



27 March 2014

Phillip Taueki

Dear Mr Taueki

As you are aware Levin Police attended the Rowing Club building over the weekend in response to a complaint that the locks to the building had been removed, the building had been entered, and damage to internal shelving sustained.

I understand that you were seen in the building on Saturday 22 March 2014 and have made assertions to various people of having taken over the building.

Central to such an assertion is the legal basis upon which you claim to have occupation and/or usage rights of that property. It is evident that this issue itself sits within the context of wider and more fundamental issues which have previously, and continue to be the subject of legal challenge in a variety of forums.

I acknowledge the email from Anne Hunt to Inspector Waata Shepherd of 25 March 2014 which purports to address the current legal status of your rights to enter, use, or occupy the building. In seeking to be fairly and fully informed I have also had enquiries undertaken with the Lake Horowhenua Domain Board Chair, Chris Lester, Chair of the Lake Trustees, Matt Sword, and Department of Conservation lawyer James Hardie as to their respective positions. I have also taken account of the existing decisions of the Maori Land Court, the Court of Appeal and Supreme Court to the extent they are relevant. Having undertaken a considered review of all that information, I am drawn to the following points as informing my assessment of the current legal landscape:

- Upon expiry of the previous licences given to the Horowhenua Rowing and Sailing Clubs the buildings are fixtures and consequently the property of the Maori land owners, held in trust by the Horowhenua Lake Trustees;
- The Lake Horowhenua Domain Board, in consultation with the Trust, has statutory responsibility for the control and management of that land which includes the Rowing Club building. The authority to grant usage and/or occupation rights or licences in respect of the Rowing Club building is therefore vested in the Board, who exercise that authority in consultation with the Trust;
- It is not disputed that the Clubs' licence and roll over rights for the building have expired. Judge Harvey made it clear in the decision of the Maori Land Court on 17 December 2012 that the Board has authority to issue new licences in accordance with its usual processes which include consultation with trustees at a properly convened meeting of the Trust;
- On 4 February 2013 the Board resolved to allow the sailing club, rowing club and other boating clubs to store their gear in the building until an opportunity had been had to consult with the Trust. On 31 May 2013 in a meeting between the Trust and Board, the Trust concurred with the Board's interim offer to the Clubs to store gear in the building. While the Rowing Club made an application on 14 February 2013 for a new licence to occupy the building, no decision has yet be made on future use rights;
- The resolution of the Board is one of the grounds of appeal to the Maori Appellate Court, the decision in respect of which has not yet been issued. Unless or until that resolution is found *ultra vires*, is rescinded or usurped by a new resolution concerning use rights, the authority for the Rowing Club to store gear in the building remains extant;
- To date, neither the Board nor the Trust have granted you any licence or other authority to use or occupy the Rowing Club building.

The Police position is significantly informed by that final point. There is no evidence of any clear authority given by either the Board or the Trust that would permit your use or occupation of that building to be considered appropriately authorised. It therefore follows that Police currently take the position that if you are found in that building in the absence of such authority you would be there unlawfully. This is relevant to determining the criminality of any conduct you engage in should you be found in that building.

As you will appreciate Police must act within the parameters of the law as it currently stands. This position is of course subject to review upon the issuing of further judgments of the courts which are relevant to the issues raised.

I reiterate the point Inspector Handcock has previously expressed to you that the Police approach remains non-partisan. This necessarily entails an obligation upon Police to fully investigate allegations of criminal offending, and where a prosecution is required in accordance with guidelines set down by the Solicitor General, to initiate appropriate prosecution action. A prosecution is of course not the preferred outcome from any perspective. To that end, I would encourage you to focus your efforts on addressing the fundamental matters in dispute by way of the appropriate legal channels, rather than resorting to conduct which crosses into criminal offending.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Bensemam', followed by a long horizontal line extending to the right.

Chris Bensemam
Detective Inspector
Acting Area Commander
Manawatu