

12 March 2012

Stephen Mills QC
Counsel Assisting
Canterbury Earthquakes Royal Commission
PO Box 14053
CHRISTCHURCH 8544

Dear Mr Mills

**ROYAL COMMISSION OF INQUIRY INTO THE CANTERBURY
EARTHQUAKES: INFORMATION REQUEST (CTV BUILDING)**

I refer to your letter of 3 February 2012 requesting further information in relation to the CTV Building. Your questions are dealt with below. As discussed in our letter dated 24 February 2012 it seems clear that parts of the Council's building file for the CTV building are missing but our investigations are still continuing.

Your questions are therefore answered in light of the information currently available to the Council.

1. Building Permit Conditions

The second condition of the 1986 building permit required the Design Engineer to provide written confirmation that the intent of his design had been complied with before the building was occupied – does Council have a record of the Design Engineer's confirmation, and if so, provide a copy.

The Council has not been able to locate a record of a confirming document from the design engineer of this nature in relation to the CTV building and so it cannot provide a copy. As noted above the Council believes parts of its file for the CTV building are missing and is continuing investigations to try and locate the missing files.

Was it the practice of the Council during this period to include a condition of this kind in building permits and whether compliance was routinely required?

As noted in our letter of 24 February 2012, it was the practice of the Council to regularly include conditions of this kind in a building permit. There were similar conditions on the building permits for the Forsyth Barr and Grand Chancellor buildings. It has proved difficult to locate evidence indicating that compliance was "routinely required", but the Council's expectation would be that all building permit conditions should be complied with. We have located some examples of letters received from engineers certifying that the work as built is in accordance with their design, and also letters from the Council to engineers requesting that

certification. We attach those letters for your information. The Council letters are not clear copies as they are photographs of microfiche film on a viewer.

2. Building Permit Application 2001 – Change of Use – Going Places

Paragraphs 5-7 of your letter, and paragraph 10 – can Council confirm that there is no record of a building consent application for a change of use for “the third floor [being] occupied by Kings Education Ltd, a private English language school”?

The Council generally agrees with the comments in paragraphs 5-7 of your letter relating to the 2001 building consent application (ABA10013756), but notes that you have described the fitout as being for “the second level” and on “the second floor”. The Council notes that the way in which the levels of this building were described at various times has differed.

The letter from Design Edge (Mark Vryenhoek) dated 15 May 2001 addressed to the Council’s Building Consent Team is headed: “*FIRE REPORT: Level 3, 245-9 Madras Street, Christchurch ...*” (our emphasis). The letter then states that the building is “*six levels, ground floor level 1*”.

The writer of the 15 May 2001 letter then confuses matters as he describes the building as “*all WL apart from level two, which will be the CL purpose group*”, but in the bullet point list, he describes level 2 (together with level 1) as being the television studio and offices (which are within the WL group, as are levels 4-6), and level 3 as “*new education facility, CL ...*”.

In a later Design Edge letter, dated 5 June 2001, the writer specifically asks the Council to note, in relation to building consent project 10013756, “*that the floor level is level 3, as the ground floor is referred to (sic) level 1.*”

In relation to your question in paragraph 10, the Council confirms that it has no record of a building consent application related to a change of use for Kings Education Ltd.

It appears from Mr Drew’s statement of evidence (paragraph 20 at BUI MAD249.0019.5) that both “Going Places” (second floor/level 3) and “Kings Education” (third floor/level 4) at some stage occupied the CTV building at the same time, although the Police evidence (at BUI.MAD249.0226.2) suggests the second floor/level 3 was vacant (presumably as at 22 February 2011). On that basis, if Kings Education Ltd occupied a different level from Going Places, and their language school use replaced a previous office use for that level, then they should have notified the Council of the change of use before occupying level 4 of the building.

Paragraph 8 of your letter – NZS4203:1992

This paragraph states that “NZS4203:1992 includes a school classroom building in the category of “Buildings which as a whole contain people in crowds” and that “a school building appears to trigger clause 2.3.1 of NZS4203...”.

While the Council agrees with the first statement in terms of a school classroom building on its own, or a school classroom that is part of a building that contains other school classrooms/rooms, the statement is not correct in the context of the school classroom(s) in the building that was the subject of building consent application ABA10013756.

The “building...as a whole” does not, in this situation, contain people in crowds. The building as a whole (namely all 5 other levels) was primarily offices. They were assessed by Design Edge in terms of the fire safety compliance document (C/AS1) as WL (working low), and only the one level that was to be fitted out as the language school was assessed as becoming CL (crowd large).

In relation to the loading standards in NZS4203:1992, which applied in 2001, the classification for this building under clause 2.3.1 would have been category (IV) “Buildings not included in any other category”, not (II) “Buildings which as a whole contain people in crowds”.

We are not certain what you mean by a school building “triggering” clause 2.3.1, and that this “relates to the risk factor and loading standard”. Any building “triggers” clause 2.3.1 to the extent that every building must have a category classification under the table in clause 2.3.1.

