

**COMMISSION RESUMES ON TUESDAY 3 JULY 2012 AT 9.34 AM****JUSTICE COOPER:**

Yes, Mr Zarifeh.

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**MR ZARIFEH:**

Good morning Sir. The first witness this morning of two witnesses is Leonard Pagan who was a quantity surveyor that inspected the building on the 29<sup>th</sup> of September 2010, with Mr Coatsworth and Mr Drew.

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**MR ZARIFEH CALLS****LEONARD WILLIAM PAGAN (SWORN)**

Q. Mr Pagan, is your full name Leonard William Pagan?

A. Correct.

15 Q. You live here in Christchurch?

A. I do.

Q. You've got a brief of evidence that you have signed in front of you?

A. Yes.

20 Q. Can I ask you please to read that to the Commissioners, starting at page 2?

A. At page 2?

Q. Sorry, paragraph 2?

A. Paragraph 2.

**WITNESS READS BRIEF OF EVIDENCE FROM PARAGRAPH 2**25 A. "I am employed by Rawlinsons Ltd as a quantity surveyor and have been since November 2006. On a day-to-day basis I price building projects, estimate quantities of materials needed and prepare tenders. Following the 4<sup>th</sup> of September 2011 earthquake I was –"

Q. 2010.

30 A. "2010, I was heavily involved in preparing estimates for the costs of earthquake repairs. On the 29<sup>th</sup> of September 2010 I went to the CTV building at 249 Madras Street to carry out a walk through inspection for the purpose of reviewing earthquake damage and to

prepare an estimated cost of repairs. I do not know who instructed Rawlinsons but I presume that the company was instructed by the owner of the building, Madras Equities. I went around the building with the building manager, John Drew, and David Coatsworth, a structural engineer from CPG Ltd. My report on the 4<sup>th</sup> of October 2010 records both external and internal damage. I recall inspecting the outside of the building, the ground level car park and every floor.”

Q. And is that the first page of your report that we see there?

A. Correct.

10 Q. I'll come back to that in a moment.

A. Okay.

Q. Carry on.

#### **WITNESS CONTINUES READING BRIEF OF EVIDENCE**

A. “Mr Drew and I were walking around looking primarily at the aesthetic damage to the building which mainly consisted of cracks in plaster board wall linings, wall junctions and joints and broken glass panels. I recall that Mr Coatsworth would sometimes be walking together with us but at times he was off looking at other parts of the building. For example, I recall on one occasion when John Drew and I were looking at ceiling areas Mr Coatsworth would be off looking at panel joints. I did not take much account of what Mr Coatsworth was taking notice of but I do remember that he looked at the shear walls at both the north and south ends of the building. I particularly recall his interest in the shear walls at the ground floor level. I did see that both the north and south shear walls had hairline cracks in them. These were diagonal. From my report dated 4<sup>th</sup> of October 2010 it would appear that I have had discussions with the cracks on the south wall with David Coatsworth at the time of our inspection because I have written, “from the initial structural investigation these are believed to be superficial only at this point.” This is not a conclusion which I was qualified to draw and must have been advised by David Coatsworth in regard this. I do not have photographs of the cracking in the southern shear wall.”

- Q. I will just get that report brought up again and you can refer us to that point that you're talking about. Can you see your report there –
- A. I can, yes.
- Q. – and if we get the bottom half expanded, page I think it's the fourth to  
5 last bullet point –
- A. Yeah, do you want me to read that out?
- Q. Is that what you're referring to?
- A. Correct.
- Q. Where it says, "Hairline cracks in concrete shear walls"?
- 10 A. That's right.
- Q. "From the initial structural investigation these are believed to be superficial only at this point", is that what you're referring to?
- A. That's what we're referring to, yeah.
- Q. And what was your understanding of what you'd recorded there?
- 15 A. My understanding was the cracks that we saw were only very small, why we've stated hairline cracks. From looking at them it didn't look to be anything of any great significance or any damage as far as I could tell to the panels.
- Q. Right, and did you understand there was going to be any further  
20 inspection or investigation?
- A. I'm not sure.
- Q. All right.
- A. David Coatsworth did make mention at, from time to time I'm not sure if it was particularly in regards to these cracks that he would like to have  
25 done further detailed investigation.
- Q. But you can't recall if it was in relation to the –
- A. I'm not sure exactly what that was in relation to. It may have been more of a general statement.
- Q. All right, and that bullet point below that one, refers to broken glass  
30 panes?
- A. Yes.
- Q. Can you remember which side of the building they were on?
- A. They were on the Madras Street side.

Q. Okay, and you've recorded there the upper floors?

A. Correct. I believe it was the, I may even have a photo there of one on the 5<sup>th</sup> floor or 6<sup>th</sup> level, the top floor.

Q. All right, thank you. If I take you back to your brief please?

5 **WITNESS CONTINUES READING BRIEF OF EVIDENCE AT PARAGRAPH  
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A. "It is my recollection that David Coatsworth said he wanted to do some further investigation which I think related to the southern shear walls. This would have been intrusive investigation work."

10 Q. All right, and you mentioned before what you recall, that's all that you could recall from that?

A. Yeah.

Q. 9.

15 **WITNESS CONTINUES READING BRIEF OF EVIDENCE AT PARAGRAPH  
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A. "I did not look behind any ceiling panels but I do recall Mr Coatsworth looked inside the ceiling space. I recall that the inspection took about three to four hours. I took a number of photos during the initial, inspection initially with my camera and then with my cellphone. I now  
20 produce these as an exhibit. The only photo that I believe is of the north shear wall is photo 13."

Q. Okay and I'll get that brought up, that's .4. So that's the top left photo?

A. Yeah.

Q. And can you tell us where that is in the north core?

25 A. I can't be 100% certain now where that was or which level it was on.

Q. But you are confident that's in the north core?

A. Yes because there's a series of photos 14 as well will be from the north core.

Q. Now just in regard to your photos, in some of them or a lot of them are  
30 duplicated by Mr Coatsworth's photos, is that correct?

A. I believe so.

Q. And although you've taken them I don't think you've recorded where they were?

A. Unfortunately not, no.

Q. All right, I just wanted to take you to two photos if I could and they are on page .44 and .45? Just get them brought up now. If we could expand the bottom right please? Is that a photo of the column as you come out of the lift on the left in the top floor?

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A. Correct.

Q. Right, and if we can go to the next page please, top left, is that a photo of the top of that same column and showing the lintel that the columns, above the column?

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A. Correct.

Q. And some damage or cracking to that area?

A. Yeah.

Q. And I think we can also see some discolouration to the tiles?

A. Yes, there is –

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Q. Adjacent to it?

A. – but I wouldn't speculate what would have caused that.

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Q. No but I'm just noting that you can see that in the photo. All right. Thank you. Now those photos were taken on the 29<sup>th</sup> of September 2010?

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A. Yes. During our inspection yes.

Q. Thank you. Can I take you back to your brief please, paragraph 12.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE FROM PARAGRAPH 12**

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A. "I recall speaking to some women on the lower floor and I recall that a couple of men on higher floors spoke to John Drew directly during our inspection. Otherwise I do not recall talking to anyone in the building. From what I viewed and in the absence of a structural report I believe the visual damage sustained to the CTV building in the 4<sup>th</sup> of September 2010 earthquake was repairable and from an aesthetic perspective the damage did not look that bad. I had certainly seen far worse in the CBD at this point. However, I am not a structural engineer and I was assessing the damage that was visible for the purpose of

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preparing an estimate of how much the cost, the repair would cost. I drew no conclusion about the structural integrity of the building. My recollection is that the worst of the damage was on the first and third floors, (level 2 and 4). This accords with the indicative estimate I prepared.”

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Q. And we'll just get that brought up.

**WITNESS REFERRED TO ESTIMATE**

Q. And that's broken it down into floors?

A. Correct, yes.

10 Q. And you say the first floor which you'd had 33,000?

A. Yes.

Q. And the third floor 37,000?

A. Thirty-seven yes.

Q. Correct?

15 A. Correct.

Q. All right and is that the total estimate 290,000?

A. That's right, yes.

Q. All right carry on please. Paragraph 14 "There was a..."

**WITNESS CONTINUES READING BRIEF OF EVIDENCE FROM  
20 PARAGRAPH 14**

A. "There was a partition wall on level 3 or 4, I cannot recall exactly which floor that had quite a significant crack in the plaster board. Paragraph 15. The western side of the building was the worst in terms of damage to the plaster board. My report for 2010 advised John Drew that the estimated cost of repairs of the building was in the amount of \$290,000 excluding GST. I did not expect to, I did expect to receive a copy of Mr Coatsworth's report from Madras Equities but this was not provided to Rawlinsons before the 22<sup>nd</sup> of February 2011."

