

**BEFORE THE CHRISTCHURCH REPLACEMENT DISTRICT PLAN  
INDEPENDENT HEARINGS PANEL**

**IN THE MATTER** of the Resource Management Act 1991 ('the Act')  
and the Canterbury Earthquake (Christchurch  
Replacement District Plan) Order 2014

**AND**

**IN THE MATTER** the Christchurch Replacement District Plan: Proposal  
21 – Special Purpose Recovery (Flat Land) Zone

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**EVIDENCE OF ERNEST TSAO**

(Submitter No. 3261)

**Dated: 24 November 2015**

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## INTRODUCTION

- 1 My name is Ernest Tsao. I am a homeowner living in Avondale, Christchurch. I have a Bachelor's degree in Mathematics and an MBA degree. I also spent one year studying geophysical engineering in university. Currently I own a small business which employs 8 people.
- 2 My home address is [REDACTED] My home was zoned Living 1 under the Operative Plan, and is proposed to be zoned Special Purpose Recovery (Flat Land) Zone (the Recovery Zone) in the proposed Christchurch Replacement District Plan (pCRDP). This location is shown in **Appendix A**.
- 3 In my submission I sought that the Recovery Zone be removed from the pCDRP, and that the entire Recovery Zone be rezoned to Residential Suburban, as most Living 1 zones have been. I also seek that my specific property be rezoned Residential Suburban.
- 4 I informally represent homeowners in the Quake Outcasts group. From discussions with these homeowners I understand we share common views regarding the pCRDP. These homeowners are either currently living or owning homes in the eastern suburbs of Avonside, Avondale, Burwood, Bexley, among others.

## Earthquakes

- 5 Like numerous other properties in Christchurch, my section suffered some liquefaction, lateral spreading, and some subsidence in the Canterbury Earthquakes. My house fared reasonably well. There was only one visible hairline crack in the drywall, measuring only 30cm long, and a broken hot water cylinder.
- 6 Being uninsured means that I do not have to deal with insurance companies and EQC. I promptly replaced my water cylinder and life went back to normal after the water came back on and sewer services went back to normal.
- 7 However my property is situated in the unlawful "residential red zone", right on the border with the "green zone". Across my fence are my neighbours, one of whom have recently completed rebuilding their house. The "green zone" side of my neighbourhood is now vibrant and full of freshly repaired and newly rebuilt homes.
- 8 On the other side of my home what was once a nice neighbourhood is now a large empty section owned by the Crown.

### **The Red Zone**

- 9 Because of the location of my home, I am subject to the government's colour-zoning scheme following the June 2011 cabinet decision. This decision has been found by the courts<sup>1</sup> to be unlawfully made.
- 10 The Supreme Court<sup>2</sup> also found the buyout offer made to myself (and other homeowners who are uninsured, commercial property owners, and section owners) to be unlawful.
- 11 The government's offer to buy my home was initially \$100,000; then \$200,000 following the introduction of the "Red Zone Offer Recovery Plan". My home had a 2007 rating valuation of \$650,000.
- 12 I have never been, and will never be interested in selling my home at such ludicrous prices.

### **The District Plan Review**

- 13 The pCRDP must be considered in the broader context of events and government policies following the earthquakes. Even the heavily modified review process is being done in the name of the earthquakes.
- 14 The proposed Recovery zoning matches the exact area that was unlawfully "red-zoned" by the government. It needs to be noted that this area does not have uniform geographic features or uniform natural hazards, nor does it contain a uniform activity. It contains residential activities, commercial activities, recreational activities, parks, and empty lots. The only uniform feature of this area is that properties located within are subject to a government offer to purchase.
- 15 The government itself stated that the "red zone" has no legal status<sup>3</sup>, it is merely an area where a buyout offer occurs. If this is the case, then the proposed zone is erroneously based on a criteria that has nothing to do with planning.
- 16 This proposed zone seeks to single out this largely crown-owned area and treat it differently from any other area in the city. As a resident and homeowner caught in the middle of this proposal, I am very worried that this special zone will allow the

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<sup>1</sup> NZHC 2173 Quake Outcasts v Minister for Canterbury Earthquake Recovery, Chief Executive of the Canterbury Earthquake Recovery Authority. NZSC 27.

<sup>2</sup> NZSC 27 Quake Outcasts v Minister for Canterbury Earthquake Recovery, Chief Executive of the Canterbury Earthquake Recovery Authority. With majority ruling in favour of the Quake Outcasts.

<sup>3</sup> 2010/11 Financial Review of Cera and Eqc- Transcript of questions, Parliament. Question by Lianne Dalziel. Answer by Smith, " This red zoning has no legal status, so you are correct."

authorities to further chip away my rights and options, and decrease property values.

- 17 Further, I do not enjoy having to worry continuously for the next few years when the District Plan comes up for review. This proposed special zone will no doubt create much uncertainty for myself and other residents for years to come.
- 18 Even though there is a separate process to determine the future use of the unlawful "red zone", I definitely do not enjoy having to fight on multiple fronts to ensure my rights and options are not violated and abrogated.

