. I don't know how long they took for the inspection but I did remember when they had just about to go to finish up I had not hear from him –
- 25 Q. Heard from who?
- A. – to advise me what other messages to convey to the private insurance assessor and they did not show me any cracks or any defects that should be brought up to me and they had not mentioned that the property was not safe for occupancy and neither did they tell me
- 30 anything about the neighbour which I read later –
- Q. Okay well just leave those issues aside for a moment. You said you just caught them so you came back. You came to the property when they were leaving is that right?

- A. Yes.
- Q. Okay. And you spoke to them?
- A. I spoke to one person only.
- Q. Do you know which of those two it was?
- 5 A. Lindsay.
- Q. Okay. And tell us what was said? Don't tell us what he didn't say just tell us what he said?
- A. He, do you mean –
- Q. What did he say to you?
- 10 A. Okay. At that time yes he say we would like to, he asked me could we come back the next day and I was just looking, yeah, the next day and he say if he can get EQC engineer and I say that not a problem as long as you can make arrangement with the tenant the next day.
- Q. Okay. Why did he say he wanted to bring an engineer?
- 15 A. I don't know. He say. When he say that then it's no doubt and he say oh no no he still have to check with his office whether he can get the EQC engineer but then I say doesn't matter. You can arrange the time if you are coming tomorrow.
- Q. So was it definitely coming the next day? This is the second day they'd
- 20 been there isn't it?
- A. Yeah that was should be the next day yep so he make the arrangement.
- Q. Right. But was the arrangement for him to come with an engineer the next day?
- A. Well he say that yes he wants to arrange for that so a time was set.
- 25 Remember that time was set between him and the tenant.
- Q. And why did he want to bring an engineer?
- A. I have no idea. Just the same that when he ask me that day before he wants to bring someone for, he wants to come back for some measurements I did not ask him for –
- 30 Q. Measurements of what?
- A. Mmm.
- Q. Measurements of what?

- A. I don't know what he was thinking of measurements. When he says that I say as far as I'm concerned you do whatever you need to and he come back. It's just the appointment that you can come back.
- Q. What about anything about the walls? Was that mentioned?
- 5 A. No nothing.
- Q. Are you sure about that?
- A. Yes what he did say was that when he says EQC engineer to do test I was just –
- Q. Hold on a minute the EQC engineer to do tests, right. What was he going to test?
- 10 A. Exactly. I was looking at him and say what sort?. He said he has seen the test before. Her has seen the test and I gathered he must be doing it for some data collection or some samples or what I had no thoughts and I wouldn't obstruct him in coming back.
- 15 Q. Mr Loke, I just want you to remember back to what you were told. Now you said that he wanted to bring an engineer back to do some tests right?
- A. Yes.
- Q. What did he tell you he wanted to test?
- 20 A. He didn't tell me. He didn't tell me what he wanted to test.
- Q. I'm not asking you what tests he wanted to do but what did he want to do the tests on?
- A. I have no idea. I remember nothing of what he says what tests.
- Q. Right. Did he not say to you that he wanted to test the walls or anything like that?
- 25 A. No, no not the walls. My mental picture of that someone might be testing a brick or someone testing concrete, someone testing with high pressure or blow torch or something that was the mental picture I had. I had no idea what -
- 30 Q. So he didn't say I'm going to test parapet walls or anything?
- A. No.
- Q. You sure about that?
- A. Sure yes.

Q. And you're sure that he said an engineer?

A. EQC engineer.

Q. Okay and you said that's fine?

A. Yes.

5 Q. Did you make any arrangements?

A. The next day, that next day in the evening I rang up the tenant and find out whether he came, he say no.

Q. So did you hear from EQC again?

A. No.

10 Q. So apart from the mention of an engineer there was no, you don't know what that engineer was going to do?

A. Nothing because he wasn't sure if he could get one but that is what I was told yes.

15 Q. Okay. Now what I want to ask you now is what were you told by the EQC assessor or the other person about the building?

A. Nothing. They not sure. They did not tell of any defects or show me any defects in the building which I was surprised actually when I look back later why they didn't show me any defects.

Q. Why were you surprised when you say when you look back later?

20 A. Because on the 1st of February after they finish they just give me the form and most cases that I've been to they often explain to you that you may ask the insurance assessor to check on the foundation or check on something but there is no after follow. They have finished with it.

25 Q. Okay. So I just want to read you something that Mr Attrell says about his visit. He said, "We met with a man who identified himself as the owner. I understand from records this man was called Mr Loke. At the time of our initial inspection I recall that we briefly discussed with him the state of the building." Okay do you recall that?

30 A. I don't exactly understand why he write or what he means by when he says the state of the building. I remember when they came they came a bit late but then after that we went upstairs and to my best collection he was saying something that is very badly damaged. He did not make any reference of any inadequacy of the work done. He was just

commenting on what he see with the tarpaulin and I think that was just a very general statement on the situation that they were damaged.

Q. So you can't recall details given to you?

A. No.

5 Q. Right. And he goes on to talk about how he gave more detail to the occupier, to Shane. Did he, was Shane talking to the EQC people when you were not there?

1445

A. He might, I wouldn't be surprised.

10 Q. Why do you say that?

A. Mmm?

Q. Why do you say that?

A. Because he's the only person there and then when they move around you will have to tell them to which explain which other spot or to go around so.

15

Q. So was Shane showing them around more than you?

A. Yeah.

Q. And on the second visit you only came in at the end, is that right?

A. Yes the second visit was at the, the second visit was in the, late in the evening and I wanted to find out from Shane, the tenant, by popping in and asking him, did he come or not? I just want to make sure, that since an appointment is made, just to, that the other person, the EQC people have no trouble in coming to the property. I asked him. That was the purpose of going there.

20

25 Q. Did the other man say anything to you about the building, the estimator?

A. No.

Q. And so when they left what was your understanding about the state of your building and safety or otherwise?

A. They have done the job. They are finished and the next thing to do was to get this assessment form to the insurance, to the private insurance and I did it the next day and I emailed the private insurance this assessment form and that was, yep, on the 2nd of February.

30

- Q. Mr Loke when you wrote to the Commission on the 22nd of July and then email on the 8th of August –
- A. Mmm.
- 5 Q. – you never mentioned that the EQC assessor or assessors said to you that they were going to come back or get an engineer to come back, did you?
- A. Yes I, a lot of things that, in preparing that one it took me a lot of time to recollect information on this particular case. So I agree even there some have the dates mixed up, especially on the, of their visit and the
- 10 2nd, I was so confused, when you mentioned the two days that they'd been to and I thought I remember one day they came here, they went back and come back and I was not clear the exact date.
- Q. Okay and so you accept that you haven't said before in writing about them saying –
- 15 A. Yes.
- Q. – that they would come back with an engineer or get an engineer to come back, correct?
- A. Yes, yes.
- Q. When I spoke –
- 20 A. (inaudible 14:47:46) that they note –
- Q. When I spoke to you before the hearing, before now, is that the first time you mentioned it to me that there'd been talk about an engineer?
- A. No.
- Q. You haven't put it in writing have you?
- 25 A. I haven't put it in writing. I, no, no.
- Q. What I want to ask you –
- A. But until, when I analyse –
- Q. What I want to ask you though is are you sure that that's what they said to you because it's, you've had access to the documents on the website
- 30 haven't you?
- A. Yes.
- Q. And you might have seen in there the information from the EQC assessors and some of their comments on the file about the walls?

- A. The statement of claims I think you would refer to.
- Q. So what I want to ask you is are you sure that you're not mixing up information you've read with your recollection of what you were told?
- A. Yes, there is no mix, yep.
- 5 Q. Are you sure about that?
- A. Yes I'm sure.
- Q. So you're very clear that there was mention of an engineer coming back?
- A. Mmm.
- 10 Q. And you can't remember why or if they said why they wanted to bring one back?
- A. They didn't, they didn't say anything, yes.
- Q. Other than testing?
- A. Yes they, yes they say want to get an engineer for testing.
- 15 Q. All right well if that was said, did you not ask them why?
- A. No I think they, what they needed was just appointment and I leave them to –
- Q. But why they wanted an engineer to come?
- A. Well I, I was more for the idea that, why he would pick up one or two of
- 20 the properties and did some tests for his colleagues to collate the information and that –
- Q. Right but you didn't ask him that did you?
- A. I didn't.
- Q. But if he's saying that to you to me that suggests that he's telling you a
- 25 bit more about what damage there might be to the building.
- A. No. I think he would probably have, you know, at that stage of time he might probably have something to say about things that he need to verify it before, before he might have something to say probably. So I have no idea what, what will be. The only time that I gets, I think it was
- 30 by the time they send me the EQC letter at a later stage of time.
- Q. All right so is that the, that's how it ended on that day, that second day when the EQC assessors left?
- A. Yes.

Q. And you said you got a letter from EQC. When was that?

A. I got a letter from EQC a very short time before the February earthquake and I remember the date was the 5th day, the letter was dated 15 of February.

5 Q. Okay and I think we've got that. It's BUIWOR3910061RED.1. Is that the letter?

A. Yes.

Q. And it had, it referred to an inspection?

A. Yes.

10 Q. And your entitlement?

A. Yes.

Q. And if we turn over to the next pages please. Now stop there please. See in the middle under, next to description?

A. Yes.

15 Q. "This building has severely damaged external walls." Do you see that?

A. Yes, yes I see that, yep.

Q. There it is highlighted, right. And if we go to the next page. "The external walls," thanks, "The external walls are seriously cracked and are moving." Do you see that?

20 A. Yes.

Q. And then it talks about repairs strategy?

A. Yep, yep.

Q. When, when you got that letter you would have read those forms?

A. I recall I subsequently read it initially when I was just wondering why a scope of works come to me and I notice what is written in the letter was statement of claims and that doesn't seem to tie up, not the Statement of Claim the enclosure Scope of Works and Statement of Claim doesn't tie up together.

25

Q. Okay but leave that aside. That description that's there -

30 A. Yes.

Q. - from what you've just told us how things were left with you on the 1st and 2nd of February -

A. Yes.

Q. – that description would have surprised wouldn't it?

A. I got very angry when I saw there was serious, severe damage, I got very angry with that word.

Q. Right what did you do?

5 A. And I thought why would a person write that without telling me before they leave or show me on the cracks. I would love to have a look at it, what it means. I was very angry and I did on to contact him but he doesn't have the, the cellphone number that I could contact him.