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Q. Thank you, can I just take you to your 4<sup>th</sup> of October report and to the second page that's 0001.6?

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A. Apologies where are we?

Q. The second page of your 4<sup>th</sup> of October report.

A. Yep.

Q. It's coming up now on the screen.

A. Oh yeah.

**WITNESS REFERRED TO REPORT 4 OCTOBER**

5 Q. The third to last bullet point? You say, "We have not sighted a written structural report or scope of work", you're referring to the CPG report?

A. Correct.

10 Q. Yes. "This may indicate further works required and the above estimate does not allow for this", and then you say, "It was noted during the walk through that there may potentially be damage to some concrete shear walls", is that –

A. That would be the hairline cracking that we'd noted through the report.

Q. And your estimates didn't cover those cracks?

A. No we just (inaudible 09.47.29) that.

Q. Did they cover concrete cracks or not, the repair of concrete cracks?

15 A. No.

Q. All right. So -

20 A. We had covered some plaster from, we were covering up for aesthetic reasons the concrete cracks but no repairs to concrete cracks. We would have been waiting for the structural report to come through before we put any values on those.

Q. All right so that was a separate issue?

A. Yes it would have, once we'd received the report we would have revised this estimate and we sent it through.

25 Q. All right and we heard yesterday I don't know if you were in Court but, in the hearing, but Mr Drew got two quotes for concrete repairs?

A. Okay.

Q. From different companies. So your estimate I won't get you to go through it but there's some four, five pages, it goes through all the essentially plaster cracks, would that be fair?

30 A. Correct yes.

Q. And the estimate for the cost of repair of those?

A. That's right.

**CROSS-EXAMINATION: ALL COUNSEL – NIL**

**QUESTIONS FROM COMMISSIONER FENWICK:**

Q. Yes somewhere you I think you mentioned that there was more damage on the western wall in terms of the plaster, towards the western wall.

5 Can you confirm that and tell me at what levels was that at, was that at level 3 was it?

A. I can't confirm exactly which level. I believe it was the upper level so perhaps from three upwards yes we did notice more cracking along the, the plaster on the inside of the western wall, the plaster board on the  
10 inside of the western wall.

**QUESTIONS FROM COMMISSIONER CARTER – NIL**

**QUESTIONS FROM JUSTICE COOPER – NIL**

**WITNESS EXCUSED**



**MR REID CALLS****STEPHEN JAMES MCCARTHY (SWORN)**

Q. Your full name is Stephen James McCarthy?

A. Yes it is.

5 Q. You've worked for the Christchurch City Council since May 2006?

A. That's correct.

Q. And you were the Environmental Policies and Approvals Manager for the Council from 1 May 2006 to 1 March 2012?

A. Yes I was.

10 Q. Yes in March 2012 the Council's Environmental Policy and Approvals unit was reorganised to assist with streamlining the earthquake recovery process. As a result of the reorganisation you are now the Resource Consents and Buildings Policy Manager is that correct?

A. That's correct.

15 Q. Now Mr McCarthy can I just get you for a start to read paragraphs 2, 3 and 4 by way of introduction?

A. Yes.

Q. Then stop when you get to paragraph 4.

**WITNESS READS BRIEF OF EVIDENCE FROM PARAGRAPH 2**

20 A. "During the state of emergency following the earthquake of 4 September 2010 I was one of the building evaluation managers in the Christchurch City Council emergency operations centre. I had 36 years of experience working for local government including 16 years in building control. I have a degree in Applied Science and a post  
25 graduate diploma in Management from Massey University and a Royal Society diploma in Environmental Health from Wellington Polytech. I have been asked to provide evidence to the Royal Commission relating to specific aspects of the Council's involvement with the CTV building at 249 Madras Street before and after  
30 the earthquake of 4 September 2010 but before the 22 February 2011 earthquake."

Q. So just moving to paragraph 6, can I get you to read please paragraph 6 (g) to (j) which are the matters you are going to deal with, just to summarise those please?

A. Yes.

5 **WITNESS CONTINUES READING BRIEF OF EVIDENCE FROM PARAGRAPH 6 (g)**

A. "The Civil Defence Emergency Management response relating to the CTV building after the 4 September 2010 earthquake. Council's involvement with the building subsequent to the lifting of the state of emergency on 16 September 2010 but before the February 2011 earthquake. Questions asked by counsel assisting the Royal Commission regarding access to the building permit, and consent files for 249 Madras Street following the September earthquake. Questions asked by counsel assisting the Royal Commission regarding the demolition of buildings at 213 Cashel Street".

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Q. Yes thank you and now I just ask you to turn to paragraph 7 to 15 which are the paragraphs that deal with your evidence concerning the Council's records and before moving on to the issues that you're specifically giving evidence on today, could you please run through that just to give us some background as to the Council's record keeping system?

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A. Certainly. As I will explain in the course of my evidence it is clear that the Council's records relating to the CTV building are incomplete and the documents on the file have been reordered at some stage. In order to provide some context to this I will outline how the Council currently organises its records and give some historical detail regarding the storage and sorting of the relevant documents since the 1980s. The practice currently as it was during the 1980s is that the Council holds a single file relevant to each property considered a single unit for rating purposes. All building applications, planning approvals and other correspondence specific to that property are stored on this file. The Council currently holds approximately 250,000 current and historical

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property files. Over the years storage of these files has been an issue. They have been stored in a number of different locations and various methods have been used to try to reduce the volume of paper required to be stored long-term. In the late 1980s and early 1990s the Council

5 instituted a system of copying documents held on some of the Council's files to microfiche. During this period drawings received with building permit applications were made into microfiche cards and the inspection records were entered on these cards during site inspections carried out

10 by Council inspectors. This was the case for the inspection records of the 249 Madras Street building which subsequently became known as the CTV building. There was a separate period during the early 1990s when a decision was taken to reduce the whole of some of the property files including the CTV file to microfiche. This process required the files to be taken apart and copied and this may have resulted in the physical

15 files being reordered. This process was discontinued after about 18 months when it was realised that it was becoming unwieldy and the storage of paper files resumed. In 2008 the Council contracted Recall Limited to store and organise ongoing access to all of the property files. These files are stored offsite at a purpose built facility.

20 Recall delivers files required by Council staff or when a member of the public asks to review a particular file. In 2002, the Council began recording activity relevant to each rating unit and corresponding property file in a system known as the Worksmart Database. The Council also has introduced an electronic data management system

25 called TRIM. Documents relevant to a particular property are now saved to TRIM under the property address. The hard copy property files are gradually being scanned and saved into the TRIM database. Copies of the property file and Worksmart Database printout relevant to the CTV building have been provided to the Royal Commission.

30 Following the September 2010 earthquake there are a number of requests from the public to be given access to the CTV building file. I detail these details later in my evidence.

**JUSTICE COOPER:**

Q. Detail these requests?

A. Pardon me?

Q. You said details and it is written as, "requests" in the last sentence?

5 A. Oh, I see, sorry shall I re-read that?

Q. Yes.

**EXAMINATION CONTINUES: MR ZARIFEH**

10 A. "I detail these requests later in my evidence. When a member of the public is given access to a commercial property file such as the CTV building file that person is permitted only to view the file on the Council's premises. If the person wishes to copy any documents from the file, then they tag the required documents and these are subsequently copied by Council staff for later collection by the customer. During the September earthquake, the Recall storage facility was significantly damaged. The vertical files fell over one onto another creating a domino effect. A large number of the Council's files came off the shelves and needed to be sorted and repackaged and again this may have resulted in some reordering of the material on the files. There was a period between 4 September 2010 and January 2011 when the Council did not have access to all of its files as a result of the damage to the facility. Access to the CTV building file was however available from 6 October 2010".

20 Q. Could you please now move to page 22, paragraph 95. This is where you are dealing with the Council's response to the civil defence emergency?

25 A. Yes.

Q. Just read from paragraph 95 please?

A. I read the heading?

Q. Yes please?

30 **WITNESS CONTINUES READING BRIEF OF EVIDENCE**

A. "The civil defence emergency management response in relation to the CTV building after 4 September 2010. The Council has provided to the

Commission a report into building safety evaluation processes in the central business district following the 4 September 2010 earthquake. (The Council report). This report discusses the background to the rapid building assessment process and how the process operated following 4  
5 September 2010. The Council's records indicate that a level 1 rapid assessment was undertaken of the CTV building on 5 September 2010. The form shows that no hazards were identified. There was a line through the minor/none column in relation to all of the identified potential hazards on the form. There is a tick in the inspected green box on the  
10 form and the overall building damage is indicated as none. From the enquiries the Council has carried out the Council inspector present on 5 September who was carrying the out civil defence duties was Peter Van der Zee. Mr Van der Zee is giving evidence separately before the Royal Commission.

