

The Office of the Attorney General,  
By email  
10<sup>th</sup> April, 2017

N O R T H C O T E  
R E S I D E N T S '  
A S S O C I A T I O N

PO Box 36-386, Northcote, Auckland 0748



I wrote to the Office of the Attorney General on behalf of the Northcote Residents' Association Inc. on 7<sup>th</sup> September 2016, with documentation including a legal opinion of Dr. Hewison, a specialist in the area of Government regulation. Dr. Hewison's opinion concluded emphatically that Auckland Council violated its statutory obligations, when it approved an underwrite for a project known as SkyPath, in July 2016.

Your office referred NRA's above-noted enquiry to the Minister of Local Government on October 14<sup>th</sup> 2016. That Minister's secretary subsequently deferred on November 2<sup>nd</sup> 2016, to a previous letter written on October 4<sup>th</sup> 2016, by the secretary to the Associate Minister of Local Government, who had responded to an enquiry sent to our local MP, Jonathan Coleman, on 16 August 2016. Unfortunately, the secretary to the Associate Minister of Local Government had wholly missed the point of NRA's enquiry, as the attached response dated October 4<sup>th</sup> 2016 pointed out.

You will see from the above-referred rounds of correspondence, that the secretaries of the Attorney General, the Minister of Local Government and our local MP, all deferred to a factually incorrect response drafted by the secretary to the Associate Minister of local Government. When that secretary was apprised of the errors in her response, she suggested we refer our concerns back to Auckland Council - something we have been wasting our time doing for four years on SkyPayth and something we wouldn't bother doing again.

I had also written on behalf of the NRA to the Ombudsman in mid September 2016, with an Official Information Request, seeking the financial details that Council redacted from public scrutiny, as part of its advisedly illegal action of approving SkyPath's underwrite. After prompting for some time, that elicited the Ombudsman's assistant's assurance on 17<sup>th</sup> February 2016, that the matter would be actioned promptly. To date, seven months after our initial enquiry, nothing has materialised from the Ombudsman's office.

By comparison with the above, which has achieved nothing after *seven months* of enquiry, NRA had but *seven days* to assemble a 20-page submission to Council, brief and pay a specialist barrister, receive that barrister's opinion on Council's intended action and present these matters to Council, in July 2016 – whereupon Council chose to knowingly violate the statute regarding which we had submitted - in the opinion of our eminently credentialed barrister.

Council's advisedly illegal underwrite also paved the way for Council's legal counsel and the Council-underwritten counsel for the applicant, to blackmail NRA into withdrawing from its appeal with the Environment Court regarding the SkyPath appeal, on the basis that NRA

would be pursued for recovery of costs from the appeal “to the maximum extent possible”, in the event that we lost the appeal. Facing pursuit from parties with bottomless funding underwritten by Auckland Council, it behoved us to withdraw, regardless of the principles Council’s position violated and regardless of the extensive facts embodied within our case.

The secretary of the Associate Minister of Local Government’s pointed out that we had withdrawn from the Appeal, as if to imply that the matter was effectively beyond pursuit. However although our withdrawal from the appeal ensured that all the unresolved problems with SkyPath could be ignored by the Environment Court and effectively were, the subject of our enquiry is not answered and is not at an end. That is to say and to reiterate our position, we are enquiring as to what Government intends to do, apart from nothing, regarding the fact that Auckland Council has advisedly and knowingly violated s14 and s74 of the Local Government Act 2002, to the direct detriment of Auckland ratepayers whose interests are purportedly protected by that Act and the sections within it, that Council advisedly violated.

As all of our previous correspondence pointed out, Council’s advisedly illegal action caused our neighbourhood to be subject to SkyPath’s multitude of unresolved and unsolvable problems, and laid waste to the literally millions of dollars we expended attempting to have those problems solved firstly via Council then later, via our appeal to the Environment Court.

All bureaucrats know that Justice delayed is Justice denied. In this case, the various Government departments, agencies and their secretaries, are riding that principle to the hilt and beyond. Accordingly, you are reminded that the response we now seek will serve no useful purpose, if you announce a response that stretches the resolution of and Government’s response to this obvious enough breach on Auckland Council’s part, yet another six months.

Accordingly, we now seek a considered response to our enquiry in a manner that is something a lot better than the half-baked fob-offs we have received to date. We also seek to have our enquiry answered in a timely fashion - by which we mean - within five working days from the date of this letter.

Regards,

**Northcote Residents’ Association Inc.**



Kevin Clarke  
Chair, SkyPath Appeal Committee

CC  
The Office of the Ombudsman  
Dr. Grant Hewison