Q. Right well did you ring EQC?

10 A. EQC I have tried before, from my past experience trying the 0800 number they were not able to give the estimator or the loss adjuster's phone number and they did write it to me once in writing. They can't give you, they have no contact numbers. So in that case my only chance to contact them would be by email.

15 Q. Okay and did you do that?

A. The whole thing came quick.

Q. So when would you have received that letter if it's dated 15 February?

A. I cannot exactly remember but it's very late, very late, towards the, the whole thing that, my thoughts with, with contacting him and writing the email comes to an end in that short time.

20

Q. But anyway prior to the February earthquake you received that, correct?

A. Yes could be, mostly likely, yes, yes.

Q. And are you saying that what's contained in the description there you were not told that on the day of the visits?

25 A. Never told, never. That's why I got very angry with the person writing a thing like that and never told me or show me when they go.

1455

Q. And yet you didn't do anything about it?

A. I wanted to contact him.

30 Q. But you didn't.

A. I didn't have the number, that was – from memory the most likely can recall events, most likely was just maybe the one day tried to contact, you know, just cannot, and if he asked me I was, you know, is very blur

and that I know that, no way to get it to him in time. I could have emailed him if I could have got it and find out why he would have written this thing whereas, when I went there nothing was mentioned at all, not even the slightest of what he is concerned about.

5 Q. What about your tenant, did he have any discussions with you after the EQC assessors had been on the 1st and 2nd of February?

A. He never.

Q. And so apart from seeing that when you got it and being shocked or surprised, whatever, you didn't actually do anything about it once you saw that?

10

A. I – that copy was in the office, as quick after quick, I just can't do anything to it, you see, in the whole thing.

CROSS-EXAMINATION: MR ELLIOTT

Q. Mr Loke, I represent the interests of the families of the people who died.

15 A. Sure.

Q. When the wall of the building that you owned collapsed.

A. My sympathies.

Q. On the 22nd of February. You've just given evidence that you received a document which said the external walls are seriously cracked and are moving. Did you receive that document?

20

A. I (inaudible 14:57:11) first want to see really crack and I was just angry with that before (inaudible 14:57:23).

JUSTICE COOPER:

25 Q. Mr Loke, can I ask you to listen carefully to the questions and respond to them. The question you were asked was simply did you receive the letter, to which the answer is yes.

A. Thank you.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

30 Q. You've given evidence that you were concerned about the safety of the building?

A. Sure.

Q. So when you received a statement from EQC saying that the walls were cracked and moving, why did you not immediately vacate that building?

5 A. Oh, I would – the thing that occurs to me when I read that severely damaged, I think that he must have sent entirely wrong information to this report because I notice some of the information at the bottom that probably didn't tally up in the calculation. I was looking at the figure, I had to look at the figure.

10 Q. If you were really concerned about safety, and EQC told you the walls were moving, why not tell your tenant and the people on either side of that building that they should get out so the problem could be looked at properly?

15 A. I need clarification from the person what it means. If that refers to another file, another property, then I think I would not be doing the right thing. I will have to check that, is that correct. I will like to talk to the person why, what does he mean and if he is going to tell me that that is immediate danger I would do that definitely.

20 Q. There's a file note on EQC documents recording that the EQC officer believed that the building was unsafe and in danger of collapse. Is your evidence that no one from EQC ever told you that?

A. Not sure exactly.

25 Q. There's a file note in which an EQC officer records on the 1st of February the building is unsafe and in danger of collapse. And is it your position that no one from EQC ever told you that before 22nd of February?

A. Yes.

Q. That is your position?

30 A. At that state of time, yes, because I wasn't sure of what he meant, you see, and I had all time, I have thinking that he make a mistake, he definitely make a mistake. Any assessor who have done something would tell you on the day, have been there for couple of days and not even the single thing so I would never expect that there is a problem at all.

Q. So if EQC had told you your building was unsafe and in danger of collapse you wouldn't have warned your tenant or surrounding properties, you would have just thought they'd made a mistake.

A. Again sorry about that.

5 Q. If EQC had told you that the building that you owned was unsafe, and in danger of collapse, you wouldn't have told your tenant or surrounding occupants of surrounding properties about it, you would have assumed that it was a mistake on EQC's part?

10 A. EQC says that there is danger, I will act on it right away yeah if that is the building unsafe.

Q. Sorry I didn't quite understand that.

A. Not answering your question sorry.

JUSTICE COOPER ADDRESSES MR ELLIOTT

15 Q. Well I just got his answer. His answer was that if EQC had told him the building was unsafe, he would have acted on it straightaway. That's what he's telling us.

A. I see, thank you Your Honour.

20 JUSTICE COOPER:

Q. Is that right Mr Loke?

A. That's right.

CROSS-EXAMINATION: MR LAING

25 Q. Just one question for you Mr Loke. I take it that Mr Ling never gave you any formal written report about the state of your building?

A. The safety of the building, Mr Ling no.

Q. No.

A. No.

30 Q. And you never told the council about the EQC report which you got on the – the letter's dated 15th February, did you?

A. No. That was not, that was not, yes.

Q. And you didn't give the council any other documents about your property either did you?

A. About my property.

Q. About that property?

5 A. I didn't send the council any report, no. And I (inaudible 15:02:17).

CROSS-EXAMINATION: MR CARTER

Q. Only a few questions, sir. Mr Attrell the EQC assessor who inspected the property on the 1st of February, has written to the Commission and provided his recollection of what occurred and if that document could be
10 brought up, it's 0055.8. And if we could just perhaps focus on the bottom half of that document, the bottom two paragraphs. So what Mr Attrell says is that he met with yourself and he says, "That I recall we briefly discussed with him the state of the building." He then says that himself and his estimator returned to the office to get approval for a full
15 inspection given the insurance situation with the building. He then –

A. Towards the bottom, you mean the building occupier.

Q. Yes, I'm coming to that. He then says that they were given approval to return to the building and conduct an inspection which they did and they say that the building occupier was present during the full inspection but
20 he does not recall Mr Loke being present. Is that correct from the best of your recollection at the time the EQC estimator and assessor inspected that building?

A. You referring to the last line?

Q. Yes that last paragraph.

25 A. The last line. Yep. The building occupier was present during full inspection.

Q. Does that accord with your recollection?

A. Mmm.

Q. Does that, is that what you remember?

30 A. But I do not, yes.

Q. So the building occupier was present during the full inspection?

A. The building occupier - that is his point that the building occupier was with him.

Q. But you weren't present during that time?

5 A. No, no, until the last minute when I happened by chance want to check with my tenant whether the EQC person has come or not.

Q. So why weren't you, why didn't you accompany the assessor and the estimator and the building occupier when that full assessment occurred?

A. Well I ask him the previous day whether, whether he wanted me to be present and he says, "No."

10 1505

Q. But this inspection was on, this was the first time the assessor had come to the property wasn't it? It was on the 1st of February. The assessors hadn't been the previous day had they?

15 A. No I think it's referring to second day because if that is the first day, he said would not recall Mr Loke being present how would he be able to give me the EQC assessment form which was dated 1st of February? I got that form on the first, on the first day date.

Q. Just to clarify. The first day when you saw the assessors for the first time was the first of February, correct?

20 A. Yes.

Q. And your evidence is that they then came back on the 2nd of February to –

A. Yeah he came back on 2nd of February.

25 Q. So the first time they were there was on the 1st of February. They talked to you about the general state of the building and then they had to go back to EQC to get approval to do a full inspection. Is that correct?

A. Yes, yes, yes on the same day.

Q. The same day.

A. Same day.

30 Q. And then they returned on the same day?

A. Mmm?

Q. They came back that day?

A. They came back the same day.

Q. Yes.

A. To the best of my collection they came back on the same day.

Q. And, and the last paragraph of Mr Attrell's letter on that page says that when they came back on that day they undertook an inspection and that the building occupier was present at that time.

5

A. Mmm.

Q. And my question to you was does that accord with your recollection?

A. For the second day?

Q. For the first day.

10

A. For the first day?

Q. When they came back and did the inspection.

A. For the first day, if he refers to the first day then the statement is not correct. "Do not recall Mr Loke being present." I was present to receive the documents from him.

15

Q. Mr Attrell is saying that on the first day he came to the building, he met with you, talked to you about the general state of the building, he then went back to EQC, got approval to proceed with the inspection, returned that day –

A. Yep.

20

Q. – and then undertook the full inspection. Do you agree with, with that so far?

A. Your last statement, he came back on the same day.

Q. On the same day.

A. Yes.

25

Q. To do the inspection.

A. Do the inspection, yes.

Q. Correct?

A. Correct.

30

Q. What Mr Attrell says is that when he undertook that inspection the building occupier was present and by that I assume he means the tenant –

A. Yes.

Q. Rather than yourself as the property owner?

A. That's right, that's right, yes.

Q. Does that accord with your recollection as well?

A. I see that when he says occupier he means the tenant.

5 Q. Right and my question to you was why at that time didn't you accompany them while they did that full inspection?

10 A. No I have the, again the collection why would I accompany him when he comes back. I think the timing was a bit upset because I allow to see him a couple of hours but didn't expect him to go back to his office and come back so I have to go for the other appointment. Then after the appointment I came back.

Q. So in other words you left the premises, had another appointment, left the premises –

A. Yes, left the premises.

Q. – and then came back later on in the day?

15 A. Yes.

20 Q. Now if we can just move onto the next page of this document which is point 9 and just focus on that top paragraph, paragraph 3 please. Now what Mr Attrell says there is that he believes that the assessors briefly discussed the general state of the building with you at the time of the initial inspection and that's before they went back and got approval to proceed with the full inspection and he then goes on to say, "We also discussed the danger of collapse and instability of the brick walls with the building occupier during the full inspection," and by that I'm taking him to mean the tenant.

25 A. The tenant, yeah, yeah.

Q. Who accompanied them –

A. Mmm.

Q. – on that inspection?

A. Mmm.

30 Q. And he talks about some of his recollections of –

A. Mmm.

Q. – what it was that he had seen. Now were you there when he talked to the tenant about these matters or were you simply not present?

