

Philip Butter [CCDHB]

From: Jenny Chalmers <jenny.chalmers@vuw.ac.nz>
Sent: Wednesday, 30 January 2019 1:24 PM
To: Philip Butter [CCDHB]
Subject: VUW Everton Terrace Land
Attachments: WN38B246.tif

Follow Up Flag: Follow up
Flag Status: Flagged

Philip

As promised an updated Certificate of Title.

Regards

Jenny Chalmers
Administration Office Manager/Property Administrator
Property Services
DDI: +64-4-463 6608
Mobile: 027 563 6608

Room 303, Central Services Building
Victoria University of Wellington, Gate 7, Kelburn Parade
PO Box 600, Wellington 6140, New Zealand.



P Please consider the environment before printing this e-mail

Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Wednesday, 3 July 2019 10:26 AM
To: Thomas Davis [CCDHB]
Cc: Fiona MacGregor [CCDHB]
Subject: RE: Informal enquiry – Ombudsman Act – our ref 498602 – John Jenkinson

Hi Thomas response to each part including context in red below

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru
Hauora
M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

“Go as far as you can see; when you get there, you’ll be able to see further.” – Thomas Carlyle

From: Thomas Davis [CCDHB] <Thomas.Davis@ccdhb.org.nz>
Sent: Wednesday, 3 July 2019 9:50 AM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Subject: FW: Informal enquiry – Ombudsman Act – our ref 498602 – John Jenkinson
Importance: High

Hi Philip

Please see request below.

Can you provide a brief response to the three questions and perhaps a little context.

Thanks
Thomas

From: Sue Fleming [CCDHB] <Sue.Fleming@ccdhb.org.nz>
Sent: Wednesday, 3 July 2019 9:47 AM
To: Thomas Davis [CCDHB] <Thomas.Davis@ccdhb.org.nz>
Subject: FW: Informal enquiry – Ombudsman Act – our ref 498602 – John Jenkinson
Importance: High

Hi Thomas
As discussed. Can you please copy me into your response?
Thanks
Sue

From: Josh Logan <Josh.Logan@ombudsman.parliament.nz>
Sent: Wednesday, 3 July 2019 8:35 AM
To: Sue Fleming [CCDHB] <Sue.Fleming@ccdhb.org.nz>
Subject: RE: Informal enquiry – Ombudsman Act – our ref 498602 – John Jenkinson
Importance: High

Good morning Sue

I tried to send the below enquiry to Clare Ansley but I understand she no longer works at the DHB. You were listed in her out of Office email and so I was hoping you would be able to assist with my enquiry below.

Kind regards

Josh Logan

Assistant Investigator

Office of the Ombudsman | Tari o te Kaitiaki Mana Tangata

Phone 04 471 9119 | Fax 04 471 2254

Email Josh.Logan@ombudsman.parliament.nz | www.ombudsman.parliament.nz

PO Box 10152, Level 7, SolNet House, 70 The Terrace, Wellington

Ombudsman

Fairness for all

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From: Josh Logan

Sent: Wednesday, 3 July 2019 8:32 AM

To: 'clare.ansley@ccdhb.org.nz' <clare.ansley@ccdhb.org.nz>; 'RES-CEOmail@ccdhb.org.nz' <RES-CEOmail@ccdhb.org.nz>

Subject: Informal enquiry – Ombudsman Act – our ref 498602 – John Jenkinson

Importance: High

Good morning

This Office has received a complaint from Mr John Jenkinson about the District Health Boards application of the Public Works Act and the way in which the DHB has handled his interaction while negotiating the sale.

As I understand it, the DHB has agreed to sell 29 Everton Terrace to Mr Jenkinson and a price and terms were agreed in March. Since then no further action has occurred to advance the sale and Mr Jenkinson contends that he has experienced delays and has not received an update from the DHB.

I am currently undertaking an assessment of Mr Jenkinson's complaint. The purpose of this informal enquiry is to clarify the situation and to assess whether the matter is one that could be considered by the Ombudsman.

It would assist my assessment if the DHB could advise the following:

- How far progressed is the sale to Mr Jenkinson? CCDHB has not formally agreed to the sale of this land to Mr Jenkinson. All that has been agreed to with Mr Jenkinson is that we will look at starting the sale process as long as we have an unconditional agreement for sale with Mr Jenkinson meeting our costs to carry out the mandated process plus the fair market value or current rateable value whichever is the greater. Before this can happen there are a number of mandated processes that need to be followed including our Boards agreement to sell and declare surplus to health requirements, the lifting of a Reserves Act 1977 designation, the Minister of Health's approval to sell and finally LINZ clearance under one part of sec 44 of the PWA. All of this process was highlighted by our Solicitors Greenwood Roche in several opinions starting with land status in March 2019. The ASAP is currently with our solicitors who have made suggested changes which will then be referred back to Hayman's.