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A level 2 rapid assessment form was completed on 7 September 2010. The process for determining which buildings received a level 2 assessment is set out in the Council report. The spreadsheet attached as annexure C to my evidence records rapid building assessments  
20 carried out on 7 September 2010 by civil defence teams. The CTV building is included in the list and is categorised as MH, medium/high priority. The level 2 form has the following note: Green tag first assessment call in to inspect, looked at by 3 CCC senior officials. Interviewed manager/no issues was sighted by users of the building.  
25 The building was assessed and placarded as green with a G2 rating. The overall building damage is indicated as 0 to 1%. From enquiries the Council has conducted the three senior Council employees who inspected the buildings were Graeme Calvert, Russell Simson and David Flewellen who were all employed by the Council at the time. The  
30 Council report states that the level 2 assessments teams included CPEng engineers. This was generally the case."

Q. I will just stop you there please Mr McCarthy. You would like to make an amendment to paragraph 102, is that correct?

A. Yes I would.

Q. Just take us through that please?

A. I would like to remove the first four words of this paragraph and I propose to start with the word, "No engineer."

5 Q. Yes thank you. Read paragraph 102 please?

**WITNESS CONTINUES READING BRIEF OF EVIDENCE**

A. "No engineer accompanied the three Council employees to the CTV building on 7 September 2010. The spreadsheet referred to earlier and attached as annexure C shows that three of Council, sorry, shows  
10 that the three officers carried out other assessments with Allister on 7 September. The Council understands that Allister refers to a CPEng engineer. Mr Calvert, Mr Simson and Mr Flewellen are separately giving evidence before the Royal Commission."

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15 Q. I will just stop you there again Mr McCarthy. So since preparing this evidence have you had a chance to read the evidence that's been prepared by Mr Flewellen, Mr Calvert and Mr Simson?

A. Yes I have.

Q. And has that assisted you in remembering what occurred on the 7<sup>th</sup> of  
20 September in relation to these matters?

A. Yes it has.

Q. So perhaps you can just take us through that?

A. In the context of the events of 7<sup>th</sup> of September, ah, we were running a lot of teams through the central area assessing buildings. We had more  
25 than 20 teams, ah, comprising a Council officer and an engineer and a safety officer generally working through the centre of the CBD area. We were at that time, um, we had no spare engineers and we were receiving requests for other, um, tasks really, ah, through the Emergency Operations Area. At the time, um, we were left with just  
30 Council officers to respond to some of those requests and so I approached the team of Flewellen, Simson, Calvert, spoke specifically to David Flewellen and asked them to go and do some jobs. The nature of those jobs now my memory does not serve me well but certainly I had

a conversation and I reflected on that and I remember speaking to Mr Flewellen. I asked them to go out and deal with these jobs and in the absence of an engineer I would have said if there were any issues you need to engage with an engineer during the course of those jobs.

5 Types of, um, assignments that I would have given them were where there were an obvious danger and they could rapidly assess that and that appears to be the case perhaps with the church and the Blue Star Taxis jobs. Other than that it would have been to give advice to building owners, building managers as to, ah, what their

10 responsibilities were and that would appear to be what their assignment really was with regards to the CTV building.

#### **QUESTIONS FROM JUSTICE COOPER:**

Q. You're giving me the impression that you're reconstructing this Mr McCarthy. You don't really have a clear memory of the transaction

15 at all. Am I right to say that?

A. I have reflected and I do recollect speaking to Mr Flewellen in particular and I do recall the discussion about there being no engineer in the team and saying to him if there are any issues that he should engage an engineer on any of the jobs. In terms of "the jobs" specifically I have no

20 recollection of those but I would have only assigned a team without an engineer to the types of jobs I was describing.

Q. Well what type of jobs are those?

A. They would be jobs where, um, there was, um, an obvious issue, danger that they could deal to, um, such as a parapet was clearly, um,

25 dangerous and needed to be isolated in some way and they could engage with a Council team and isolate that danger, um.

Q. Well the CTV building wasn't in that category though was it?

A. No it wasn't.

Q. So do you have any memory of why you asked these three building

30 inspectors to look at the CTV building?

A. Not specifically no I don't.

**WITNESS CONTINUES READING BRIEF OF EVIDENCE AT PARAGRAPH 103.**

5 A. “The level 1 and 2 inspections of the CTV building were entered into the Council Building Safety Evaluation Spreadsheet. An extract from this spreadsheet showing the entries relevant to the CTV inspections is attached and marked “Annexure D”. The spreadsheet shows the building was rated “G2 – Occupiable repairs required” and “G2 Green Inspected” by the level 2 inspectors on 7 September. There is no record of the Council having any further involvement with the building until 10 27 December 2010, following the Boxing Day aftershock. Following this aftershock, the building was inspected on 27 December 2010 by a USAR team and a level 1 rapid assessment was also carried out. The USAR assessment indicates that the Estimated Overall Building Damage was 0-1%. The form also identified a glass hazard (moderate) 15 and there is a note stating: “2m x 1m window on 2<sup>nd</sup> floor south face is broken and in danger of falling on carpark.” The form indicates that temporary hazard tape was applied and that an engineering assessment was not required. The level 1 rapid assessment form similarly identifies an overhead falling hazard “glazing” (minor/none) and there is a note – 20 “glazing if dislodged will fall into self-contained balcony.” The building is noted as inspected Green. The post Boxing Day database also records that the building was assessed as Green (Annexure “E”). From the enquiries the Council has carried out, the Council inspector present on 27 December 2010 was Marie Holland. Ms Holland is giving evidence 25 separately before the Royal Commission. The only other record the Council has regarding the building from around this time is an entry in the WorkSmart Database indicating that a message was received from a Joanne at Relationship Services on 5 January 2011. The database then contains the following statement:- “5<sup>th</sup> floor has a round structural 30 pillar. It is just outside lift and has cracks”. Joanne was in the building since the Boxing Day quake and feels it should be rechecked. Staff on site but please liaise through her as she is the manager based in Wellington.” There is a further entry in the WorkSmart database on



7 January 2011 stating “Joanne has stated that landlord has had checked by Structural Engineer and all okay (Paul Campbell 6/1/11)”. I understand that the evidence filed by Ms Jo-Ann Vivian from Relationship Services that she rang the Council and advised that no  
5 Council inspection was required because the building manager had already arranged an inspection.

Building File for 249 Madras Street – Counsel Assisting has asked the Council to advise whether its records show, or whether any relevant  
10 Council officers can recall, if Mr John Drew attended the Council to view the CTV file following requests made by him on 12 October 2010 and 31 January 2011.

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12 October 2010 Request – A Council IntraRFS record refers to a  
15 request made by Mr Drew on 12 October 2010 to view the complete property file for the CTV building. Council staff accordingly requested that the property file be returned from the Recall storage facility. The Council requires payment from customers before any files are requested from Recall. Therefore, it appears that Mr Drew would have arranged  
20 payment to view the CTV file on 12 October 2010. The IntraRFS records notes that the file was available for reviewing at the Council’s Civic Offices by 21 October 2010. The record also states that Mr Drew was advised by telephone on 22 October 2010 that the file was available. The Council’s general process at this time was to advise the  
25 customer that the file would be held for one week and could be requested for viewing during business hours at the Council’s public counter. In some cases if the files had not been viewed within the week, the Council would receive a follow-up telephone call. The Council does not have a record of whether the CTV file was viewed by Mr Drew  
30 during – following the telephone call to him on 22 October 2010. Council does keep a customer transaction book for recording transactions with and advice given to customers. However, as commercial property file viewing is generally a routine matter, at the

time these transactions were not always recorded in the customer transaction book. In this case there is not record on the Council's customer transaction book of the CTV property file being viewed by Mr Drew. The intra record states that the customer service request related to this matter was closed on 21 December 2010 by which time the file would have been returned to the Recall storage facility.

31 January 2011 request. A further intra RFS record refers to another request made by Mr Drew to view the property file on 31 January 2011. The file was available for viewing at the civic offices on 1 February 2011. The intra RFS record notes that a message was left on Mr Drew's cellphone on the same day to advise him that the file was available. The Council's customer transaction book records that the file was viewed on 2<sup>nd</sup> of February 2011. However, there is no record of who viewed the property file on that, this day. The intra record states that the property file was returned to the Recall storage facility on 2 February 2011. Inquiries have been made of the regulatory support officer who may have been attending to the Council's public counter on October 2010 and January 2011. They have no specific recollection of Mr Drew viewing the file in October 2010 or January 2011. However, as noted above the viewing of commercial property files is a routine matter. At the time a number of files were viewed on a daily basis up at the counter in the Council's civic offices. It would therefore be unusual for staff to recall a particular individual viewing a file. There were no other requests for the CTV property file between 4 September 2010 and 22 February 2011. I note that the process with viewing commercial property files changed in March 2011. Customers can now view these files at the Recall storage facility. Council's public advice team arranges the appointments for viewing of the files and records are kept of the time and dates of appointments.