A. No I was surprised by his report that there was so much discussion, the way he put it with the tenant and such thing was not bring to my notice and that is such that I just believe that the tenant just wanted to remain in the premises and just keep away from me. That would be the likely reason.

5

Q. So following that inspection did you talk to the tenant at all about what the EQC assessors said to him?

A. The, no I'm not with you. I just want to answer the question.

Q. So during the inspection you weren't present but the tenant was. He accompanied them during the inspection and the EQC assessors it said in this document in paragraph 3, that they talked to the tenant about the danger of collapse and instability of the brick walls. My question to you is, at any stage either that day or in the following days did you talk to the tenant –

10

15 A. No, no.

Q. – about their discussions with the EQC assessors?

A. No, not after that we haven't hear a meeting.

Q. Did you talk to the tenants about the state of the building at all?

A. No.

20 Q. At that time?

A. No he didn't mention anything about the condition of building, was this EQC, no.

Q. And the tenant didn't mention anything to you about what EQC had said to him during the inspection?

25 A. No he did not.

Q. Now if I can just ask you to turn to the letter that you wrote to the Royal Commission. That's, if we can look at document 0056.4 and actually turn over onto the next page which is .5 and just focus on the two top lines if you could and you've, you've said there, you've put the dates, the 1st of February the EQC loss adjusters came, filled in the report and then on the 2nd of February you've written, "EQC loss adjusters came to assess for a more detailed cost report." Now there's no mention about the engineer at that time is there?

30

- 5 A. That, the second statement on this 2nd of February is wrong because I was very confused when received a letter from Royal Commission. It says that they were two days and I just can't remember, there was one day that they came the other day was just extra measurements and that's it. So when they settle on two days then I say, at that time I was confused on that, you're right. That, that 2nd of February that line is not correct.
- Q. So can you explain why that line isn't correct? In what respect is it not correct?
- 10 A. Because here I was talking about two costs, the two cost reports, the two cost reports came on much later.
- Q. So what would you say if you were to correct this line, what would you correct it with?
- A. EQC, I would say EQC loss adjusters came for, for further
15 measurements on this day.
- Q. Now in response to questions from Mr Zarifeh you said that the EQC loss adjusters were coming to bring an engineer. Is that correct?
- A. Yes, yes I remember that. I, when they asked me that, yeah.
- Q. So your evidence is now that the EQC loss adjusters weren't coming to
20 do more measurements, they were also coming with an engineer?
- A. Yes, I correct the sentiment at that time was a very casual, unimportant. That's why it was not related to (inaudible 15:13:58) and I see his report was not mentioned. It is a very casual, casual statement you see. That's why I say, you can come as many times you would like. It's all,
25 we are open to see you.
- Q. Are you sure the assessor and the estimator came back on the 2nd of February? Are you sure that they in fact visited that property on two occasions?
- A. Am I sure whether they came on the 2nd of February?
- 30 Q. Yes.
- A. I believe so because I believed that the next day they come. I was surprised when somewhere they mentioned there is a detailed report. What, they have done the report on the first day is complete and why

they come as detailed report on the second day, it was just a bit of a mystery to me.

Q. Have you got any record of the assessors coming on the 2nd of February, that is, the second day?

5 A. No, no. I, in fact I was, earlier stage I was confused on the 1st. I knew he came on the 1st but he did come back that, that's what sort of –

1515

Q. Are you saying that you initially believed the assessors only came on the 1st of February but then subsequently you remembered or thought that they might have come on the 2nd of February?

10

A. Yes. I think a more likely scenario is that although they want to measure, do some measurement on the second day, they might have taken longer time than what should be a short measurement. I don't know. I haven't checked of how long they stay for the second measurement, no.

15

Q. So how can you be sure that the assessors returned on the 2nd of February?

A. Because I saw them.

Q. You saw them on the second day, you remember them coming on the second day?

20

A. Yeah, I remember although he say in this statement, he say he didn't remember what I get that confused on the time. I think I did otherwise I would not have met him.

Q. The reason I ask these questions Mr Loke is that Mr Attrell, who's provided a letter to the Commission, doesn't talk about returning on a second day. So he talks about undertaking an inspection on the 1st of February but he doesn't talk about returning the next day. That's the reason I've been asking those questions, but to the best of your recollection they did return on the second day?

25

30 A. Yes, and right, because the scope of works was dated, somehow dated 2nd of February. That strongly lead me to thinking it was the 2nd.

- Q. Okay, so just to clarify that, your evidence is that because the scope of works is dated the 2nd of February, that led you to believe that in fact they returned on that day and undertook some measurements?
- A. Yes. That has a factor on it, yeah.
- 5 Q. So it's therefore possible that while the scope of works is dated the 2nd of February there was in fact only one visit to the building by the EQC assessors?
- A. Not likely, I think chance is more that he was, he were there at the 2nd, I could be wrong, the chance is that my feeling that –
- 10 Q. You don't have a diary note or something similar?
- A. That is why I could not confirm that exactly.
- Q. Now just turning to a document which again Mr Zarifeh and Mr Elliott have talked to you about, it's 0061RED.1. Now that's the letter dated 15 February which you were asked some questions about, it's a letter from EQC. It says we wish to provide you with an update on the status of your Earthquake Commission claim. Please find attached a copy of a statement of claim check list prepared during the recent inspection of your property. Now was that document emailed to you?
- 15
- A. The statement of claim.
- 20 Q. This letter?
- A. Yes I have the letter.
- Q. So it was emailed to you?
- A. No.
- Q. It wasn't emailed to you?
- 25 A. It was sent to me.
- Q. So it was sent to you by post, you didn't – you don't have an email record of being emailed this document by EQC?
- A. I don't receive information by email in the form of a letters from – not that I will expect them.
- 30 Q. So you would have received emails from EQC in the general course.
- A. In the general communication.
- Q. But you believe you received this document by –
- A. Yes, yes.

Q. By post. And the document isn't signed by anybody is it?

A. It's unsigned.

Q. Unsigned.

A. Unsigned and it's just like other EQC documents, it's unsigned.

5 Q. Just turning to the next page of that document, it's .2, you can see at the top it's a scope of works dated the 2nd of February 2011 and in the description line and my friend's have taken up with this, it says "The building has severely damaged external walls. Cost of repair exceeds entitlement." And then going to the next page again in the description it
10 says, "The external walls are seriously cracked and are moving," and then in the description of the line items, it says, "Total floor area and it states the floor area, severe damage to all walls and chimneys (potentially dangerous)." You see that?

A. Yes.

15 Q. Now I know your evidence has been that you were angry when you received this document?

A. Yes, because severe damage, and what's like, potentially dangerous, I was looking at the what chimneys, we had the two chimneys brought down, then how can the chimney comes into being. That was in my
20 mind, that the chimney has been taken down and saw the second chimney myself when they was taken down on the 29 or 30th of September, so the chimneys were down and I'm –

Q. Although the document reads "severe damage to all exterior walls and chimneys (potentially dangerous)" doesn't it, it's not restricted to the –
25 it's not restricted to talking about the chimneys is it?

A. It says potentially dangerous then does it, chimneys potentially – because it's supposed to be the plural 's' yeah, you see, yeah two chimneys and that it can be anymore chimneys there, and this is a really – chimneys was taking a lot longer.

30 Q. Although those chimneys were taken down to essentially roof or parapet level weren't they, they weren't completely taken down?

A. It could be, it could be, but the – you are right, the second chimney I saw it taking right down and they cover it up with the metal sheet you see, so the first chimney is possibly (inaudible 15:21:22) could be.

Q. Now –

5 A. But I don't expect 's' yeah.

Q. - you didn't call EQC did you? You didn't ring them when you received this document?

A. I didn't ring them because it was – I wanted to ring up this person's here, Bruce Glasgow.

10

JUSTICE COOPER:

Q. Well the question put to you was, you didn't call EQC did you and you said, "No". Now what's the next question.

CROSS-EXAMINATION CONTINUES: MR CARTER

15 Q. You didn't email EQC did you?

A. Didn't mention it, if I do I would have done it maybe Tuesday or Wednesday or something just after that.

JUSTICE COOPER:

20 Q. Well did you or didn't you?

A. No.

CROSS-EXAMINATION CONTINUES: MR CARTER

Q. So in other words you didn't contact EQC at all in relation to your concerns when you received this document did you?

25 A. Not within the allowable time.

Q. And you didn't take any other actions such as contact the council or contact your friend Mr Ling, the engineer, did you?

A. By that time the building is already down and the whole – I don't know what to contact the council, you see, by that time the building was down.

30 Q. So you're saying, is your evidence that by the time you read this letter, the building was down?

A. By the time I received this letter, yeah.

Q. Yes. Well as I recall your evidence before in response to questions –

JUSTICE COOPER:

5 Q. Did you understand the question that was just put to you?

A. I –

Q. Mr Carter asked you whether when you received and read this letter the building was already down. In other words he's putting – he's asking you whether it's your evidence that when you received this letter it was after
10 the 22nd of February earthquake.

A. Stretching my recollection I would probably have seen this on the 21st, around that time. Before I even able to digest it, I've seen that and I – that was one day evening or something like that.

CROSS-EXAMINATION CONTINUES: MR CARTER

15 Q. So you think you would have read this letter on the 21st and not before?

A. This is right, this is, yeah, 21st, this is.

Q. This letter is dated the 15th of February though isn't Mr Loke?

A. Yeah 15th, but I received that, I don't know what time but I – it would be likely I have no collection when the letter comes that whether, by right it
20 should normally if the Post Office were right on the 16th. So I cannot remember that thing, in that short period of time.

