

Under **THE COMMISSIONS OF INQUIRY ACT 1908**
In the matter of the **CANTERBURY EARTHQUAKES ROYAL COMMISSION
OF INQUIRY INTO THE COLLAPSE OF THE CTV
BUILDING**

**MEMORANDUM OF COUNSEL FOR
ALAN REAY CONSULTANTS LIMITED AND DR REAY**

Dated 24th July 2012

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MAY IT PLEASE THE COMMISSIONERS:

1. On 12 July 2012 Senior Counsel for ARCL responded to His Honour Justice Cooper regarding documentation related to the Building Permit.¹ Senior Counsel undertook to submit a memorandum detailing what documents were available on the respective ARCL/ARCE and Council files, and identifying any differences between the two.
2. Additionally, the issue of documents retained by ARCL was raised again on 16 July 2012 during cross-examination of Dr Reay by Mr Elliott, and in re-examination.² In summary Dr Reay's evidence was:
 - (a) Some of the original CTV design file was retained (TRANS.20120716.4, line 24). Some files were archived onto computer disks at one stage, including the CTV file (TRANS.20120716.7, lines 16, 31).
 - (b) Although it was not known why some records were not retained, reasons were likely to include:
 - (i) Documents could have been removed from the original file by staff for other use and not returned (TRANS.20120716.4, line 30, TRANS.20120716.5, line 25).
 - (ii) File retention policy was in general focused around retaining records for the Inland Revenue Department, which was a legal obligation (TRANS.20120716.6, line 4).
 - (iii) There was no legal obligation to retain job files and ARCE/ARCL in general kept what might be needed in the future (TRANS.20120716.5, line 6).
 - (iv) A lock-up facility at one point had a leaking roof and some records were unable to be recovered or copied. It is not known whether the CTV job file was affected (TRANS.20120716.6, line 17).

¹ TRANS.20120712.77

² The references in the Transcript are TRANS.20120716.4 to .11 and TRANS.20120716.26 to .27

- (c) Files on disks were converted to hard drive following the February earthquake as the disks ended up as a shambles (TRANS.20120716.8, lines 5, 10).
 - (d) Dr Reay believes the disks were disposed of after the material was transferred to hard drive (TRANS.20120716.8, lines 18, 25).
 - (e) Printouts from the disks relating to the CTV file were produced to the Royal Commission (TRANS.20120716.8, line 1).
 - (f) Dr Reay and ARCL have done everything possible to ensure that every document they had about the CTV Building has been disclosed to the Royal Commission (TRANS.20120716.11, line 21).
3. This memorandum now effects the commitment of Senior Counsel on 12 July 2012 to produce a schedule listing documents relevant to the 1986 permit and where those documents were retained and produced to the Commission, as between ARCE and the Council. The schedule is **annexed**. It is noted:
- (a) The schedule only lists documents which were, on their face, prepared by or sent to ARCE. It does not, for example, include documents from the Council files that were not ostensibly sent to ARCE such as correspondence between the Council and other parties or internal Council notes. Obviously such documents could not be assumed to have ever been on ARCE's files.
 - (b) As shown in the schedule, ARCE retained key documents relevant to the permit application, including structural drawings, calculations, specification and the site investigation report. Some of these documents are not now found by the Council in its files.
 - (c) Where copies were retained by both ARCE and the Council, any differences between the two sets of documents are identified in the schedule.
4. If the Commission has further questions in relation to the schedule or the issue of documentation more generally, counsel will willingly assist.

5. A copy of this memorandum is being sent to counsel for the Council.

Dated this 24th day of July 2012



H B Rennie QC / W J Palmer
Counsel for ARCL