

From : Jason.Dowse@cera.govt.nz
To : Justine Hobbs
Cc : Caroline Hart
Bcc :
Date/time Received : 5/10/2012 3:43:52 p.m.
Subject : RE: Section 52 CERA Act - New Regent St

Hi Justine, Here is what Susan Newall (on our legal team) has to say:

As far as I am aware we have never used the powers in section 52 of the Act.

We have considered it on several occasions, but the requirement is that 2 or more owners must act for the benefit of each other. It is difficult to imagine a scenario in which this requirement would be met, and the power has to be used to get two owners to act. If it is to their mutual benefit to do something, they will probably do it of their own accord. If one or other of them does not want to act, it is probably because they consider it will not be to their benefit. In those circumstances, the chief executive would be very unwise to exercise the power, as one of the owners would probably challenge him on the basis that the 'mutual benefit' test is not met.

Because of the way this reasoning has played out on several occasions, we have recommended that the section is deleted when the Act is reviewed.

I hope this is helpful.

regards

Jason Dowse

027 286 2697

From: Jason Dowse
Sent: Thursday, 4 October 2012 2:29 p.m.
To: 'Justine Hobbs'
Subject: RE: Section 52 CERA Act - New Regent St

Hi Justine, sorry I read this then it slipped down my inbox and nearly got lost.

John is in the UK at the moment so I can't query him so I have directed your question to our legal team. They will give you the facts but may not cover all practical aspects so we may need to also raise it with John on his return. I'll update you as this progresses.

regards

From: Justine Hobbs [mailto:Justine.Hobbs@royalcommission.govt.nz]
Sent: Monday, 1 October 2012 3:03 p.m.
To: Jason Dowse
Subject: Section 52 CERA Act - New Regent St

Hi Jason,

Thanks so much for meeting with Katie, Justine Gilliland and I last month - we found it very useful to chat to John, Dianne, and yourself.

I have been looking at the issues that prompted the insertion of section 52 of the CERA legislation that allows you to order building owners and others to work together - we are aware of the issues that arise when separate properties or tenancies are effectively part of one structure separated by party walls that acts as a single building in an earthquake.

We would appreciate it if you could give us a bit more information about when you have applied this legislation, the ways you have applied it, and whether or not it achieved the desired results, in practice. We are aware of the New Regent St initiative, but wondered if there were any other examples. We are also interested in knowing what role CERA played in the New Regent St project - again from a practical point of view.

I don't need much - and a phone call or a quick visit would suffice if that is easier for you.

Looking forward to hearing from you,

Kind regards

Justine

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