Q. In other words you can't remember the date on which you received this letter?

A. Yes, yeah that is –

25 Q. Or the date on which you read this letter?

A. Yes. All certainty could not remember the exact date.

Q. But you think it was before the February 22nd earthquake?

A. Mmm. I remember was so close to that time.

30 **QUESTIONS FROM COMMISSIONERS FENWICK AND CARTER – NIL**

COMMISSION ADJOURNS: 3.25 PM

COMMISSION RESUMES: 3.45 PM**MR LAING CALLS****STEPHEN JAMES MCCARTHY (SWORN)**

5 Q. Your full name is Stephen James McCarthy?

A. It is.

Q. And you have prepared a statement of evidence.

A. Yes I have.

Q. Could you start reading at paragraph six please?

10 A. Events after the 4 September 2010 earthquake. The council does not have a record of any building assessment being carried out on buildings between 4 September 2010 and 22 February 2011. The civil defence response to damaged buildings was targeted at specific areas including Brooklands, Bexley, Dallington, Avonside Drive, the CBD and certain
15 arterial routes. 391 and 391A Worcester Street fell outside the targeted areas. Assessments were also carried out both during and after the state of emergency in cases where the council was advised that a building was potentially dangerous. As at 16 September 2010 when the state of emergency ceased more than 7500 building inspections had
20 been carried out. I understand from an email provided to the Royal Commission by the building owner BUIWRWOR391005619 that the owner assisted the council in October 2010 to discuss this building and other buildings for which he was the property manager. The building owner does not indicate that he advised the council at that time that he
25 considered 391, 391A Worcester Street to be in a dangerous state. The building owner says in his email that as for the conditions of the building I did feel comfortable and safe right through to the time the February 22nd quake occurred. The council received a letter from the Royal Commission on 4 August 2011 regarding 391 and 391A Worcester
30 Street. The letter attached an Earthquake Commission EQC report for the property. The council has no record of the owner having forwarded the EQC report to the council at any stage. The council does not hold any further EQC records for this property. In any event there was no

arrangement in place between the council and EQC under which EQC would advise the council of any buildings that they had assessed as potentially dangerous. As the building was not in an area targeted for rapid assessments and the council had no further information to suggest that the building was in a dangerous state no assessment would have been carried out either during or after the state of emergency. Application of relevant legislation and council's earthquake prone policy. The building was noted in the council's records as possibly, a possible earthquake prone building. The building would have been deemed to be earthquake prone under section 66 Building Act 1991. After the commencement of the earthquake prone building policy 2006 the building consent application for significant alteration was received. The strength of the building structure would have been assessed and dealt with in accordance with the policy. However no application was received. There is no record on the council file of any strengthening works being carried out on the building.

CROSS-EXAMINATION: MR ZARIFEH

- Q. Just a couple of matters Mr McCarthy. Firstly you talked about there being no rapid assessments following the 4th of September earthquake of 391 Worcester Street.
- A. Correct.
- Q. And I think you've probably seen on the file there's one, a green sticker for 395 Worcester Street. Have you seen that? That's on the corner of Worcester and Stanmore Road.
- A. I know it was assessed. I'm sorry I don't know the colour of the placard.
- Q. All right. I just want you to explain to us why there was an assessment of that building which is just down the road from the one we're looking at and not 391. Do you know?
- A. Okay. During the emergency we had a limited number of resources, limited number of engineers to allocate to assessing buildings so we focused immediately on the CBD. Shortly after the 5th and 6th we started commencing inspections up the major arterial routes. Those

were at obviously entry points in and out of the city so we chose a number of roads. Stanmore Road was one of those roads so all of the buildings up Stanmore Road. The commercial buildings got assessed.

5 Q. Right. Okay. Thank you. Now I just want to refer you to a letter that you wrote to the Commission in relation to this building of the 18th of August this year and you'll recall that I, the Commission forwarded to you the scope of works and the statement of claim in this, from EQC in this matter. Do you recall that?

A. Yes.

10 Q. And you were asked what would the council have done if it had been forwarded those documents?

A. Yes.

15 Q. And you said in the event that the report had been forwarded to us then it is likely that we would have taken action under section 124 of the Building Act.

A. That's correct.

Q. As it would appear that the building would have been deemed to be dangerous in the circumstances outlined in the report.

A. Yes.

20 Q. And if on doing that and presumably that would involve an inspection by the council once you'd been notified?

A. Yes.

25 Q. If on that inspection the building had constituted a threat to neighbouring buildings if that had been deemed to be the case then the council would have advised the neighbours accordingly and issued a direction for them not to occupy their buildings and property or parts of their buildings and property?

A. That's correct.

WITNESS EXCUSED

MR ZARIFEH:

Sir, that's the evidence that is to be called, viva voce evidence for the Commission. There's some evidence that's in statement form but perhaps we can deal with the other witnesses to be called and they are from the EQC and
5 called by Mr Carter.

**MR CARTER CALLS
IAN SIMPSON (SWORN)**

JUSTICE COOPER:

5 There is one matter that I think I probably should raise with you, Mr Carter. It is an issue that arises out of something Mr Simpson is going to say but it's a legal matter.

1555

10 **JUSTICE COOPER ADDRESSES MR CARTER - STATEMENT**

JUSTICE COOPER:

It relates to section 32 of the Earthquake Commission Act which is addressed at paragraph 19 of the statement that Mr Simpson is about to read to us and
15 what is said in that paragraph is that there is a restriction on disclosing any information obtained under powers of inspection of any property or entry onto land or buildings except for the purposes of the Act. Court proceedings or such persons as may be specified in other Acts. And I suppose the question is whether it is said that in a situation such as we're considering in this hearing
20 there would have been some inhibition or perhaps proscription arising out of the provisions of that section that would have prevented advice being given to the owners of neighbouring properties that this was an unsafe building. Is that the position that the Commission adopts?

25 **MR CARTER:**

Well sir as you'll hear from the evidence the Commission now in fact has implemented a process whereby that is notified so, or that potentially can be notified where there are urgent or serious safety concerns about the stability of a building, so irrespective of the restriction in 32 that in fact is occurring in
30 terms of the process. Now, and Mr Simpson will be able to answer questions in relation to this Sir, but the statutory proscription in section 32 and indeed the reference to the Privacy Act as well, they're the statutory constrains within

EQC has to operate but EQC doesn't see that particular section as precluding it from undertaking the process it has now implemented.

JUSTICE COOPER:

5 Yes this statutory provision is like a number that one sees. In fact it's not too dissimilar from the Commissions of Enquiry itself whereby one is in the situation where one is with the authority of the statutes compelling the provision of information, requiring its provision and information that is obtained in those circumstances might be thought to be in a different category from
10 situations where simply going about the ordinary work of the Earthquake Commission, inspecting a property for the purposes of the Act, coming across information which is relevant to the integrity of a neighbouring property, carrying out those functions, no compulsion involved, the information could be passed on to those with a legitimate interest in receiving it.

15

MR CARTER:

So in other words Sir from a legal perspective the issue when interpreting this section is whether or not it applies to all information that EQC obtains, for example, in the hundreds of thousands of, you know, inspections that it
20 undertakes or whether or not it relates to those inspections where EQC is exercising powers to enter a property and inspect a property and obtain information and there may be room for interpretation there Sir but in my submission it doesn't. It's not, EQC has implemented a process whereby it can now make those notifications so it's not interpreting this provision as
25 precluding it from doing so.

JUSTICE COOPER:

Well we would, I mean we've read these statements and we're pleased to see the policy position that's now been adopted. We think it's very sensible but
30 one wouldn't want there to be any doubt about its legality.

MR CARTER:

Yes Sir because strictly speaking it's an offence to breach section 32.

JUSTICE COOPER:

Yes.

5 **MR CARTER:**

I think it's a relatively nominal fine but that is a, I think there is a without just cause type of -

JUSTICE COOPER:

10 Yes.

MR CARTER:

Type of a rider, without lawful excuse is, is the wording of that particular provision but I think it's fair to say Sir that provisions such as section 32 inform
15 the processes that have been adopted by EQC and that's, that's essentially the point of Mr Simpson's evidence and certainly the view has been taken now with the implementation of the policy that, that EQC can do so notwithstanding the existence of section 32.

20 **JUSTICE COOPER:**

Well I wonder if you might like to give that further consideration and let us know what the Commission's view, the Earthquake Commission's view, I have to be careful here or we'll be confused as to which commission I'm talking about, I'm talking about the Earthquake Commission as opposed to the Royal
25 Commission on the earthquakes, what it's view is and whether it thinks that it would be desirable for there to be any further legislative clarity provided so as to make it quite clear that information that comes to the attention of the Commission as it is going about its ordinary tasks which does have implications for the safety of adjoining properties can be handed either to the
30 neighbours or to the local authority as is, or probably both.

MR CARTER:

Sir can that be by way of, for example, just a written memorandum?

JUSTICE COOPER:

Yes I'm inviting you if you wish to, I'm saying we, the Royal Commission, would be interested in receiving such a submission because we would want in
 5 our report to remove any doubt that stood in the way of what, what we think as
 currently advised is a common sense approach which, which we would see
 applying not only to the earthquake commissions but to other people,
 professional people, others who come across information which is relevant to
 public safety or the safety of people generally to be required and, and
 10 protected in passing that information on. It's a matter that we're coming up
 against in context, other than this and we will be dealing with it in our, in our
 final report but I think it would be valuable to hear what your input on that
 would be. So a memorandum sometime between now and 28th of February,
 if there is a 28th of February. At the end of February anyway.

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MR CARTER:

Thank you Sir. We appreciate - yes Sir and I expect that the Commission will
 want to take that up and I agree that, you know, clarification is important in
 relation to these matters.

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JUSTICE COOPER ADDRESSES MR SIMPSON - DELAY**EXAMINATION: MR CARTER**

Q. Can you please state your full name?

A. Ian Simpson.

25 Q. And state what your position is?

A. I'm the Chief Executive of the Earthquake Commission.

Q. How long have you held that position Mr Simpson?

A. Since March 2010.

Q. Now Mr Simpson you've prepared a written statement?

30 A. Yes.

Q. Can you please read that statement. In the interests of time I suggest
 you start from perhaps paragraph 6. Your paragraph 2 talks about the

purpose of your evidence and paragraphs 4 and 5 really just discussion factually the request from the Royal Commission for information and EQC's response to that. So perhaps if you can start from paragraph 6 and read your brief.