- Has a formal agreement been signed with Mr Jenkinson? If so does the agreement have any clause relating to disputes between parties? No formal agreement exists between CCDHB and Mr Jenkinson. Mr Jenkinson instructed his solicitor to prepare an agreement for sale and purchase which was emailed to CCDHB by his solicitors (Hayman Lawyers) 7 May 2019, we then referred it to our solicitors for advice as this is a unique request.
- Has the DHB had any further contact with Mr Jenkinson in respect of this agreement since 24 June 2019? He rang me today and I reiterated the above and suggested that in my opinion this could take between 8-10 months dependant on how complex it is viewed by the MoH and DOC. Also received an email 2 July asking whether there are any requested amendments to the agreement and when will settlement take place. This was referred to Fiona to get an update from Greenwood Roche.

I would appreciate a response to these informal enquiries by 9 July 2019. If that is not possible or if you would like to discuss the matter, please feel free to contact me directly on 04 471 9119.

Thank you in advance or your assistance

Josh Logan

Assistant Investigator

Office of the Ombudsman | Tari o te Kaitiaki Mana Tangata

Phone 04 471 9119 | Fax 04 471 2254

Email Josh.Logan@ombudsman.parliament.nz | www.ombudsman.parliament.nz

PO Box 10152, Level 7, SolNet House, 70 The Terrace, Wellington

Ombudsman

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Philip Butter [CCDHB]

From: Thomas Davis [CCDHB]
Sent: Tuesday, 27 August 2019 5:08 PM
To: Fiona MacGregor [CCDHB]
Cc: Philip Butter [CCDHB]
Subject: Re: 29 Everton Terrace

Ok

Let's not waste too much more time on this. Happy with your valuation proposal. Assume this is still in addition to transaction costs we have already asked him to fund.

Thanks

Thomas Davis

On 27/08/2019, at 4:46 PM, Fiona MacGregor [CCDHB] <Fiona.MacGregor@ccdhb.org.nz> wrote:

Hi Thomas

Phil has had a look at the option of increasing the asking price for the property from the point of view of an increased benefit to the

... of the ...

...

Is this ok with you?

Regards

Fiona

Fiona MacGregor

Senior Coordinator – Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Ūpoko ki te uru hauora
M: 027 643 2557 | T: 04 918 6306 | Ext: 6306 | www.ccdhb.org.nz | www.facebook.com/CCDHB

Philip Butter [CCDHB]

From: Wendy Lindsay <w.lindsay@haymanlawyers.co.nz>
Sent: Wednesday, 30 October 2019 2:59 PM
To: Philip Butter [CCDHB]
Subject: RE: Your Client Mr J Jenkinson-29 Everton Terrace, Wellington

Thanks for the letter Phil.
I am acting for John Jenkinson. Please send future correspondence to me.

Kind regards
Wendy Lindsay

Wendy Lindsay, Partner



Level 14, Kordia House, 109-125 Willis Street, Wellington, New Zealand
(Wheelchair access next to Kiwibank, 2 Manners Street)
PO Box 204, Wellington, 6140, New Zealand

Direct dial: +64-4-282 0260 | **Office telephone:** +64-4-472 0338 | **Fax:** +64-4-471 2212

w.lindsay@haymanlawyers.co.nz | haymanlawyers.co.nz

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From: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Sent: Wednesday, October 30, 2019 1:12 PM
To: Results <results@haymanlawyers.co.nz>
Subject: Your Client Mr J Jenkinson-29 Everton Terrace, Wellington

Hi I have attempted to send a letter to your P. Yeenagy but receive a failed delivery report "returning to sender". This might be because P. Yeenagy no longer works for you or some other reason. P. Yeenagy was the lawyer for the above in a possible agreement for sale and purchase. I have attached the letter in a hope that you can locate who now acts for Mr Jenkinson.

Regards

Phil Butter
Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru
Hauora
M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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Philip Butter [CCDHB]

From: Ollie Hobbs <ollie.hobbs@vuw.ac.nz>
Sent: Tuesday, 26 November 2019 2:37 PM
To: Philip Butter [CCDHB]
Cc: Jenny Chalmers; Nick Dunn; Thomas Davis [CCDHB]
Subject: RE: Sale of property 37 Everton Tce to Jenkinson-enquiry please

Hi Phil

Good to chat just now. The condition re adjacent land is below. Our view was that we could sign an agreement for disposal under s 40(4) if we had this in it. See [Link](#) re Port Nic ROFR exemption for s 40(4) disposal.