### **City Council Approach to the Red Zone**

- 19 I have read and considered the evidence of the Peter Eman on behalf of the Christchurch City Council (CCC). Mr Eman proposed considerable changes from the notified pCDP to increase the options available to existing residents. These changes give residents more options as to what we can do with our properties and appear to uphold our rights as regular homeowners. I understand that Mr Eman's proposed rules allow a homeowner in this zone to rebuild his or her house as a permitted activity. I support that approach and his proposed rules.
- 20 However, I do not agree with Mr Eman's contention that it is necessary to impose a special zone on the unlawful "red zone".

### **Infrastructure**

- 21 I understand from discussions with CCC and CERA that the major concern with zoning the Recovery Zone Residential Suburban is with infrastructure capacity. I understand that CCC has an obligation to continue to supply infrastructure connections to all existing houses in the Red Zone.
- 22 I had conversations with Mr Eman about the possibility of removing my property from the proposed special zone because of the close proximity of my house to the adjoining "green zone". Mr Eman was open to the idea pending satisfying concerns for infrastructure capacity. Mr Eman also confirmed that infrastructure capacity is CCC's only concern. He was worried that current and maybe future infrastructure conditions, particularly sewer, may not have sufficient capacity to handle potential future commercial activities on my property. Such potential activities are allowed under the normal residential zoning.
- 23 I suggested that I may consider paying for making infrastructure connection to my house up to the capacity considered sufficient for such potential activities, if it's not already sufficient. Mr Eman advised that the CCC's infrastructure manager is "not keen" to enter into a private funding arrangement. He did not tell me what reason, if any, this manager is not keen.

- 24 It must be recognised that the poor state of Christchurch's infrastructure is a result of the government's deliberate "let-them-rot" policy of not allowing new or permanent repair works to be done in the red zone. The CCC has not been in a position to defy central government and conduct its own infrastructure repairs. This is self evident in the structure of the rebuild agencies. For example, numerous potholes on red zone roads have not been filled, contrary to public pronouncement by the government that roads would be maintained as long as people live there.
- 25 Arguments for a special zone based on the state of infrastructure is therefore a self-fulfilling prophecy. The government wants the land cleared, houses gone, infrastructure to deteriorate, and to impose a special zone after the fact. The District Plan Review process can be seen as yet another instrument by which the government accomplishes its goals.
- 26 Since infrastructure is a critical issue, it must be noted that CERA stated in its FAQ section on its web site<sup>4</sup> "The Crown will not be installing new services in the residential red zone". This clearly shows the government's role in relation to the CCC and the state of the infrastructure.

#### **Costs and Benefits of the Recovery Zone versus the Residential Suburban Zone**

- 27 The costs to homeowners and to me personally of imposing this Recovery Zone would be enormous. I cannot see any benefit from the Recovery Zoning for myself or for any other homeowner in this zone. Not only do we have to lose sleep over what might happen in the future, we will also have to spend valuable time and money to engage in yet another round of planning process. Time and money that would otherwise be spent on other productive activities.
- 28 As a small business owner, I have over the past 4 years personally spent hundreds of hours and many thousands of dollars on protecting my rights. Rights I thought would never have been encroached in a free and democratic society.
- 29 Because of the diverted time, energy and money, I was unable to carry out my long-planned business expansion. There is definitely lost economic contribution and lost jobs because resources were spent elsewhere.
- 30 Further, if the proposed special zoning will cement the stigma associated with the unlawful "red zone". Property values will drop further because the market will consider such zoning to be extremely risky. Home buyers will certainly consider the uncertainty of future zoning change when the Plan come up for review. If there is

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<sup>4</sup> Excerpt from the web site of CERA, FAQ, "What will happen to my property if I decide that I do not want to accept the Crown's offer?" accessed as at 14-Feb-2012.

to be no special zoning, then home buyers will have the confidence of knowing this area is and will likely remain residential zoning.

- 31 When property values drop, there is also lost financial freedom for the owners. For one, the equity would also decrease. And that decreases the borrowing power of the owners. I mentioned that I had planned a business expansion. Part of that plan was to be funded by bank borrowings using my equity in the house. The proposed special zoning will definitely add another red flag to the banks that there is something inherently risky because of the special zone, and that will make borrowing more difficult.
- 32 A normalised zoning (without the special zoning) would give homeowners certainty and peace of mind, preserve property values, signal to the market that this area is not to be stigmatised and discriminated against, and that recovery is truly well underway in our city.
- 33 Supporters for this special zone like to cite infrastructure as an excuse. I think it is false logic. Given that it is public knowledge that the government only wanted minimal or temporary repairs to infrastructure in its self-imposed "red zone", it cannot use infrastructure as an argument to support the establishment of a special zone.
- 34 If this infrastructure argument were allowed, an analogy would be "If I erect a building without proper consents, then I will change the planning rules so that the building did not need proper consents." This amounts retrospective legalization or formalisation of a previous decision.
- 35 All of the objectives and activities that take place in this zone now can be planned into other proposed zones, albeit some minor logistical difficulties. I believe if there is a will, there is a way. I note that as in Mr Eman's evidence, there are very few private landowners left in the Recovery Zone. The Crown owns the majority of the land.
- 36 Therefore I implore the Panel to consider all of the inter-related events, plans, and policies, and grant the little people some reprieve- by deleting the proposed special zone and reinstating normal residential zoning or other equivalent existing zoning to the area in question.

Dated this 24th day of November 2015

**APPENDIX A – LOCATION OF MY PROPERTY**