Demolition of 213 Cashel Street. The Council granted a consent on 13 October 2010 to demolish two buildings at 213 Cashel Street, the site

5 next door to the CTV building. Counsel assisting the Commission has asked that the Council provide information in relation to the demolition. Demolition consents like any other building consents are governed by the requirements of the Building Act 2004 and the need for compliance with the Building Code. In particular clauses B1 and F5 of the Building Code are relevant. In accordance with these clauses, regard must be had to the impact site work and/or demolition work will have on other property. Under section 49 of the Act the Council cannot grant a building consent unless it is satisfied on reasonable grounds that provisions of the Building Code would be met if the building work were properly completed in accordance with the plans and specifications that accompanied the application. Christchurch City Council procedure for considering consent applications for demolition takes into account the Building Code approved document B1 structure. One of the functional requirements of B1 Building Code structure is as follows. B1.3.6 site work where necessary shall be carried out to provide stability for construction on the site and avoid the likelihood of damage to other property. The demolition methodology provided to the Council was part of the building consent application (and became part of the building consent). The methodology was reviewed as part of the Building Code compliance checking process and any impact that demolition would have on neighbouring buildings including the CTV building would have been considered by Council staff processing the application. The Council does not have any record of complaints or concerns being raised about the demolition by the occupants of buildings neighbouring 25 213 Cashel Street.

**CROSS-EXAMINATION: MR RENNIE**

- 30 Q. Mr McCarthy at paragraph 15 when you were talking about access to the Council records?
- A. Yes.
- Q. You state that the CTV building file would have been available on 6 October?

A. That's correct.

Q. What is the source of that information?

5 A. The, um, Recall facility was progressively being rehabilitated, reorganised, and, um, they advised the Council records people that, ah, this block of files was available. That was recorded on our system, um, so that across all of those property records, so our computerised record showed that it would've been available on the 6<sup>th</sup>.

Q. Is it possible that it was in fact available earlier than that date if requested?

10 A. Ah, no.

Q. Is it the position that a person inquiring for that file before 6 October would have been told that it was not available?

A. That is correct. At that time, that's correct.

Q. Yes. Who would have told them that?

15 A. Um, our records management people.

Q. And would that have been driven off the information from Recall or would a check have been made in any event?

A. It would've been at that time driven off the information from Recall.

20 Q. Was there any process which enabled persons such as engineers to make an accelerated or special request before 6 October?

A. I'm unsure, I can't answer that. We would've done everything possible to provide records urgently but it was somewhat out of our control.

Q. Is it likely that there is further information which you could check as to whether such a process existed before 6 October?

25 A. I could ask, I could ask that.

Q. Yes. My understanding is that you will be coming back in relation to other parts of your evidence later. Could you make that check in the meantime please?

A. Yes I will.

30 **CROSS-EXAMINATION: MS BRYANT**

Q. You've said at paragraph 114 of your evidence that for a file to be requested from Recall, payment had to be made first?

A. I'm sorry could you speak up, I'm struggling to hear you?

Q. No problem. At paragraph 114 of your evidence you've said there that in order for the request to be processed the payment had to be made first, is that correct?

5 A. That's correct.

Q. If someone made a request for a file but didn't go through with it, didn't make the payment, would that be recorded?

A. Yes it would've been. So we, we would record it and await the payment before activating the request.

10 Q. If the person at the time said, "Oh no I'm not going to go ahead," would that be recorded in that case?

A. Yes.

Q. In the period where the files were in disarray, so the period up till the 6<sup>th</sup> of October was there a record kept of who called at that point in time?

15 A. Was there a record?

Q. Kept of who called at that point in time?

A. Yes.

1024

Q. And has that been produced to the Commission?

20 A. The complete record? We have no record of anyone else asking for the CTV file between September and 22<sup>nd</sup> of February –

Q. If you –

A. – I think it was part of my evidence.

Q. Thank you.

25 **CROSS-EXAMINATION: MR ZARIFEH**

Q. Mr McCarthy, you said at the outset that there have been problems with the Council's record keeping?

A. Yes.

30 Q. Over the years, if you like. Can you tell us what efforts have the Council made to ensure that all of the CTV building file or files that Council have, have been provided to the Commission?

A. An exhaustive search has been made of the Recall facility and all of the, and what remains of the hard copy files in the Council. I personally looked in our engineering records files with some of our engineering services staff. We have provided everything that we can.

5 Q. And so there's nothing more that the Council's got or could have?

A. No.

Q. I want to ask you about the rapid assessment process and in particular the rapid assessment on the 7<sup>th</sup> of September 2010. What was your role in relation to those rapid assessments after the 4<sup>th</sup> of September earthquake?

10

A. The, we were organising a large number of teams of to review both the CBD, suburban areas and residential areas so we had something in the order of 3 or 400 building staff or engineers operating at any one time. We were organising those. I was intimately involved with the laying out of the grids in the CBD area and working with technical experts from the Department of Building and Housing and assigning teams to those grids and as much as possible ensuring that people were fully aware of what their responsibilities and tasks were.

15

Q. So what was your actual role or title? Did you have one?

20 A. I was the, at the time, the Building Rescue Manager, one of a team of four people who took that role on over a 24 hour period, seven day a week.

Q. So –

**JUSTICE COOPER:**

25 Q. What was the title, sorry?

A. Building Rescue Manager.

**CROSS-EXAMINATION CONTINUES: MR ZARIFEH**

Q. In that role was it your responsibility to assign groups to go to various building or buildings?

30 A. More to blocks of buildings but we had specific, requests came in we would make a decision about how we would address that.

Q. And the, on the 7<sup>th</sup> of September?

A. Yes.

Q. You were in that role at the Art Gallery, that was the headquarters?

A. Yes.

5 Q. You said that initially you couldn't recall the CTV inspection and how that came about?

A. That's correct.

Q. But reading Mr Flewellyn's evidence has assisted you in that?

A. Yes.

Q. So do you agree with what he said?

10 A. As I think I've explained I don't specifically remember the CTV job but generally I, I gave them a number of jobs and had a discussion with him about risk and engineering advice and other matters.

Q. My question is, do you agree with his evidence about how it came about that the three of them went off that day to inspect those buildings?

15 A. Yes.

Q. And you recall that he said, I'll read you from paragraph 10, it's WIT.FLEWELLYN.0001.3. "On the morning of 7 September 2010 I was standing with my colleagues Graeme Calvert and Russell Simson. We were approached by Steve McCarthy who was then a senior manager in the Building Department at the Council. Mr McCarthy was one of our superiors in the Building Department. Mr McCarthy therefore knew all of our experience and expertise and knew us personally." Do you agree with that?

20

A. Yes I do.

25 Q. "Mr McCarthy came up to us and said there were no engineers available at that time to conduct any further rapid assessments but there was an urgent need to rapidly assess three particular buildings." Do you agree with that?

A. Yes I'm unsure as to the exact number of assignments that I gave him but yes.

30

Q. "He did not say why there was urgency. He therefore instructed us as a group to conduct those rapid assessments. It was implicit in what Mr McCarthy was saying to us that despite there not being any

engineers available he was confident that the three of us had sufficient experience to conduct those rapid assessments ourselves but that there was really no choice but that we had to conduct those rapid assessments if they were to be done at all.” Do you agree with that?

5 A. Yes.

Q. So that was the position because there were no engineers you had to use the building inspectors and experienced ones?

A. Yes I had no expectation that they were going to undertake the level 2 assessment. I had no knowledge of that but certainly I deployed them in the field and I said, “Use your best judgment.” I’m surprised that I didn’t, if his recollection is correct, that I didn’t discuss with him why it needed to be done right there when generally when you get a job there would be some sort of record of why there was urgency needed so but I don’t have any recollection of discussing with him why it needed to be done right then and there.

15 Q. So what do you actually recall yourself then?

A. I recall talking to Dave Flewelling in particular and I can give a mental picture of that, talking to him about assigning his team to going out and doing the jobs, these jobs –

20 Q. These three buildings or?

A. –not specifically but yes a grouping of jobs, yes, an assignment. I remember a discussion vaguely at that there were no engineers available and that I had, but I had competence in the team that I was deploying and that they would do the, use their judgment and do the appropriate thing so I have that recollection.