Paragraph 9 questions

Was it the fact that the proposed tenancy was for a language school that made this a change of use application?

It seems clear that Design Edge considered that the building consent application involved a change of use and the application proceeded on this basis. (The Code Compliance Certificate did not refer to a change of use but specified the intended use as "office and administration".)

If so, did the Council consider whether the proposed tenancy came within clause 2.3.1 of NZS4203:1992

As noted above, all buildings come within one of the building category classifications in clause 2.3.1 of NZS4203:1992. There is no direct evidence on the file as to the Council's consideration of clause 2.3.1 but the building could not come within category (II). The building and the building work on the building that was described in consent application ABA10013756, must have come within category (IV) “Buildings not included in any other category”.

If it did, what (if any) consideration did the Council give to the risk factor and loading standard?

See the above answer.

Did the Council take any steps to satisfy itself that the building met the increased loading standards for a school, other than to consider when the building had been designed and constructed?

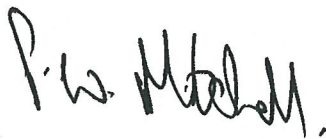
Under section 46 of the Building Act 1991 the Council needed to be satisfied, on reasonable grounds that in its new use the building would comply with the provisions of the building code, for all of the matters identified in section 46 of the Building Act 1991, including structural behaviour, to “*as near as is reasonably practicable to the same extent as if it were a new building*”.

The Council agrees that there would have been increased loading standards for the building compared to a brand new building built at that same site, but not arising from the fact the building consent was for a change of use to a school on one level of this 6 level building.

The date when the building was designed and constructed was relevant to any consideration of what was reasonably practicable in relation to this building consent and any upgrading to the structural behaviour of the building required as a result of the change of use.

In the context of this building, and under the reasonable practicability test the Council determined there was no structural upgrading work to be required before the change of use could proceed. Upgrading work in relation to other building code requirements in section 46 was required and completed.

Yours faithfully



Peter Mitchell
General Manager
Regulation & Democracy Services

O'Loughlin Taylor Spence Ltd CONSULTING ENGINEERS

RECEIVED
- 7 OCT 1993
DEVELOPMENT GROUP

St Elmo Courts
47 Hereford Street
Christchurch 1
P.O. Box 2373
Telephone 379-2734
Fax 379-1642

J. S. O'Loughlin BSc BE (Hons) MIPENZ
J.S. Spence BE (Hons) MIPENZ

RECEIVED

7 OCT 1993

Public Health & Safety

1743/JSS

6 October 1993

Christchurch City Council
P O Box 237
CHRISTCHURCH

ATTENTION: Mr D Flewollen


FAXED

Dear Sirs

**CASHEL PLAZA - CASHFIELDS
BUILDING PERMIT APPLICATION 9209242**

Further to our telephone conversation we confirm that we have made inspections of the construction work at the above building and that the work as built is in accordance with the intent of our design.

Yours faithfully


J S Spence

9317060				INTL	DATE
MR. NAE	ACTION REPORT INFO				
MR.					
MR.					
MR.					
MR.					
REPLY	SENT	MIL	TO FOLLOW		
FILE No					

Bu/40/655/299

268/DJF/JMB
30 January, 1985.

The Manager,
Christchurch City Council,
P.O. Box 237,
CHRISTCHURCH.

D. J. FALLOON. BE MIPENZ MICE
CONSULTING ENGINEER

61 Kilmore Street
P.O. Box 2867
Christchurch
Telephone: 797-260

Attention: Chief Building Inspector



Dear Sir,

RE: LEGAL CHAMBERS 229 DURHAM STREET, CHRISTCHURCH
(BUILDING PERMIT APPLICATION NO. 696)

I write to advise that the foundations to the above project have been constructed in accordance with the details and drawings prepared by my staff under my supervision and that the construction is in accordance with the intent of the design.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'D. Falloon'.

David Falloon.

Copy to: Industrial Holdings Ltd
Attention: Mr Grant Morrison

25 October 1985

The Manager
Business Construction
PO Box 378
CANBERRA

Dear Sir

64 CASHEL STREET

The works associated with the building permit issued for the above project are now completed.

Condition number 4 of the approved permit required that the Design Engineer confirm in writing that the intent of his design had been complied with. Could you please arrange for that certification to be forwarded to this office.

Yours faithfully



THE DESIGN ENGINEER

CHRISTCHURCH CITY COUNCIL

P.O. BOX 237 CHRISTCHURCH NEW ZEALAND

/4

IN REPLY PLEASE QUOTE

BU/40/88/14

IF CALLING PLEASE ASK FOR

Mr. Sullivan

EXTENSION NO.

675

21 January 1988

The Manager
Mooroom Construction Ltd
PO Box 13 448
CHRISTCHURCH

Dear Sir

165 CASHEL STREET

The works associated with the building permit issued for the above project
are now almost completed.

Condition number 1 of the approved permit required that the Design Engineer
confirm in writing that the intent of his design had been complied with.
Could you please arrange for that certification to be forwarded to this office.

Yours faithfully



Alan
DESIGN ENGINEER