5 **WITNESS READS BRIEF OF EVIDENCE**

1605

- 10 A. It may be helpful for me to provide some brief context to these issues by describing the nature of the statutory insurance provided by EQC and its response to the Canterbury Earthquakes. EQC is a Crown entity and was established to provide earthquake and war damage cover for purchases of fire insurance under the Earthquake and War Damage Act 1944. Subsequently other natural disaster cover was included and war damage cover was excluded. EQC is now governed by the Earthquake Commission Act 1993. The Act makes provision with respect to the insurance of residential property against damage caused by certain natural disasters. EQC statutory responsibilities are to provide insurance against natural disaster damage to residential properties insured against fire, to administer the natural disaster fund including its investments and reinsurance and to facilitate research and education about matters relevant to natural disaster damage and its mitigation. In essence EQC is an insurer for residential property owners providing natural disaster insurance in relation to residential buildings, certain contents and certain land utilised for the purpose of residential buildings. EQC's corporate office is in Wellington and has claims call centres in Auckland, Wellington and Oamaru. EQC's claims processing centre is in Brisbane as a safeguard against a major disaster in New Zealand. EQC is a statutory insurer rather than an emergency response or a safety inspection organisation. Prior to the Canterbury earthquakes EQC had only occasionally organised repairs to damaged homes and land with most claims being settled by cash payments. The Canterbury earthquakes combined were the largest and most costly insurance events in New Zealand's history generating more than 400,000 claims consisting of over 600,000 individual building, land and contents claims.
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The great majority of claims relate to the earthquakes on 4 September 2010 and 22nd of February, 2011. Within three days of the 4 September earthquake EQC received more than twice the number of claims as our previous largest event. Within a week EQC opened its first field office in Canterbury and staff were on the ground assessing claims. Prior to the 4 September earthquake EQC had 22 permanent staff based in Wellington and 23 contracted assessors around the country. By Christmas EQC had engaged more than 1000 people comprised of assessors, estimators, engineers and administration support staff. As a consequence of the magnitude of the earthquakes and the Government's desire to rebuild Canterbury, EQC has taken on the responsibility of the repair of damaged homes within EQC's cap of \$100,000 plus GST with Fletcher Construction appointed as project manager.

EQC has been requested by the Royal Commission to give evidence in relation to:

(1) whether EQC discloses information on the structural condition of buildings or the condition of land to local authorities or neighbouring property owners or has a policy of notifying local authorities or neighbouring property owners of such information.

(2) EQC's implementation of a process to notify local authorities of buildings which may pose a serious and imminent safety hazard.

Generally EQC only discloses information in relation to a claim to the property owner or to a person authorised by the property owner. EQC's processes are developed in recognition of the statutory constraints we operate under. Following the 4 September 2010 earthquake there was public concern about EQC disclosing information relating to its assessment of buildings and land to local authorities thereby potentially affecting the value of their property or leading to a notification on the property's land information memorandum. Under section 32 of the Earthquake Commission Act there is a restriction on disclosing any information obtained under powers of inspection of any property or entry

on to land or buildings except for the purposes of the Act, Court proceedings or such purposes as may be specified in other Acts. Under the Privacy Act EQC is restricted from the disclosure of personal information in relation to a claim although there is an exception under principle 11F of the information privacy principles where there is a serious and imminent threat to health and safety. Information held by EQC in relation to claims such as assessors' reports contain significant detail that comes within the scope of personal information including the name of the property owner, contact details and estimate of the cost of repair and the status of their EQC claim. EQC's approach has therefore been not to disclose claim information to anyone other than the property owner or persons authorised by the property owner to receive such information. This is reflected in EQC's answers provided to the Royal Commission in EQC's letter dated 28 July 2011.

As I explain shortly EQC's approach has recently been modified by the implementation of a process to notify local authorities and any persons at risk of potentially dangerous buildings. EQC considers that the Privacy Act does not prevent the disclosure of such information to persons other than the property owner.

As I touched on earlier EQC is a statutory insurer not an emergency response or safety inspection organisation. When inspecting a property that has been damaged the statutory scheme is that EQC assessors are undertaking an assessment and quantification of natural disaster damage for the purpose of considering a claim made by a property owner. EQC has neither the mandate nor expertise to assess the safety or structural stability of a building. Our assessors are trained in assessing damage but they are not trained or qualified to assess a structural integrity of buildings.

Following the 4 September earthquake the Christchurch City Council and the Civil Defence Emergency Management Group undertook a process whereby red and yellow stickers or placards were placed on any building – residential or commercial – considered unsafe prohibiting or restricting the entry into or occupation of that building. It is my

understanding that this reflects a local authority's responsibility under the Building Act 2004.

Under the Earthquake Commission Act 1993 the property owner is responsible to take all reasonable precautions for the safety of the building. EQC's assessors would advise the property of their assessment of the damage in the course of any assessment and if necessary attempt to assist the property owner to secure the property through emergency repairs either authorised by the property owner or arranged through the Fletcher Project Management office.

From October this year EQC implemented a new process to notify local authorities and any persons at risk where field staff consider that a building may pose a serious and imminent risk to safety. This reflects the significant loss of life as a consequence of the 22nd of February earthquake. A summary of the process is set out in EQC's letter to the Commission dated 6 December 2011 and the advisory to field staff provided with that letter. The process recognises that on occasions EQC staff or contractors may consider that a building poses a serious risk to its occupants or neighbours. The process provides for the authorities to be alerted in order to carry out an assessment and implement any measures that may be required and in urgent situations for emergency services and persons at risk to be notified. EQC's customer services manager Bruce Emson will give evidence about the details of the notification process and its implementation. EQC's Canterbury event manager Reid Stiven will give evidence about EQC's claims assessment process and the assessment in relation to 391 and 391A Worcester Street.

CROSS-EXAMINATION: MR ZARIFEH

Q. Mr Simpson I want to address two issues with you. The first is the disclosure of information and obviously the change in the policy and secondly what appears in this case to have been a breakdown in terms of progressing the claim following the visit on 1st and 2nd of February. And so before I come to those two issues I just want to take you through

quickly the information that we're talking about right, so you've been accordingly, aware of the file?

A. Yes.

5 Q. We've had evidence that on the 1st and/or the 2nd but certainly on the 1st, we're not sure if it was both days an EQC assessor Lindsay Attrell and an estimator Bruce Glasgow went to 391 Worcester Street and made an assessment of the damage to that building. They completed various documents on the EQC file which included their assessment of the damage to the building, correct?

10 A. Yes.

1615

Q. And I just want to take you quickly through those and if you need the document brought up, I'm happy for that but are you familiar with them?

A. I am yes.

15 Q. Right, well I want to read you excerpts from, and I'll tell you which document I'm reading from. First of February is the first one and it's a file note from Lindsay Attrell and he said, "The building is structurally unstable and has suffered a significant collapse of the roof into the building," correct? "Structural damage to the eastern and western nine
20 metre double brick walls and parapets. A large tarp covers the damaged roof to make it water tight and is tied to the timber bracing on the south and eastern walls and is wrapped over the top of the damaged western and northern walls. The tarp is not secure and requires attention to the ties every two days to make secure. During inspection of the upstairs
25 residential bedroom it became evident that during windy weather periods the wind was lifting the tarpaulin in turn lifting the upper floors of the building in a dramatic fashion making the building unsafe and in danger of collapse."

30 The next document I want to quote to you from is what's called a repair or comes under repair strategy, setting out the damage. "Roof is severely damaged. Major section has collapsed internally. Roof requires rebuilding and replacement of corrugated iron. Roof is unstable." And then in relation to walls, "Nine metre double brick walls with parapet.

East parapet has collapsed and wall has emergency timber bracing on roof of adjoining property. Both brick walls have multiple cracks and are unstable.” A bit further on in that repair strategy under supplementary notes, “Building is in danger of collapse. Unstable nine metre double brick walls. Damaged chimneys. Extensive internal damage.”

5

The next document is one that's already been referred to, the scope of works. It's dated the 2nd of February, completed by Bruce Glasgow, in description, “The external walls are seriously cracked and are moving,” and then below that, “Severe damage to all exterior walls and chimneys,” and in brackets, “potentially dangerous”. And in another document, “The building has severely damaged external walls”. Lindsay Attrell completes a document dated 1 February called a file note and he writes under next action, .1, “EQC appoint engineer to inspect property as a matter of urgency,” and he's underlined urgency. And he's also written in his damage description, “Unstable exterior double brick walls, again nine metres high”. and Dave Campbell who I understand was a field supervisor?

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A. I believe so.

Q. So someone that they would report to?

20

A. Sorry, may have that wrong actually.

Q. Okay, I can probably tell you actually. No he's not a field supervisor, I think you're right, but, he's a pod leader.

A. Pod leader.

Q. Pod leader. What's a pod leader?

25

A. So the assessors are grouped into small teams called pods, and he's head of one of those teams.

Q. So he's in charge of a group of assessors?

A. Yes.

Q. And so Lindsay Attrell would report back to him in the normal course?

30

A. Yes.

Q. So David Campbell has recorded on the 2nd of February, “Urgently advise AMP as this building is in a dangerous condition”. So AMP we've heard was the insurer?

A. Yes.

Q. For the building owner, Mr Loke. So that's the information summarised if you like about this building that the EQC assessor and estimator on their visits on the 1st and 2nd of February, had amassed into the conclusions they'd come to. That's the information we're talking about, correct?

A. Yes.

Q. The policy as I understand it at the time, presumably was based on legal advice EQC received?

10 A. No. It was based on experience over the previous 18 to 19 years that EQC has been in experience of prior earthquakes, including the September earthquake and that was due to the fact in many of those events and specifically in terms of my experience to conversations I had with customers at meetings after the September earthquake, that they were nervous, that their information provided to EQC would end up on LIM reports and would affect the future value of their property. So the policy at the time for EQC was to respect that privacy with the property owner and rely on the obligations of the home owner and the council to look after the safety obligations.

20 Q. So do you know if any thought had been given to safety considerations?

A. There would have been safety considerations. I have to say largely in terms of health and safety issues, so those notes would be written in terms of the safety of building in terms of, needing to send our employees into those buildings.

25 Q. Right, I'm talking about the not communicating information about a dangerous building. Was any thought give to whether that might put people's lives in danger? Neighbouring properties is what I'm really talking about.

A. The thought process was that that would give, by giving information to the property owner, the property owner would have the obligation to take action. If I could just add in all the prior events that EQC have dealt with since it's been in existence, February was the first earthquake event that led to a loss of life.