25 Q. Right, and just to finish that paragraph, Mr Flewelling says, “It was out of the ordinary to be directed to conduct the assessment without an engineer.” Do you agree with that?

A. That would be correct.

30 Q. So had this happened on other occasions or did it happen after that?

A. Not to my recollection.

Q. So this was out of the ordinary as he says then?

A. Yes.



- Q. So I would have thought that you might recall it more if it only happened the once?
- A. No.
- Q. Well on your file, your Council records, you would have known wouldn't you that the CTV had had a level 1 rapid assessment?
- 5 A. I can't recall if that was on the –
- Q. Would it not –
- A. – job assignment but –
- Q. – would it not be on the record though if it had been on the 5<sup>th</sup> of
- 10 September?
- A. It may have been entered by that stage, I wouldn't, I don't believe I would have had any knowledge of that at that stage.
- Q. Okay, well the other two buildings, the church we heard was obviously a danger to the public?
- 15 A. Yes.
- Q. And so likely that a member of the public had alerted the council to that? Would that be fair?
- A. Probably.
- Q. The same with the loose parapet or whatever it was in the other
- 20 building?
- A. Blue Star Taxis I think it was.
- 1034
- Q. Blue Star. With the CTV though you can't recall someone ringing up to request it?
- 25 A. They wouldn't have rung me directly, it would have come through our call centre.
- Q. And is there any record of that?
- A. Not to my knowledge.
- Q. Has that been looked for?
- 30 A. I would imagine so, I don't have any specific knowledge of that.
- Q. You haven't in trying to reconstruct this you haven't asked for that to be done?
- A. I personally haven't no.

Q. Right, is that something that could be done?

A. We'll certainly, yes.

Q. Okay, so are you saying that you didn't know it was going to be a level 2?

5 A. That's right.

Q. How can you say that if you can't remember the specifics?

A. I, I'm not aw- I'm not confident that I could fully, remember what the nature of the job was at all, but I have reasonable con- I have confidence that the three officers going out would do the right thing, but I had no expectation that they would do a level 2 assessment of the building at that time.

10 Q. Right would you have sent them out to do a level 2?

A. I don't believe so.

Q. But what if there were no engineers?

15 A. I, if I thought it was a level 2 I think I would've held them back from that job and arranged for a team with an engineer to do that at a later date or at a later time.

Q. All right but as you say you can't remember so you don't know?

A. I don't.

20 Q. But that's what you think you would have done if you'd realised that?

A. Yeah it was our, I had discussions on most evenings leading up to that with Dave Brunsdon who the Commission knows and with John Buchan who was our Engineering Services Manager and the agreement between all, and we were very firm on it was that an engineer would be going out and doing those level 2 assessments.

25

**JUSTICE COOPER:**

Q. Just let me get this quite clear. Although you can't remember much about this event you're saying that as far as you were concerned you were sending these three Council officers to carry out a level 1 inspection. Is that what you're telling us?

30

A. I was unsure of the nature of the, of – the exact nature of any of these jobs. I expected that they would use their judgement on the job. I

wasn't certain whether it would be a level 1 or a level 2 assessment required but certainly I had no expectation that they would do a level 2 without an engineer.

Q. Well you knew there wasn't going to be an engineer in this team?

5 A. Yes.

Q. You're telling us so far as you were concerned they weren't going to do a level 2 inspection?

A. Essentially.

10 Q. So that must mean that they were going to do a level 1 inspection mustn't it?

A. Well as I, I think I previously explained to give advice to the owner of the building not necessarily to do an assessment at all. The outcome of, the main outcome of their visit was that they advise the owner to engage an engineer.

15 Q. Well if we are to entertain the possibility that they were going out there not to do an inspection why would that be urgent?

A. I'm unsure as to the nature of the enquiry that the person made but it may well have been that the building owner rang and said, "Look we're", and I'm surmising here –

20 Q. Well –

A. "We've occupied the building and we would like some advice from the Council about what to do next".

25 Q. I thought you told us earlier that there was no record of which you were aware of this inspection having been instituted as a result of some telephone inquiry?

A. The job must have got into our emergency operation centre in some way.

Q. In some way. All right thank you.

**CROSS-EXAMINATION CONTINUES: MR ZARIFEH**

30 Q. Is that what you were referring to before that you haven't checked that? The emergency operation records?

A. I personally haven't no.

Q. Or no-one else has?

A. I'm a little unsure.

Q. Okay. But surely if someone, if the owner had called to say, "Look we'd like some advice on where to go next. We've had a level 1, we've been green placarded, we'd like to know what to do next". Surely you wouldn't, that wouldn't be urgent? How could that be treated as urgent?

A. The owner was unsure, there was people in the building. He was asking for Council, the advice from Council. I would surmise that, that that was the nature of the assignment.

Q. Well that might involve a level 2 if these people are going into the building to deal with a concern the owner has who's in the building and isn't happy with it?

A. I think it was more about advice for the owner. I don't believe it was a level, or a level 2 but I expected the officers to exercise their judgement when they got there as to, as to what they did.

Q. Right which might include doing a level 2 if required?

A. I don't believe that would have been my expectation and I'm –

Q. Why not though?

A. Well they didn't have a –

Q. If you picked three –

A. Firstly they didn't have an engineer and I think –

Q. But you picked three experienced building inspectors because there was no engineer available?

A. Yes.

Q. Because you had confidence in their ability?

A. Yes.

Q. So if they had to do a level 2 as it turned out which we've heard then at least you were getting experienced building inspectors?

A. I think it needs to be put into context that they were going to other jobs as well, if there was a level –

Q. Well –

A. – 2 required –

Q. – two others weren't there?

A. Two, two others yes it appears so and they, they –

Q. Where was some urgency?

A. Yes.

Q. Right.

5 A. And, and, this other assignment to, to do at the same time.

Q. All right and Mr Flewellen you'll recall – were you at the hearing when he gave evidence?

A. Yes I was.

10 Q. You recall that I think I asked him did he have, did he raise with you that shouldn't there be an engineer and he was concerned about that, and he said no there was no discussion he just, that's accepted that they had to go and do it there was no engineer available. Do you agree with that?

15 A. I, I, the discussion between him and I were look there's no engineers available, you, we, we need to do these jobs. We need to protect and there was the three jobs, we need to protect the public, we need to protect workers, we need to do what we can to address these issues that have been brought to our attention.

20 Q. All right you said a moment ago something to the effect that you would have said to them if there were any items you need to engage with an engineer then you need to do so, or something like that. What did you mean by that?

A. Well they had access to engineers through the EOC, none immediately available but obviously one was available later in the day, the –

25 Q. So what's the EOC?

A. Emergency Operation Centre.

Q. And was there an engineer available through that?

30 A. That's where I was based. There was no engineers in the morning of the 7<sup>th</sup> that I could put with that team. We were deploying a lot of teams, you could appreciate, the engineers were volunteers. We had a limited number we put them, we put them out early in the morning to maximise the use of them, it appears that one's turned up, Alistair, has turned up later in the day and we're, we put him with that team.

Q. All right but he wasn't with the team on this occasion?

A. That's right.

5 Q. Right, so I just want to understand though when you say that you would've said that if there were any issues they could engage with an engineer?

A. Yep.

Q. Is that something that you in reconstructing this you think you would have said it or –

A. I would have said it.

10 Q. Because that wasn't suggestive –

A. That, that is my recollection of my discussion with Dave Flewellen and I, and I can I think categorically say that I said that.

1044

Q. Can you?

15 A. Yep.

Q. Because it wasn't suggested to Mr Flewellen and he didn't say that they'd been told that if there were any issues they would were to come back and see an engineer. Can you actually remember that now?

A. Yes I can.

20 Q. Okay so you said to them, to the three of them, that if there are any issues what that they're not happy with or what. How did you put it?

A. If they are uncertain in any way that they should engage an engineer, bearing in mind that we had engineers in adjacent blocks. They could either access them because they were out on a job or they could come  
25 back to the EOC and say, "Look we need an engineer."

Q. But if you could access engineers on other blocks why did you have to send out three people in this unusual circumstance then without an engineer?

A. Because the jobs came in after we'd sent the engineers out.

30 Q. Okay well did level ones need an engineer in a group?

A. Ah, I think the guidelines, DBH Guidelines say that level ones can be undertaken without an engineer. Our preference was to have an engineer in the group to do level ones.

Q. Right well if it was just the level 1 then, why was this so unusual? Why did it only happen once? Why is it something that was unusual to them?

A. Because there was jobs that needed to be done. We were in a state of emergency. We needed to resolve jobs, issues, dangers as quickly as possible. There were many thousands of jobs which we dispatched people to avert danger, um.

