

BUDDLE FINDLAY

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Tom Weston
CCC717480

10 March 1995

Marshall Wright
Christchurch City Council
P O Box 237
CHRISTCHURCH



FAX: (03) 371 1786

Dear Marshall

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1. You have asked that I provide a short report setting out my impressions of the hearing.
2. The hearing lasted eight days, concluding on Wednesday 8 March. The Applicants called some 16 witnesses and we relied upon the evidence of four witnesses; Messrs Gray, Mitchell, Maguire and yourself. We endeavoured to call Mr Cooper of the Ministry of Education but, as you know, that proved to be a fiasco when Crown Law required him to alter the evidence we had settled with him. I propose dealing with that matter in a separate letter to you.
3. As I said in my closing submissions the Applicants and the Council had two mutually inconsistent views of the case. I believe that the Council's perspective was inherently consistent and compelling. I believe that the Judge understood and appreciated the force of our arguments and was impressed by the evidence called on behalf of the Council, particularly that given by Mr Gray. Indeed, Mr Gray's performance in the witness box was exemplary and there cannot be too much praise for the manner in which he undertook that task. As it was his decision under attack, it was important that the Court saw him as he really is and I believe that in the course of cross examination by Mr Pankhurst QC and Mr Lawson his qualities were able to be seen.
4. The Judge treated all Council witnesses with great courtesy and gave their evidence full attention. He treated Jo Appleyard and myself with the same courtesy (although there was an initial period of antagonism, I think arising from a misapprehension of the case on his part).
5. While I believe that we had a very fair hearing, and that the case went as well as it might have, I am not able to say with any confidence that the Council will prevail. There are a number of quite difficult procedural issues that the Judge must consider, including the fact that the original notice of 3 September was plainly deficient. Taken in the round, I believe there is a good chance that the Court will find that there was genuine redundancy but it may be minded to attack some of the procedural steps that followed.

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6. If the Court does this, it is difficult to say what compensation will be awarded. There are very strong arguments that all the trauma that the Applicants faced was likely to occur in any event and should not be sheeted home to the Council. Indeed, the Applicants made quite surprising concessions to this effect. Consequently, if there is liability it may well be for comparatively small sums.
7. So far as the costs claim is concerned, I believe that we are likely to be successful. The Judge has previously had to rule on these sorts of matters and was obviously familiar and comfortable with the argument that Jo Appleyard ran.
8. The Judge has said that he will issue judgment by Thursday 16 March. It is difficult to take anything from this but, given the complexity of the Applicants case, and the comparative simplicity of ours, it is tempting to think that this means he will find in your favour.
9. Because of the uncertainty of the outcome there may be some benefit in preparing a press release (or the like) to cover both the best and worst case scenario. At the very least, we should have someone standing by ready to do this at all times up until Thursday in case the Judge issues his judgment early.

Yours faithfully

BUDDLE FINDLAY

A handwritten signature in black ink, appearing to read 'Tom Weston/Jo Appleyard', written in a cursive style.

TOM WESTON/JO APPLEYARD

Partner/Solicitor