30

Q. Right.

A. So in all those prior events it was about bricks and mortar and it was about property value and that's what drove the policy that was in place at that time.

5 Q. So has this earthquake, the February earthquake caused a re-think?

A. Fundamental re-think.

Q. And is it fair to say that in fact this case has been instrumental in changing this policy?

A. Yes.

10 Q. Because I think to be fair when the Commission wrote to you I think in July of this year, the reply back from you was this is EQC's policy.

A. That's correct.

Q. And the policy was based on section 32 of the EQC Act and on the Privacy Act.

15 A. That's what we said in the letter, that's right, those are the legal aspects of it, but as I said there was a customer expectation if you like before that.

Q. But certainly with, when Mr Atrell and Mr Glasgow went out that would have been the policy that applied then.

20 A. That's right.

Q. Which was that you couldn't notify council or a neighbour of anything, even of a perceived danger?

A. That's right, because of the privacy concerns for the homeowner.

25 Q. Did you, have you read the letter, the reply that Mr Glasgow gave to the Commission about those issues?

A. I have yes.

Q. It was fairly blunt and to the point wasn't it?

A. It was yes.

30 Q. But did that describe perhaps in his terms, but did that describe the policy which was not to tell anyone other than the claimant anything?

A. I think he may have gone slightly further than was intended, but the aim was that if a property was being inspected, the details of that property, of the damage, should be described to the property owner, but not

described to others and that was again based on experience of dealing with bricks and mortar issues.

5 Q. And His Honour raised this, the issue of section 32, and that's a legal issue, but had any consideration been given to whether that actually applied?

A. We were using that, those legal conditions almost set the tone for the policy, so there was an expectation from the people that had claims with us we were dealing with, and then the legal framework almost reinforced those expectations.

10 Q. Right, but it's one thing to provide information that might affect property values but it's another to advise a neighbour of a conclusion that they might be in danger, isn't it?

A. That's right.

15 Q. And you would say, well that might lead to a decrease in property values if it was conveyed.

A. Well now we'd agree, no, we'd say actually as you know from our current policy, that based on what we've learnt and based on the February event, then we should be notifying people if we think they're in immediate danger.

20 1625

Q. And so is it an acceptance that the policy at the time was a policy that could well have affected people's lives?

25 A. Well it's a learning from what we saw in February. So it's, from every event we learn how to improve our ability, improve our performance and it was something that we felt we should do, do differently.

Q. Because if this policy had been in place back in, on the 2nd of February, or soon thereafter there could have been a difference in how events turned out, couldn't there?

A. I don't think I can speculate on that.

30 Q. We'll never know but we heard from the council, from Mr McCarthy this afternoon that if EQC had sent just that scope of works, the brief summary to the council that they would likely have gone and inspected it and essentially red-stickered the building and looked at the potential

danger for, if there was a danger of collapse, for neighbours and have likely red-stickered those buildings. Now we'll know if that would have happened but if the policy had been in place then lives could have been saved.

5 A. We do know that if the policy was in place the communication would have been given to the council. That would have set off a whole chain of events but we've also heard this morning that engineers had different views on the, on the imminent danger of that property. So we really can't speculate on what would have happened.

10 Q. No we can't, but you're not suggesting are you that the conclusions the EQC assessor came to are wrong?

A. The EQC assessor is a qualified builder but he's not a structural engineer.

Q. No.

15 A. So they were his views and of course we would now act on those views in terms of communication but he's not a structural engineer.

Q. I just want to be really clear about that. So EQC's position is not that the EQC assessor's opinions as I read out to you in summary form in those documents was not correct?

20 A. No I'm not saying, I'm not saying they were not correct, no.

Q. Because in fact the, the, one of the walls that they were concerned about, their concerns were well founded as it transpired in the earthquake three weeks later, weren't they?

25 A. In the event of the February earthquake which we've also heard was one of the most significant on record internationally, that's correct.

Q. The second issue that I wanted to talk to you about was the, what happened with this file and as you know and you've heard Mr Attrell when he completed his documentation and left the property, obviously concerned about it, wanted an engineer appointed urgently. Now when we read what he thought about the instability of the property and the walls in particular that's hardly surprising isn't it, that he would want an engineer?

30 A. That's right.

- 5 Q. And as you say he's not, neither of them were structural engineers of any description and I think you said at paragraph 24 that your assessors are trained in assessing damage but they're not trained or qualified to assess the structural integrity of buildings. Some of them though are, would you agree with me, are fairly experienced, often ex-builders?
- A. All of the, all of the estimators are qualified builders.
- Q. So can you tell us about Messrs Attrell and Glasgow in terms of what they, their occupations had been?
- A. I believe that Mr Glasgow is a qualified builder.
- 10 Q. Right.
- A. I, I'm afraid I can't comment on Mr Attrell's background. He came to us through an organisation called Verifact that supplied a large number of assessors from Australia in the early days before me managed to train up our own people.
- 15 Q. And I think he's returned to Australia hasn't he?
- A. Yes.
- Q. So, but they assessed the building, come to the conclusions they did and they want an engineer to go and look at the building and confirm, if you like, what they believed was wrong with the building and it seems from the information that EQC have provided that it just went into a hole.
- 20 A. It appears to have done, yes.
- Q. Can you explain that?
- A. There are I suppose a range of factors. The first was after September we were working with a manual paper-based assessment process. So given the sort of scale of response we were handling over 100,000 paper files so that would lead to a certain error rate. Subsequently we've implemented an electronic system to, to fix that. Also in this particular case the processes were optimised around, you know, the standard outcome whereas in this case there were a number of questions so there was a question of whether the property was even insured by EQC. It was unusual in that it was an over-cap payment but not \$100,000. It was \$60,000 and so there were a range of reasons why it would have been taken out of that standard process and that's
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when errors could occur. I should also point out, I'm not sure if this is a factor but we were also affected by the 22nd of February earthquake. We closed down operations in the building. We were affected. So while it's three weeks after the assessment it may have had an impact on future progress on that file.

5

Q. Okay but if an assessor and an estimator who go out to a job have those kind of concerns which can only be described as alarming – wouldn't you agree?

A. Yes.

10

Q. And they're so concerned that they put a file note on and pass it on to the pod leader, as you told us, with that request to get an EQC engineer urgently, would that not be, how would urgently be treated by EQC in that situation?

A. There were, well urgently should be urgently. I don't necessarily have a timeframe, given the scale.

15

Q. But not three weeks surely?

A. But not three weeks, no. The two aspects would be, there was a processing place at the time whereby assessors would specifically request for an engineer to be provided. So there was a separate form that was available. That does not seem to have been filled in. The other part is that because we had a lot of new people who are new to the EQC scheme and assessing earthquake damage in assessment phase there would be an intermediate step where somebody would review that file and then request an engineer. So admittedly those two steps would add delay to the process but we were, I believe, receiving quite a few requests for engineering advice which actually weren't, weren't warranted.

20

25

Q. So are you saying that the intermediate step, someone would what, review the papers, because they wouldn't go out and look at the property would they?

30

A. No it's review of the file, that's right.

Q. They'd review the file and they might decide, oh, no, I think the assessor's being alarmist –

A. Yes.

Q. – an engineer's not required.

A. Yes but I'm not saying that would have happened in this case.

5 Q. But even if that was a possibility which is what you're suggesting, surely someone reading this file and taking into account what I read to you is not going to come to a conclusion that an engineer's not required?

A. No I would not think so.

Q. No so we can probably put that to one side, can't we?

A. Yes.

10 Q. So the assessor's request for an engineer went to David Campbell who was the pod leader?

A. Mmm.

15 Q. And he's written back to the Commission and he's said, he says, "I did discuss the matter with Lindsay Attrell on the day following the assessment as I was assisting as deputy pod leader. I made a file note with a recommendation in relation to the claim and forwarded the file to the field office supervisor for review. I had no further involvement in relation to the claim." So that field officer supervisor, just tell us about that position, obviously above the pod leader?

20 A. That's right. So we had a number of field officers around Canterbury where the pods were located. So it's a hierarchical structure.

Q. So he's forwarded it to that person?

A. Yes.

25 Q. And correct me if I'm wrong but my understanding from the EQC replies and briefs is that we don't know what happened to it there?

A. That, that's correct.

Q. And do we in fact, we do know who the field supervisor, field office supervisor was?

30 A. No there's, there's, we know, we know who the field office supervisors were during that period because it was a rotating role. There is an initial on the file which says checked but we've been unable to locate, to find out who that person was who initialled the file as checked. It's one of the reasons why we implemented the electronic system, to stop this sort

of issue but on this particular file that's where, that's where we don't know.

Q. So we don't know who checked it. We can't ask them if they did in fact check it or if they rejected it on the papers or why?

5 A. That's right. We've asked the people who were in that role at the time and none of them can remember this file.

1635

10 Q. And David Campbell in a further letter said, "I do not know what if any steps were taken in relation to the assessor's recommendation about inspection by an engineer. The file was sent to the field office supervisor for further action." Well so we can take it from Mr Campbell's point of view and his involvement that he didn't say that an engineer wasn't required?

A. No.

15 Q. So it had gone through that step to the field office supervisor and that's really the hole then, isn't it?

A. That's right. I don't have any more information after that. That's correct.

Q. We don't know who or what the decision was or why?

20 A. No, in terms of the engineer, no, and I can't answer why an engineer was not contacted. We don't have the information on that.

Q. And a separate request in that documentation was in relation to AMP being advised wasn't it?

A. That's right.

25 Q. "Urgently advise AMP as this building is in a dangerous condition." So was there no problem with advising AMP?

A. The insurers were advised automatically whenever a claim went over 75 percent of the EQC insured value. However that notification would not have included details of safety of the building.

Q. So he was just saying urgently advise AMP?

30 A. Yes.

Q. But not to advise them that it was dangerous?

A. Sorry, I'm sure he was suggesting that AMP should be advised it was dangerous but there was an automatic notification to AMP that that

would not – that automatic notification would not have included safety details.

Q. Okay, I'm talking about his, in his, what action was to be taken. He's saying urgently advise AMP as this building is in a dangerous condition.