Q. But what I'm saying is if it was a level 1 you wouldn't necessarily need an engineer, it wouldn't be unusual not to have an engineer, correct?

A. Most of the time we had engineers but it wouldn't have been unusual.

10 Q. And if it was to dispense advice to an owner you wouldn't necessarily need an engineer would you on what to do next?

A. That's right.

Q. So that's why I'm asking this seems to have only happened the once and to have been unusual according to you and to them. Why, if it was only a level 1 or advice why was there a concern that you had to do it and it has to be done because there are no engineers available?

15 A. You're asking me to surmise, um, and I would surmise that the owner of, building owner, or the manager of the CTV had rung in or contacted us in some way and asked for advice. The building was partially occupied so we went out to afford them help and advice.

Q. So you didn't know that there might be a level 2 involved?

A. I didn't.

Q. Did you find out later that there had been a level 2 carried out?

A. No.

25 Q. Did you not follow it up if it was so unusual?

A. No.

Q. Why would that be?

A. Because we were dealing with –

Q. You're busy?

30 A. – many, many thousands of jobs in the middle of an emergency.

Q. Right but you say this was a one off?

A. There were lots of one offs at that time.

Q. So there were quite a few of these occasions then. I thought that this was the only time?

5 A. No, no. There were lots of emergency situations that we were dealing with, ah, so there's a lot of one off unique situations that we were addressing. I had probably two minutes, maximum five minutes, to deal with this particular three jobs. I did what I needed to do and assigned it and assigned the teams but, ah, that would have been very closely followed by a lot of other jobs.

10 Q. I understand that but did you have any concerns in sending these three out for that job?

A. No. Well I didn't specifically know about the CTV job but I had confidence in the three people I sent out, um, to deal with the three jobs that I gave them at that time.

15 Q. Right well you can't remember now but you must have known that the CTV was one of the three jobs at the time?

A. I would have.

Q. And the reason for it, the urgency?

A. Yes broadly I would have, yes.

20 Q. Right but you didn't have any concerns about sending these three out to do those jobs?

A. No I didn't.

Q. And would you have had any concerns about them doing a level 2 then?

A. Our protocol at that time was to have an engineer –

25 Q. I understand that but you didn't have any available so would you have had any concerns in those circumstances?

A. If they'd rung back in or come back in I would have assigned an engineer to them. I wouldn't have expected them to do a level 2 assessment.

Q. Why's that?

30 A. Because we sent engineers out to do level 2 assessments.

Q. In all cases?

A. Yes.



Q. You heard them say that there wasn't always an engineer. I think Mr Calvert said it wasn't the only time he'd struck that?

A. That surprised me.

Q. Did it?

5 A. Mhm, mhm.

Q. And I think Ms Holland yesterday said that there were inspections done without engineers?

A. Yes but I had no knowledge of that.

#### 10 **MR REID ADDRESSES THE COMMISSION**

Just to be clear about the evidence from yesterday and the evidence from Mr Calvert. My recollection of it was that there was no clarity, certainly from Mr Calvert, as to whether he was talking about level ones or level twos and Ms Holland I think yesterday was talking about level ones. Just if that can be  
15 put to the witness in that way.

#### **CROSS-EXAMINATION CONTINUES: MR ZARIFEH**

Q. Well perhaps just get what you knew. Do you say that there were never any level twos, other than this one occasion, that were not carried out by an engineer or an engineer in the group?

20 A. I had no knowledge of any others.

Q. At all?

A. That's right.

Q. So this one occasion was unique?

A. To my knowledge.

25 Q. A one off, as you say?

A. Mmm.

Q. And is it because you didn't know it was going to be a level 2 that you didn't follow it up. Is that what you're saying?

A. Generally in a Civil Defence emergency you direct, you assign a job.  
30 Um, it wasn't my role to follow up specifically all of the many thousands of jobs that I delegated to people to do. My expectation would be that they would come back to me if there was an issue.

Q. And in fact you can remember saying to them to do that?

A. Yes.

Q. Because they obviously did think it was an issue didn't they. You heard their evidence. They weren't happy about having to do a level 2 without an engineer?

5

A. I believe the outcome of their visit, the primary outcome of their visit was to instruct the building owner to engage an engineer to undertake a proper structural survey of the building. I think that was the right outcome.

10 Q. So were you happy with what they did and the result?

A. Are you asking me now if I'm happy with what they did?

Q. Yes.

A. Or at the time? At the time I had no knowledge of what the outcome of that particular inspection was, um, if you're asking me am I happy with what eventuated, um, ultimately I think it's played no part in, ultimately Mr Coatsworth attended which is what the building owner had undertaken to have happen. That superseded anything that the inspectors had done on site in the short time they were there.

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20 Q. But where – I accept that but what we are looking at and what the Royal Commission is looking at as part of its terms of reference is this assessment process and what we can learn from it?

A. Yes.

Q. So what I am asking is, are you happy with what they did in the end result. Leave aside what happened in terms of Mr Coatsworth?

25

A. Am I happy with what they did? I think they would have been better, my – if I had been there I think I would have said to the building owner, you get your own engineer in. He can do an assessment, he can change, recommend to the Council a change to the placard if that is appropriate or to leave it as green, a green placard. It was the arrangement with all the CPEng engineers they would come back to us and change the placard if that was appropriate. To a very large degree what my

30

inspectors did onsite at that time was superseded by the CPEng engineer coming along two or three weeks later.

Q. So are you saying that they shouldn't have green placarded it?

A. They re-placarded it, yes with a green.

5 Q. Are you saying that they shouldn't have re-placarded it with green?

A. I think they should have come back and got an engineer if they had – if that was, if they needed, if they felt a level 2 needed to be done.

Q. And do you say as well as that it was not a proper basis to green placard it, that the, they were assured that there would be an inspection  
10 by an engineer, instructed by the owner?

A. Yeah that would have been the better course of action. Leave it to the building owner or come back to the EOC.

Q. And not do any inspection?

A. That's right.

15 Q. And do you say that you are not aware of that kind of thing happening on any, in relation to any other buildings?

A. That is correct.

Q. And what I am talking about is it being placarded, it needs an inspection, a proper inspection but we'll placard it on the basis that the owner will  
20 do that. You are not aware of that happening in relation to any other building?

A. I need to be clear that many building owners engaged their own engineers and they undertook inspections, level 2 inspections and advised the Council and we didn't go back and duplicate that work. It  
25 was happening throughout the city at that time, building owners were separately engaging engineers and often there was no need for the Council to do a level 2 inspection 'cos a CPEng engineer had already been there and then undertaken a –

Q. I am not talking about when they have already been I am saying were  
30 there any inspections where a green placard was assigned in part on the basis that there would be an inspection arranged by the owner?

A. Not to my knowledge.

Q. Because that wouldn't be satisfactory would it?

A. I wouldn't have thought so.

Q. Do you think that the evidence that Messrs Flewelling, Calvert and Simson gave highlights a need for more and better training in future?

5 A. I think we look the whole building inspectorate nationwide would benefit from training. If indeed this is the process or the system, if is adopted nationally they are guidelines and there is questions I suppose about whether it is the most appropriate system. It was quite new. Our engineers had had, our inspectors had had limited training but we were very much depending on the engineers. A lot of the engineers had had training. In fact the whole system came from the Society of Earthquake  
10 Engineers that was promoted to the Department of Building and Housing and very much the training and the core of expertise around that system was with the engineers. They are engaged in the process so, and it was driven out of them and that is not to say that the system wasn't appropriate but it certainly needs to be reviewed, yes.

15

Q. And would you agree with me that another thing that needs perhaps reviewing is the colours used, in particular the green colour and the concept of the green placard meaning safe to occupy, good to go as someone I think said yesterday. There was that perception, Mr Drew I don't know if you heard, he placed a lot of reliance he said on the fact that it had been green stickered?

20

A. There is certainly confusion amongst the public as to what the green sticker means. I think what has been lost in all of this is that it was a rapid assessment and the expectation that there is another stage after that rapid assessment which is the building owner engages an engineer, they do a full review of the building and that supersedes any rapid assessment. Probably at that point, there is probably a need to remove the green placard and for the owner and the engineer to affix their own certification that the building is okay to occupy.

25

30 Q. Because the problem is that the green placard only contained a recommendation. It couldn't be enforced on the owner to get an engineer's inspection, could it?

