

BEFORE THE ENVIRONMENT COURT
HELD AT CHRISTCHURCH

ENV-2010-CHC-262

BETWEEN O SNEOP

 Applicant

AND CHRISTCHURCH CITY COUNCIL

 First Respondent

AND TREVOR SIDNEY GRAHAM AND
 DIANNE BARBARA GRAHAM

 Second Respondent

AND EVAN MITTA RAHURAHU AND
 BEVERLEY JOAN RAHURAHU

 Third Respondent

 [and other Respondents as listed
 on the following page]

MEMORANDUM OF COUNSEL FOR THE SECOND TO FOURTEENTH
RESPONDENT

Dated: 1 April 2011

WHITE FOX & JONES
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CHRISTCHURCH NZ

Solicitor Acting: T W Evatt

AND **ROSEMANRY PURSE AND LORRAINE ABBOT**

Fourth Respondent

AND **ANN ELIZABETH JAMES**

Fifth Respondent

AND **RON MOORE AND JOAN MOORE**

Sixth Respondent

AND **SANDRA MCSHERRY AND ADRIAN ANDERSON AND HELEN TIMMS**

Seventh Respondent

AND **GREGORY JOHN MCCLURG AND
TREVOR SIDNEY GRAHAM AND
RICHARD ANDREW LOGAN**

Eighth Respondent

AND **JASON CUMMING MCDONALD**

Ninth Respondent

AND **TIMOTHY ROBERT COOK AND LYNN COOK**

Tenth Respondent

AND **DARYL TENNYSON NEATE**

Eleventh Respondent

AND **MARGARET ANNE THOMAS**

Twelfth Respondent

AND **KAY CAROLE HUNTER**

Thirteenth Respondent

AND **GORDON ROSS RICHDALE**

Fourteenth Respondent

AND **RAYMOND ALEXANDER RANKIN**

Fifteenth Respondent

**MEMORANDUM OF COUNSEL FOR THE SECOND TO FOURTEENTH
RESPONDENTS AND THE TAYLORS MISTAKE ASSOCIATION
INCORPORATED**

MAY IT PLEASE THE COURT

Purpose

- 1 This memorandum is filed to seek vacation of the existing timetable as directed on 9 February 2011 and directions as to a further conference on or after 5 September 2011 to allow the Bach Owners to apply for a Certificate of Existing Use Rights.
- 2 The principal issue or defence raised by the Respondents is 'existing use rights'.
- 3 The Respondents propose applying to the Council for a 'Certificate of Existing Use Rights' pursuant to Section 139A of the Act. If a Certificate is granted this may resolve the issue or at least limit the scope of the issue.
- 4 Given the Council's position and the circumstances following 22 February coupled with the fact that the Baches have been in existence for circa 100 years, any delays which might result seem reasonable and are unlikely to prejudice the Applicant or adversely effect the environment.

Parties

- 5 The Taylors Mistake Association ("the Association") appears to have been included as a party. At paragraph 3 of the Applicant's memorandum dated 24 February 2011 the Applicant has sought leave to withdraw the application against the Association.
- 6 It would be helpful if the Applicant could clarify the position as to the Association – whether or not it is a party.
- 7 Assuming the Association is not a party, it does have an interest in the proceedings greater than the public generally and may apply to be a Section 274 party. A separate application will be filled in due course as necessary.

Costs

- 8 The Applicant has been urged by the Court on two separate occasions to instruct a lawyer on the basis that the Application involves complex issues of law. Already the Applicant has had to make a new application. Regrettably, the Applicant's refusal to instruct a lawyer will likely result in further unnecessary costs to the parties.

- 9 While the Applicant is entitled to represent himself he must act responsibly. Given the issues involved, and the Court's urging the Applicant's failure to instruct a lawyer is irresponsible.
- 10 The Association and the Bach Owners wish to make clear their position that they will be seeking costs against the Applicant if he is unsuccessful, refuses to get legal advice or is otherwise unreasonable or irresponsible in pursuing his application.

Dated this 1st day of April 2011



TW Evatt

Counsel for the Second to Fourteenth Respondents and the Taylors Mistake Association Incorporated