5 So well firstly, that fell into a hole as well?

A. So at the point where the file was sent to the field office supervisor, that's when it seems to have stopped.

Q. So the same person would have been responsible for that?

A. For pushing those actions forward, yes.

10 Q. For progressing the file.

A. Yeah.

Q. And so we don't, again don't know who, what or why?

A. No.

Q. But you said that the policy at that time was that you couldn't advise anyone other than the claimant of any details of the property, even that it was dangerous or potentially dangerous to a neighbour, but you could advise AMP?

15

A. Well as this was an over-cap claim and as they'd already assessed the property, then they would be aware of the details of the property, so we will pass claim information through to insurers.

20

Q. So what was the – what would the point have been in advising AMP that it was dangerous?

A. I'm not sure what he was – I think he said to urgently advise AMP. I think it's maybe so they could get on with the claim, but I'm not sure of his intentions to be honest.

25

Q. Well so this other aspect of the case, in terms of the engineer in particular, if presumably nothing's changed in terms of other than your electronic system, nothing's changed in the terms of an assessor who has concerns such as in this case, might well want an engineer to look at the building, that still happens?

30

A. That's correct. However the electronic assessment system is a significant change in terms of time stamping and identifying who takes

each step on the file and given there's a far more robust system for moving information along in the organisation.

Q. Right, but in this case it seems to have broken down at the field office supervisor?

5 A. The step to move the file to the field office supervisor, yes. But I can't tell you if the file was sent, I can't say it was received, I can't say –

Q. Hold on, we've got Mr Campbell saying, "I'm the pod leader or assistant pod leader, I passed it onto the field office supervisor." And so we know it's gone to he or she.

10 A. Well we know that he sent it out. What I'm saying is a paper file, given the volume of paper files we had at the time, I don't think we can confirm whether it was received by the field office supervisor or not.

Q. Oh, I see, so it might not have even got there?

A. I can't – yes exactly, I can't say.

15 Q. We don't even know that, let alone who it was.

A. Yeah.

Q. Well so can you be sure that something like that wouldn't happen again though, even if you've got an electronic system which might enable you to go back and see who dealt with something, or is it just perhaps a human error in overlooking it?

20

A. With 400,000 claims or 600,000 exposures at hand, we don't think there's another insurer in the world that has had to deal with that many claims from a single event. So we have massively improved our systems and improved the quality, but no I can't say that there won't be mistakes in that process.

25

Q. And again we won't know, we don't know what might have happened, but if it hadn't fallen into that hole, and an engineer had been urgently – had gone to the property urgently as required, it was requested, and confirmed those concerns, presumably there still might have been this – the existing problem that has now been changed with the information, correct?

30

A. Sorry the existing problem with information.

Q. Well the problem that existed then was that you couldn't pass on the information, so the council would not have been notified (overtalking 16:40:46)?

A. Um –

5 Q. If an engineer had gone, confirmed that.

A. That's – I think that's the case, yes.

Q. So it really comes back to this issue of communication and the ability to advise?

A. Yes.

10 Q. And as you say we don't know but if this policy had been changed earlier, it could have saved lives, we don't really know?

A. I don't want to speculate on that, no.

CROSS-EXAMINATION: MR ELLIOTT

15 Q. Good afternoon Mr Simpson. I've just two issues for you and they're both brief. Firstly I acknowledge EQC's willingness to implement a new policy addressing what was obviously a very serious issue arising from the earthquakes. Did you say that policy came into force in October of 2011?

A. That's correct.

20 Q. And since then according to Mr Emson I think there have been 17 notifications. Is that right?

A. That's right.

Q. So what about the case of properties that were inspected before October which EQC may have identified as being dangerous?

25 A. So the policy is in place for the assessors when they are assessing new properties from today. I should say though that we have either put in place ourselves through the Fletchers PMO or paid for around eighty to ninety thousand emergency repairs, so if at any point anyone felt that their property was unsafe or not weatherproof then we have paid for a
30 huge number of emergency repairs to mitigate that risk.

Q. So if there were properties which had been identified as potentially dangerous before October are you saying that they would have all been dealt with by urgent repairs, or ...

5 A. That still depends on the homeowner driving those repairs or requesting those repairs through us, so it does depend on a request from the homeowner, but I think a large element of risk will have been mitigated through that activity.

Q. Are you proposing some sort of audit of properties inspected pre-October just to see whether there are any which could be identified (overtalking 16:43:05)?

10 A. We are not at this stage, no.

Q. The second issue is that you've provided, EQC has provided three very comprehensive briefs of evidence to the Royal Commission. However bereaved families may feel that there is a point missing from those briefs and I'm talking here just about 391 Worcester. We know that an EQC officer considered the building was unsafe and in danger of collapse. We know that EQC did not tell the local authority or neighbours. We know that under the new policy it would, so do you acknowledge that EQC should have told the council and neighbours about the danger posed by this property?

15
20 A. Yes, based on what we know now and based on what we've learnt from this event, that is our policy now and that's what we should have done.

CROSS-EXAMINATION: MR LAING – NIL

RE-EXAMINATION: MR CARTER

25 Q. I have only one question by way of re-examination. Can you bring up document 055.12. Now Mr Simpson this is the file note from the deputy pod leader, Mr David Campbell, dated the 2nd of February 2011 and my friend read out to you the last sentence in relation to urgently advising AMP about the building. The line above that says recommended claim
30 be considered for declinature. In other words recommend that the claim be declined. Can you explain why that might have been?

A. Sorry, it's the point I think I touched on earlier, that one of the complexities of this claim is that it's not clear that it was even covered by EQC so in the EQC Act there's a defining boundary of use of the building, so if less than 50 percent of the building was used for residential purposes then EQC does not cover the building and so because there was a question mark over the exact proportion of usage of this building that's what has led to some of the confusion over the file to whether it should be covered or not. From that note there was clearly an understanding that less than 50% was residential purposes and therefore the file actually should not be processed by EQC.

5

10

1645

JUSTICE COOPER:

We were going to hear from Mr Emson and we have a statement from him. I am not sure if it is intended now to call him or just to leave the statement with us to read, probably the latter.

15

MR CARTER:

It sets out what that process is which is reflected in the document itself and how that was implemented.

20

JUSTICE COOPER:

Q. I want to try something out on Mr Simpson from that document. Mr Emson's statement says that since implementation of the notification process down to the end of November 2011 17 buildings have been notified to local authorities and recorded in EQC's dangerous buildings register. Now the dangerous buildings register I suppose is part of the machinery of the new policy, is that right?

25

A. That's right yes.

Q. And are the 17 buildings only in Christchurch or are they elsewhere in New Zealand?

30

A. I believe they are largely in Christchurch yes.

Q. All in Christchurch?

A. Yes I believe.

WITNESS EXCUSED

MR CARTER CALLS

COLIN BRUCE EMSON (SWORN)

Q. Mr Emson, can you please state your full name?

A. Colin Bruce Emson.

5 Q. And also state your position?

A. General manager, customer services for the Earthquake Commission.

Q. How long have you held that position Mr Emson?

A. Since September 20th 2011.

10 Q. Now Mr Emson you prepared a statement, a signed statement for the purpose of today's hearing. Do you have that in front of you?

A. I do.

Q. Can you please confirm that that is the statement that you prepared and that you attest to the truth of its contents?

A. I can and I do.

15

JUSTICE COOPER:

We have all read your statement so we are just sparing you the trouble of reading it thank you.

20 **WITNESS EXCUSED**

MR CARTER CALLS**BRENDON REID STIVEN (SWORN)**

Q. Can you please state your full name?

A. Brendon Reid Stiven but I'm known as Reid Stiven.

5 Q. And can you please state your position and how long you've held that position?

A. I'm the Earthquake Commission's Canterbury event manager and I've held that role since the 4th September 2010.

10 Q. And prior to that role Mr Stiven did you have any involvement with the Earthquake Commission?

A. I was one of the 23 contracted assessors around New Zealand. Held a contract with EQC for about five years.

Q. Thank you. Now you've prepared a statement is that correct?

A. Yes I have.

15 Q. Can you confirm the accuracy and correctness of that statement?

A. Yes I can.

Q. Now Mr Stiven I understand that there was a factual correction that you may have wanted to make to your statement at paragraph 20.3.

A. My apologies. That should read Mr Glasgow not Mr Campbell.

20 Q. So at the moment it says Mr Campbell completed the scope of works but of course that was the estimator Mr Glasgow as we've previously heard. Now Mr Stiven at paragraph 24 of your report, of your statement would you mind reading that out please?

25 A. The file was reviewed by deputy pod leader David Campbell on 2 February 2011 based on his file note of that date. The file note states that this was a commercial property where the residential component was less than 50% of the total area and the building was insured under a business insurance policy. Mr Campbell recommended that the claim be considered for declinature and that the insurer AMP be urgently advised because the building was in a dangerous condition.

30

Q. Can you also just go on and read the next paragraph as well please?

A. Mr Campbell's recommendation to decline the claim appears to have been based on his views that less than 50% of the building was being

used for residential purposes and was therefore a matter for the commercial insurer. The Earthquake Commission Act 1993 defines a residential building to include a part of the building if the dwelling constitutes 50% or more of the total area of the building. It may be that this is also the reason Mr Campbell did not recommend that an engineer be appointed to inspect the property as requested in Mr Attrell's file notes.

1655

Q. So can you just elaborate on that?

10 A. As Mr Simpson described it, where a building has a residential component that is less than 50% of the building, sometimes in our organisation with new people there is confusion as to whether that's covered. It also depends on whether the insurance policy has a residential component where we receive a levy. I've had the opportunity to discuss with Mr Campbell the declinature, or his recommendation for declinature of this claim and it was based on the belief that it was a commercial property and that's why an engineer was not appointed.