- A. That's right, I think it is implicit in other legislation that the owner has that primary responsibility for making sure that the tenants of the building are safe and that legislation so that they need to be mindful of that. It is not all on, clearly it is not all on the Council to verify that a building is safe in an ongoing sense. The Council does a rapid assessment, gives a direction or an indication of their view with the engineer verification behind that and then the building owner has to take responsibility.
- 5
- Q. Right, but the problem with the system as it was implemented after September was that it was Council led inspections, the rapid assessments and as I understand it, CTV building was a type of building that would have had a level 2 at some stage?
- 10
- A. Mmm, yes.
- Q. But that, if the level 2 resulted in a green placard, as it did in this case, that could have been the end of it in terms of any inspections or assessments made if the owner had chosen not to get an assessment, correct?
- 15
- A. That is not what the placard says is it?
- Q. It could have I am saying because it recommends it. That is the problem with the –
- 20
- A. It could have, it could have, yeah.
- Q. And that is one of the problems with the system, you agree?
- A. Yep. Can I just say that I mean this was a new system, new DBH guidelines that we were working to. The magnitude of the response was very large. We did what we could in accord with those guidelines so it is appropriate to review them at this stage.
- 25
- Q. The Boxing Day aftershock, there was the inspection by Ms Holland on the 27<sup>th</sup> of December?
- A. Yes.
- 30
- Q. And a green placard assigned?
- A. Yes.
- Q. To level 1. Can you explain why when Ms Vivian rang on 5<sup>th</sup> of January, rang the Council she was told that CTV was not within the cordon so it

was not being inspected. That would seem contrary to the fact that it had been?

A. Was there a cordon up at that time?

Q. I don't know that is what she said she was told?

5 A. No I don't know the answer to that, sorry.

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Q. Were the records being constantly updated?

A. Yes.

10 Q. There was thinking that that could be an explanation, that there wasn't any record at that point on the Council file, with there being a level 1?

A. I'm not, I'm not certain what you're asking me?

Q. Well were they updated each day? You don't seem to have been aware on the 7<sup>th</sup> of September that there'd been a level 1 on the 5<sup>th</sup> when you sent them off to the CTV?

15 A. Yeah, we were right in the midst of and of, um, the emergency at that, on the 7<sup>th</sup> of September and we were, um, organising our electronic system at that stage.

Q. Is that another area –

A. So (inaudible 11:05:04)

20 Q. – that needs looking at do you think? The record keeping and the processes?

A. There's a real need to keep good records. What happened in our case was that someone from the DBH turned up with a database that said here's how you record, um, these, these systems and, um, and it took  
25 time to plug that in and get it up and linked to the GIS, so yes it took, um, there was a number of days where that information might not have translated into the record.

Q. Just some quick questions on these other topics you've covered. The demolition of next door?

30 A. Yes.

Q. My understanding from what you've said is that the Council required the company that was doing the demolition to comply with the Building Act?

A. Yes.

Q. And in particular one of the requirements you've said set out was to ensure that the site work avoided the likelihood of damage to any other property?

A. That's correct.

5 Q. Can we just bring up those documents? Can you just direct us to where that's made clear in either the consent or the methodology?

**WITNESS REFERRED TO DOCUMENT – METHODOLOGY**

A. So this is the methodology that they presented to us.

Q. Right.

10 A. The –

Q. So where does it address that issue?

A. Well it doesn't specifically because B1, which is the building code, states that the, the cover document for this will say that the demolition contractor needs to comply with the building code.

15 Q. And where's that, have you provided that?

A. This is, ah, the, you would need the, a copy of the consent. The demolition consent.

Q. All right, we can bring that up.

A. So that's not, this is not the appropriate document.

20 Q. So we can go forward one?

A. It's likely the methodology was attached at the rear of the, of the consents. I don't know. You may need to go...

Q. Well have you got the reference because it's your document. I'm not sure of the number, have you got it there? Here you go, is that it?

25 **WITNESS REFERRED TO DOCUMENT – DEMOLITION CONSENT**

A. Yes.

Q. So can you direct us to it on that form?

A. I can't specifically see a reference to the fact that they did comply with B1 of the building code or F5, those being two relevant, um, provisions.

30 Q. But how is that made, how is the applicant made aware of that requirement?

- A. Well clearly he was a, um, demolition contractor of, of experience and his methodology outlined a methodology for demolishing the building. It's pretty obvious that he wasn't, um –
- Q. How do you know he was –
- 5 A. – he shouldn't, he shouldn't, it was Frews so they, they're a well established Christchurch demolition company and they were, um –
- Q. So is it just assumed that they will know?
- A. They do know, they shouldn't damage adjacent properties.
- Q. Well I agree that that would seem to follow as a matter of common  
10 sense but what I'm asking is you said in your evidence that one of the requirements is that that is followed?
- A. Yes.
- Q. How is that ensured? Do you just assume because they are a demolition contractor that they will know?
- 15 A. Yes.
- Q. So it's not an actual requirement for them to –
- A. It's a requirement of section, yeah, so look I, I guess I could quote you, section 7 of the Building Act requires them to comply with the building code in its entirety. I say that responsibility rests, um, legislatively with  
20 the applicant and, um, the person who receives the building consent, so I mean it's pretty –
- Q. But –
- A. – I guess it's obvious.
- Q. Right, but they're not required to sign anything to that effect to ensure  
25 that they understand that?
- A. Ah, the application form would identify, um, they would give a commitment to comply with the Building Act.
- Q. Can we bring that up please?
- A. I don't have the reference, do you have the reference?
- 30 Q. No I don't. I –



**MR REID:**

Sir I think the situation with the consent application is that it's been provided in its entirety but it's not on the secure website. Bits of it are, where the methodology comes from, but the whole doc – we have the whole document  
5 here and it has been provided but it hasn't been –

**JUSTICE COOPER:**

So is there a simple answer to this question on the basis of the document that you have?  
10

**MR REID:**

Yes there is. It can be, it's covered in the document so if it's helpful it can be made available?

15 **JUSTICE COOPER:**

Well if it is, well it is a matter of record then tell us what the answer is?

**MR REID:**

Perhaps if I just come back to you Sir, we will fish it out.  
20

**JUSTICE COOPER:**

Right.

**CROSS-EXAMINATION CONTINUES: MR ZARIFEH**

Q. Paragraph 129, Mr McCarthy, you say that the demolition methodology  
25 was reviewed as part of the building code compliance checking process and any impact the demolition would have on neighbouring buildings including CTV would've been considered by Council staff processing the application, right?

A. That's correct.

30 Q. So how was that reviewed to ensure that CTV would not have been affected?

- 5 A. A civil engineer, Bill Dray, undertook a review of the application in the proposed methodology for demolishing a building. It fundamentally, um, was to remove the roof, to drop the roof, cut the roof, to remove the roofing material, cut the roof, drop it onto the floors, break that out with heavy machinery, break out the floors, drop the, um, the outside walls into the, um, into the void that's created by that and to associated with that to block off Woolsack Lane and the roads that public safety was assured. There would be heavy, thirty tonne diggers brought into the front and the rear of the building so that the, that demolition would be effected quickly and without F5 being hazards that they needed to in their methodology address how they were going to control the hazards, that was all part of the, you know noise, vibration, dust, all of those types of things. So that's all included in the methodology that was reviewed.
- 10
- 15 Q. And the civil engineer that you spoke of, is he a Council engineer?  
A. Yes.  
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- Q. So did he specifically consider the vibration effects on the building?  
A. He would have considered that in relation to the methodology undertaken.
- 20
- Q. And is that something you can tell us from enquiry with him or just surmise on your part?  
A. No, I've spoken to him.
- Q. And he's confirmed that he did consider the vibration effects?  
A. Yes.
- 25
- Q. What about the removal of the foundations? You might recall that was raised yesterday?  
A. Yes.
- Q. So the foundations that would have been under that wall and very close to CTV, did he consider the effect the removal of those would have or potentially have?  
A. Yes, his, the methodology included the use of a 30 tonne digger which would, could be armed with hydraulic impact drills to remove that so yes
- 30

that was a, I mean that's the, the modern methodology for demolishing buildings like that.

Q. All right, and does he certify that? The civil engineer that is checking that?

5 A. Yes.

Q. So that's on your file as well?

A. Yes.

Q. We heard from some of the lay witness, eyewitnesses of a wrecking ball being used?

10 A. Yes.

Q. That doesn't appear on the methodology does it?

A. No it doesn't.

Q. So that wouldn't have been considered by the civil engineer then?

A. That's correct.

15 Q. Does that concern you?

A. It's a variation to the consent.

Q. So what should have happened?

A. They should have advised us that they were intending to use an alternate methodology and we would have considered that.

20 Q. But you didn't because they didn't advise you?

A. That's right.

Q. Have you made any enquiries as to whether that would have made any difference? I mean presumably wrecking balls are used in other demolitions? Can you help us out there?