23.0 Adjacent land

Settlement is conditional upon the purchaser being the registered proprietor of the land adja

Ollie Hobbs
Project Manager
Victoria University of Wellington
Phone: 04 463 6461
Room 213, Hunter Building
Gate 2, Kelburn Parade
PO Box 600
Wellington 6140

From: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Sent: Tuesday, 26 November 2019 10:56 AM
To: Ollie Hobbs <ollie.hobbs@vuw.ac.nz>
Cc: Jenny Chalmers <jenny.chalmers@vuw.ac.nz>; Nick Dunn <NDunn@greenwoodroche.com>; Thomas Davis [CCDHB] <Thomas.Davis@ccdhb.org.nz>
Subject: RE: Sale of property 37 Everton Tce to Jenkinson-enquiry please

Many thanks Ollie

Mr Jenkinson may be misrepresenting the situation as he has said to us the below in an email.

“Dear Mr Davis,
As mentioned previously, part of 37 Everton Terrace has been sold to me. The triangular section next to 29 Everton Terrace.
Regards,
John Jenkinson”

We are not adverse to selling our piece of land to him but we must ensure we follow due process around Reserves Act, PWA, MoH approvals etc. especially the work around adjoining owner or not and how this impacts any agreement we might put together. I have included Nick Dunn (Greenwood Roche) into this email as they are acting for us in this matter and we need to make sure we have everything lined up legally etc. Are you happy to provide us with a copy of the ASAP? Also I note your title has the Port Nicholson Claims Settlement Act 2009 so presumably the right of first refusal will apply?

Your reference to PWA is that he needs our land to become an adjoin owner so he can get your land under Sec40 (4)?

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

"Go as far as you can see; when you get there, you'll be able to see further." – Thomas Carlyle

From: Ollie Hobbs <ollie.hobbs@vuw.ac.nz>

Sent: Tuesday, 26 November 2019 9:55 AM

To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>

Cc: Jenny Chalmers <jenny.chalmers@vuw.ac.nz>

Subject: RE: Sale of property 37 Everton Tce to Jenkinson-enquiry please

Hi Phil

We have a signed sale and purchase agreement with Mr Jenkinson, but settlement has not occurred. He needs to get the land surveyed, get a subdivision consent and let us value the land. Nothing has happened to date as far as we know.

Settlement cannot occur until he owns the DHB land – that a requirement under the Public Works Act.

Regards

Ollie Hobbs
Project Manager
Victoria University of Wellington
Phone: 04 463 6461
Room 213, Hunter Building
Gate 2, Kelburn Parade
PO Box 600
Wellington 6140

From: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>

Sent: Tuesday, 26 November 2019 8:54 AM

To: Jenny Chalmers <jenny.chalmers@vuw.ac.nz>

Subject: Sale of property 37 Everton Tce to Jenkinson-enquiry please

Hi Jenny help please

Mr Jenkinson has stated that he has purchased a small piece of land off 37 Everton Tce which I believe is the university's. Can you confirm that you have sold this to him as previously ie back in march there had not been any action in this space etc. Have attached our previous correspondence to assist.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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Philip Butter [CCDHB]

From: Thomas Davis [CCDHB]
Sent: Sunday, 26 April 2020 8:07 PM
To: Philip Butter [CCDHB]
Subject: Fwd: Status of revised draft ASAP Everton Tee
Attachments: image001.png; image002.jpg

FYI - discuss next week.

Thomas Davis
021 486 704

Begin forwarded message:

From: John Jenkinson <johnjenkinson000@gmail.com>
Date: 26 April 2020 at 5:03:49 PM NZST
To: "Thomas Davis [CCDHB]" <Thomas.Davis@ccdhb.org.nz>
Subject: Re: Status of revised draft ASAP Everton Tee

Dear Mr Davis,

Having reviewed the email and seeking advice from Haymans Lawyers, I can accept the removal of the reserve status by mid-October, and the Ministry of Health by mid-November, but I will need some concrete steps to be taken by Capital and Coast District Health Board. These would be:

1. Two signed copies of the agreed execution contracts to be forwarded to Haymans Lawyers no later than the 22nd of May. These would require a "wet" signature from an appropriate member of the board or made with Capital and Coasts seal. The sale price, and settlement dates can be changed to the new values, and initialled with the date.
2. CC DHB agrees to allow me reasonable access to the site to conduct geotechnical evaluations (including soil sampling and excavations), and to seek council approval for planning permission before settlement.
3. Requests from Haymans for information or reviews of documents must be provided in a reasonable time frame, and can you nominate two contact people with mobile numbers & direct email.