CROSS-EXAMINATION: MR ZARIFEH

Q. So Mr Attrell is the assessor. He's the one that goes to the property?

20 A. They go as a team.

Q. Right but he went to the property?

A. Yes.

Q. And he assessed the damage to the property?

A. Together with Mr Glasgow, yes.

25 Q. Right, the two of them, yes and you've heard the summary that I read out to Mr Simpson?

A. Yes I did.

Q. Do you agree with Mr Simpson that it's an alarming summary of the building damage?

30 A. I think it's actually a really good file note.

Q. Do you agree with me that it's alarming?

A. Yes I do.

- Q. Right and are you saying that you have talked to Mr Campbell about why he didn't recommend an engineer?
- A. Yes I have.
- Q. Why is that not in the brief?
- 5 A. I only had opportunity to speak to him this week.
- Q. And did you tell Mr Carter?
- A. Yes I did.
- Q. Well you heard me read out Mr Campbell's two letters or parts of them?
- A. Yes I have.
- 10 Q. He said, "I do not know what if any steps were taken in relation to the assessor's recommendation about inspection by an engineer."
- A. No he –
- Q. That's his letter right?
- A. That's right.
- 15 Q. Have you seen that before?
- A. Yes I have.
- Q. So are you saying that you spoke to him after you'd read this letter, what, to find out if he knew more about it?
- A. I asked him to clarify to me if he could recall why an engineer was not
- 20 appointed. He advised that he recommended declinature of the claim based on the fact that he believed it to be a commercial property and passed the file to a field office supervisor who as Mr Simpson quite correctly said we have been unable to identify.
- Q. Right. I thought you were adding a bit more about the engineer. So you
- 25 don't know why. He didn't say anything to you about the engineer?
- A. His view to me was that the engineer was not appointed because he had declined the claim.
- Q. Okay so he didn't recommend that no engineer be appointed?
- A. His, his file note recommends declinature of the claim.
- 30 Q. We know that.
- A. And then says, "Urgently advise AMP."

- Q. We know that. I thought you were adding that Mr Campbell says, said to you that he didn't recommend an engineer and the reasons was because it, it was commercial?
- 5 A. He recommended declinature of the claim and on that basis no engineer, he recommended that no engineer be appointed.
- Q. So did he complete a file note to the effect that no engineer should be appointed?
- A. No the file note that he completed is the one that you have.
- Q. Right and there's nothing there about no engineer being appointed?
- 10 A. No. As I stated I had a conversation with Mr Campbell about that this week.
- Q. Well why do you think then that he said that he did not know what if any steps were taken in relation to the assessor's recommendation about the inspection by an engineer?
- 15 A. Because I presumed he passed the file onto the field office supervisor and that's where the black hole that you talk about arrived.
- Q. Right but you seem to be saying now that Mr Campbell has suddenly remembered that he recommended that an engineer not be appointed.
- A. Mr Campbell said to me this week that he recommended declinature of the claim and on that basis that's why an engineer was not appointed.
- 20 Q. Right so he is surmising that's the reason?
- A. No I didn't take that from the conversation at all?
- Q. Well what did he actually say to you?
- A. Just as I've said it.
- 25 Q. Did he say that he recommended that an engineer not be appointed?
- A. He said to me that he recommended declinature of the claim based on the fact that he believed it to be a commercial property and he believed that that is the reason why the engineer was not appointed.
- Q. Right so he is surmising what the field office supervisor, why the field office supervisor –
- 30 A. He's making an observation to me as to what he thought.
- Q. Right so he's not actually saying that he didn't recommend it?

A. Can I repeat again. He said to me that he recommended declinature of the claim based on his belief that it was a commercial property and he believes that's why an engineer was not appointed.

Q. Right and that decision would have been the field office supervisor?

5 A. That's correct.

1700

Q. And that's the person we don't know who, why or what correct?

A. That's the person we have spent some time trying to identify yes.

WITNESS EXCUSED

MR ZARIFEH READS STATEMENT OF GEOFFREY HADFIELD

“I Geoffrey Hadfield do solemnly and sincerely declare that (1) I was the proprietor of Wicks Fresh Fish Shop – Wicks – at 389A Worcester Street, Christchurch with my wife Natasha Hadfield who was killed at that address in
5 the 22 February 2011 earthquake. As a result of the 4 September 2010 earthquake, bricks from the chimney on the roof of 391 and 391A Worcester Street immediately to the east of Wicks fell on to the roof of Wicks. I rang my insurer Vero and I recall they sent out a engineer I think from Lewis and Barrow Limited. The damage to the roof of Wicks was minimal. Some small
10 holes in two of the sheets of long run iron. As my insurance excess was \$2500 I repaired the holes myself. Those holes did not affect the strength of the roof as it was a long run iron roof that was only six years old.

“On the 4th of September, 2010 I went into the building next door 391, 391A Worcester Street with the tenant Shane Tatom. There appeared to be
15 reasonably extensive damage in that the top of the parapet at the front of the building had fallen on to the roof and part of the roof had collapsed. Shane Tatom told me that he had been very lucky to escape serious injury or death in the earthquake as he had got up only a short time before it struck to fire up his pizza oven for his business downstairs. In the earthquake a large
20 supporting beam from the roof fell landing where he had been sleeping earlier.

“I recall tarpaulins being put over the roof of 391, 391A Worcester Street soon after the September earthquake. Those tarpaulins remained that way until the 22 February 2011 earthquake. I was not aware of any of the buildings in my block being placarded by the council or civil defence. I recall Shane Tatom
25 telling me about a sticker in relation to 391 or 391A Worcester Street and he saying that he had restricted use of the downstairs however I’m not sure as to who was responsible for the sticker or what it was. Sometime late in 2010 Shane Tatom told me that his landlord had been told that he should remove the top storey of 391, 391A but later Shane told me that the landlord had said
30 to him that he thought that maybe he, that’s the landlord, could save it. I also recall Shane telling me at one stage that the landlord had ‘Kicked one of the builders off the property’.

“I’m not aware whether or not there was any further damage to 391, 391A Worcester Street from the Boxing Day earthquake. After Boxing Day there was some damage to the west wall of Wicks. Wicks comprised two shops side by side and it was the west wall of the westerly shop that was damaged.

5 It had moved slightly. I contacted Vero and Mr Lewis from Lewis and Barrow visited the property. He and I climbed onto the roof and looked across the roof of Wicks. Mr Lewis did not as far as I was aware look at the eastern wall of 391, 391A Worcester Street which was the boundary with Wicks.”

10 That should be the western wall.

“That did not form part of any discussions between us on that day. At that time the tarpaulins were still in place on 391, 391A. The tarpaulins were held at the bottom by 4 x 2s and tied at the front.

15 “I was aware of a number of people wearing fluoro vests and hard hats coming and going to and from 391, 391A Worcester Street but I do not know who they were. One such man walked into our shop and looked at the adjoining wall and then just walked out again without saying anything. This would have been in January/February 2011. I was trying to serve a number of customers
20 we had at the time so that I could go and ask, go and talk to him and find out what he was doing but I did not become free from customers to enable me to do that. I have been told that an EQC assessor has stated in a reply to an enquiry by the Royal Commission that he recalls going into what must have been our shop at the time he was inspecting 391, 391A Worcester Street in
25 early February 2011 to inspect the common wall and talking to a male who was serving a customer. That male would have been me and it is likely to have been the occasion I refer to in the above paragraph. However he did not have any conversation with me at all and made no mention of why he was there or any potential danger from the wall. No one ever came from next door
30 or from anywhere else to talk to me about the state of the building at 391, 391A Worcester Street.

“In the February earthquake the roof of the eastern shop of Wicks collapsed as a result of bricks from the western brick wall of 391, 391A Worcester Street

collapsing onto it. Although the short parapet on the roof between the two Wicks shop collapsed in the February earthquake, given its full size this would not have collapsed this roof and it can be seen in the photographs that we've seen. Only a small part of the front parapet which was damaged this can be seen in the same photo and some of those bricks fell outwards. The western wall of the west side shop of Wicks which Mr Lewis had inspected in late January 2011 was still standing after the February earthquake although some of the bricks at the back were dislodged. Some of the bricks in that wall fell on to the roof of the west shop of Wicks but did not collapse the roof at all. This can be seen in the photographs. It is very clear looking at the roof afterwards that it was the very considerable weight from the western wall of 391,391A Worcester Street that had caused the roof of Wicks shop to collapse. If you look at the photographs I took two days after the February earthquake you can see the volume of bricks that came through Wicks' roof and into the Wicks shop. Photograph 0035 shows some of these bricks. I had to move bricks that were on top of the sheet of iron in the centre of the photograph and throw them out the front door of the shop to get to my wife Natasha, who was under that sheet of iron. Part of the hole created in that western wall as a result of the collapse can be seen in that photograph. A great many bricks had to be removed. Passersby came and helped move bricks."

(BUI.WOR391.0043.19)

And sir, that's the sheet of iron in the centre of the photo that he's talking about and as I think described before, the doorway to Wicks can be seen beyond that and the bricks that are out on the footpath and the part of the hole in the wall, the west wall of 391, 391A seen at the top left.

JUSTICE COOPER:

Did you say the door?

30

MR ZARIFEH:

The doorway to Wicks is seen beyond the –

JUSTICE COOPER:

With the white bar across it.

MR ZARIFEH:

5 Yes sir.

JUSTICE COOPER:

Band.

10

MR ZARIFEH CONTINUES READING STATEMENT

Yes sir. It's slightly deceiving when you first look at it.

15 "I believe that the eastern wall of 391A Worcester Street did not collapse in the February earthquake. This had been braced with timber framing following the September earthquake. I do not know why that was not carried out on the western wall. If it had that might have prevented the wall collapsing as it did in the February earthquake particularly given that the roof collapse would have been likely to have compromised the structural integrity of the wall.

20 "I never had any contact with the owner of 391, 391A Worcester Street. I never had any contact from EQC or anyone else in relation to the structural integrity of 391, 391A Worcester Street. Although Shane Tatom had mentioned the damage to 391, 391A Worcester Street he never said anything to me about any potential danger to my property. Although I was aware it
25 had sustained damage from the September earthquake I was not aware that it might pose a potential danger to my building. If I had been told that then I would have taken steps to ensure that myself and my wife and anyone else were not in that building."

30

JUSTICE COOPER:

Well this now concludes our hearing, our hearings for this year in fact. Our conclusions on the matter that we have been considering today will be set out in our final report when that is issued next year. Now stand adjourned.

**5 HEARING CONCLUDES INTO CIRCUMSTANCES OF THE FAILURE OF
391 AND 391A WORCESTER STREET**

COMMISSION ADJOURNS: 5.10 PM

10