25 A. It's a very largely an outdated methodology now. It would have, the Council might not have agreed to that on that site because of the noise and the vibration. The use of associated buildings would have been taken into account –

Q. The use or the effect?

30 A. Oh the use, I mean if you've got a doctor's surgery or a –

Q. Oh I see, right.

A. – education facility next door and people using a wrecking ball it might not be, it would seem not to be appropriate in that location.

Q. So is that a concern for the Council?

A. A concern that we weren't told?

Q. Yes.

A. Yes.

5 Q. Have the Council done anything about it?

A. No we haven't. We were never advised at the time that the, a wrecking ball was being used and the first we've heard about it I guess is much more recently.

Q. In terms of information gathered in this inquiry?

10 A. Has come out of the Commission.

Q. So –

A. There was no, no notification from any adjacent residence of the wrecking ball.

15 Q. Just a couple of other issues quickly, the, I understand there is a Council record of the gas cylinder being stored or kept somewhere in the CTV building, are you aware of that?

A. I've read it somewhere that there was a 10 kg bottle –

Q. It was a 9 kg –

A. Yeah, (inaudible 11:17:54) somewhere in the Council –

20 Q. Are you not aware of that?

A. – I don't know where it would specifically have been used, no.

Q. Is that something you could investigate in terms of Council records between now and when you give evidence again?

A. Certainly can.

25 Q. Mr Drew yesterday said that he phoned the Council when he was going to move The Clinic in to CTV building?

A. Yes.

30 Q. And was not aware or made aware of any difficulty with that in terms of it being a change of use or anything like that. If that was just a phone call would there be a record of that?

A. I think it unlikely. I think it was probably more in the lines of a general enquiry. I'm sure our people would have checked that but once again that might be something I need to specifically come back to you but the

advice is consistent that was given to Mr Drew is consistent with my understanding.

Q. What's your understanding?

A. That this was not a change of use.

5 Q. For The Clinic to go into the building?

A. That's right.

Q. So that was the Council position?

A. Yes.

10 Q. Just finally, we heard evidence yesterday from a builder, Mr Van den Berg, don't know if you were here. He looked in the ceiling space of the I think it was either the top or the level 6 or level 5 to see if piping or cabling could be put in, there was enough space, and he decided not to proceed with that idea. He thought they'd have to be drilling into beams or things like that and that would require an engineer and a permit and just didn't go ahead. What I wanted to ask you is, in a situation like that where a hole has to be drilled in a structural member such as a beam, what's the procedure that has to be adopted by the contractor in terms of (inaudible 11:20:20)?

15 A. Structural work, it affects the strength of that structural member and they would need to apply for a building consent, yes, to undertake that work.

20 Q. And would an engineer have to be involved?

A. Yes, you would have to transfer the load in some way if in fact you were affecting any of the reinforcing you would need some sort of engineering review of how to transfer that load.

25 Q. All right, and is that something that's enforced by the Council, people apply for permits and whenever holes are drilled in structural members?

A. It would be enforced if we knew about it.

Q. So are there any records for the CTV building of permits for such things?

30 A. Not to the best of my knowledge.

Q. Is that something that you would need to check to be sure or?

A. Yes, it's not something that I'd prepared for at this stage but I'm aware of the question and I will have an answer when I next present my evidence.

Q. Thank you.

**5 CROSS-EXAMINATION: MR ELLIOTT – NIL**

**RE-EXAMINATION: MR REID – NIL**

**MR REID:**

Just in relation to the document, there doesn't seem to be a clear statement to  
10 that effect in the document but I can make it available if that assists?

**JUSTICE COOPER:**

Well I thought you said we do have it but just not all loaded on to the  
15 electronic system?

**MR REID:**

Yes, that's correct .

**JUSTICE COOPER:**

20 I wonder, are you aware of that Mr Zarifeh? Let's just confer with Mr Zarifeh, if  
we've got it we don't need it again but if we haven't we'll want a copy, but  
you're saying as far as you can see there isn't a reference to the need to –

**MR REID:**

25 Well not explicitly but it's a detailed document that sets out various means of  
compliance with the Act. What's going to be done is various sections that are  
filled out and then the Council assesses it for compliance. There is a  
statement at the end of the building consent which is a document that is on  
the system, that's at MCCARTHY.0001.38 which are the additional notes and  
30 the first bullet point says, "That all building work shall comply with the  
consented documents," et cetera. So that's the system, the application is

made, its assessment compliance and then a building consent is issued with that application.

**JUSTICE COOPER:**

- 5 So what you're saying is that an application for demolition which incorporated a methodology that might be harmful for neighbouring properties would not be consented to?

**MR REID:**

- 10 No it wouldn't be consented, no, and in terms, and that the so the application contained a methodology and if there was to be a departure from that methodology then that should, well it may well, it should have been the subject of an application for variation.

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15 **JUSTICE COOPER:**

Such as for example the use of the wrecking ball?

**MR REID:**

Yes one would have thought so.

20 **QUESTIONS FROM COMMISSIONER FENWICK – NIL**

**QUESTIONS FROM COMMISSIONER CARTER:**

- 25 Q. Just in regard to your paragraph 104 you note that there was an inspection by USR, USAR team following the aftershock the Boxing Day aftershock. Is it, does the Council keep a record of the inspections the USAR perform?

A. We do have a copy of that.

- Q. They get a copy automatically, would it be, the availability of that to other people. I notice that there was reference to a Mr Campbell who has given evidence to us before and is a USAR engineer member.

Would that have, knowledge have been able to be accessed by another party?

A. Yes it would, yes it would, it would be put on specifically on the file on the file for that, for that property. Mr Campbell was a contractor to the Council. He worked for Opus and he was part of our building evaluation team at that time.

Q. Okay so would –

A. He, sorry he has previously given evidence before the Commission.

Q. Yes and so his name would have been recorded on a Council document by, to note that he had been part of an inspection of that building after Boxing Day?

A. He never undertook an inspection because he was advised I – he was never despatched to do that because he, the evidence was that the owner had actually separately engaged an engineer and so we, Council was advised not to send anyone to the property at that stage.

Q. Can you –

**JUSTICE COOPER:**

This was Ms Vivian's telephone call?

**QUESTIONS FROM COMMISSIONER CARTER CONTINUES:**

Q. Yes and the name though was recorded in writing on the form?

A. Yeah it was, it was run past Paul Campbell before the job was closed down so the, I think the way it happened was Ms Vivian rang the Council and spoke to one of our administration staff. The administration staff member Laura Bronner then spoke to Paul Campbell and said, "I've been advised that, that, that an engineer has dealt with this matter and shall I close the job?" and Paul Campbell said, "Yes you can close the job", based on that information.

Q. So it wasn't an indication of an inspection by Mr Campbell himself?

A. That's correct.



**QUESTIONS FROM JUSTICE COOPER:**

- 5 Q. Mr McCarthy I understand your position to be that whatever deficiencies there were in Council processes were effectively cured if I may use that term by the fact that Mr Coatsworth a registered engineer, certified engineer did an inspection after the Council officers were involved, but thinking of the future but thinking of the future as I understand the evidence you've given it is that you despatched three Council officers or you despatched the team which didn't contain an engineer to carry out
- 10 an inspection not knowing that the building had already received a level 1 assessment and had been green placarded. That's the position isn't it?
- A. It is my position yes.
- Q. Yes.
- 15 A. I've no, I have very vague recollection of the...
- Q. Yes so one it seems to me that one important element especially in a circumstance where engineers in the future are likely to be again in short supply is for there to be good record keeping so that a person making decisions such as you were in the position of having to make will
- 20 actually know if a building has already been inspected?
- A. Correct.
- Q. That would be a good thing wouldn't it?
- A. It would be a very good thing Sir.
- Q. Because it seems to me that if a building is green placarded and then
- 25 several days later it is re-placarded green then that is sending quite a strong signal to those people using the building that the Council thinks it's okay?
- A. Correct.
- Q. And if you'd had such a system in place which did tell you what the
- 30 position was the response might have been if you had known it had already been green placarded what – would you have made a different decision do you think?

- A. I may very well have, it depended on the nature of the enquiry Sir, I'm unsure whether the owner was asking for further technical advice or whether he was just asking us, "What do I do now?". I'm unsure, I'm unsure of the nature of this inquiry but I, I fully concur that good record
- 5 keeping is absolutely essential. My advice to my colleagues in other cities has been to load the data base so that you can load in placarding information immediately it becomes available so that you don't have to, in an emergency situation, have to go through that, that process, it's already there for you and it's already linked to your GIS system, so
- 10 I've –
- Q. So these are all steps that should be taken before there's any earthquake?
- A. Yes. Yes.

**WITNESS EXCUSED**

15 **COMMISSION ADJOURNS: 11.31 AM**

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