I understand that the next board meeting is on the 15th of May, and that this will be after the expected decrease to level-2. Is it expected that this will be a public access meeting, or held via telephone conference?

I eagerly await your reply.

Sincerely,

John Jenkinson
Mob: 0204 190 7983

On Wed, 22 Apr 2020 at 20:13, Thomas Davis [CCDHB] <Thomas.Davis@ccdhb.org.nz> wrote:

Hi John

I apologise for the delay in replying. I have sought some information to give you a more detailed explanation of the work and time involved in progressing this transaction.

As you will appreciate we are very much focused on other things in the current COVID environment.

1. Board approval is required to agree the price. In the current environment I am waiting to be advised when the Board will meet and what business they will be considering.
2. Given the circumstances and with both CCDHB and the Ministry of Health occupied with responding to the Covid-19 pandemic, we would estimate a three month timeframe for the revocation of the reserve status of the land following Board approval.
3. A fixed settlement date is not workable for CCDHB. The current conditional periods in the draft sale and purchase agreement for obtaining the necessary approvals reflect likely timeframes to complete these actions based on our past experience. In the current unusual environment, obtaining the necessary approvals may well take longer than usual. Additionally (and as noted below), obtaining the approvals is dependent on actions that are outside of CCDHB's control and will need to be taken by the Department of Conservation, Ministry of Health and LINZ.
4. On this basis, I refer you to the conditional timeframes set out in the draft agreement (i.e. 6 months to obtain the revocation of the reserve status and the necessary clearances from LINZ, with a further month for approval of the sale by the Ministry of Health).

I appreciate this ongoing delay will be frustrating but I am unable to progress this any faster in the circumstances.

I will let you know as we can progress this.

Regards

Philip Butter [CCDHB]

From: Lawson Price <lawsonprice@gmail.com>
Sent: Monday, 11 May 2020 12:25 PM
To: Philip Butter [CCDHB]
Subject: Fwd: Opinion - 29 Everton Tce
Attachments: Final s40 - 5 March 1996.pdf; PM advertisement.pdf; 5C-1496.pdf; 347-75.pdf; Hospital and Charitable Institutions Act 1926.pdf

28 January email stream as promised

L

----- Forwarded message -----

From: Lawson Price <lawsonprice@gmail.com>
Date: Mon, May 11, 2020 at 12:12 PM
Subject: Fwd: Opinion - 29 Everton Tce
To: Lawson Price <lawsonprice@gmail.com>

Lawson Price Associates Limited
P O Box 31 179
Lower Hutt 5040
Phone 04 586 1901
Cell 027 450 1283

----- Forwarded message -----

From: Lawson Price <lawsonprice@gmail.com>
Date: Mon, Jan 28, 2019 at 12:19 PM
Subject: Re: Opinion - 29 Everton Tce
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>

Hi Phil

I have found the confirmed s40 clearance for Everton Terrace (shown in Area C on the 3rd page of the schedule). This clears the Public Works Act obligations so I do not need to make any recommendation to LINZ about s40(4). You do not need to have any additional authority under the PW Act to sell. (The decision is attached).

In addition the Lot 27 was advertised in and cleared through the Maori Protection Mechanism and Sites of Significance processes in 1997.

That does not address the 'reserve' question. You will note that the prior title to the current WN5C/1496 was WN347/75 which was issued the Wellington Hospital Board in trust for the purposes of maintaining

and supporting a General Hospital and subject to the provisions of the Hospital and Charitable Institutes Act 1926. The fact that the trust was not brought down onto WN5C/1496 does not eliminate the trust.

The latest information I have located (in 1997) raises significant debate about whether this and other land held by the then CHE (now CCDHB) is reserve and if so the reservation would have to be revoked by the Minister of Conservation.

I think perhaps your solicitors should be asked whether CCDHB needs to address any reserves issues before it sell this land. I am sure it will have arisen in recent times if CCDHB has sold any of the leasehold properties in Kelburn/Thorndon - I vaguely recall the areas were collectively referred to as "Hospital Hill"

It has been a sensitive issue in the past so I would hesitate to offer a lay opinion of the status of the land.

Cheers

Lawson

Lawson Price Associates Limited
P O Box 31 179
Lower Hutt 5040
Phone 04 586 1901
Cell 027 450 1283

On Mon, Jan 28, 2019 at 7:15 AM Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz> wrote:

Thanks Lawson

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

"Success is not final, failure is not fatal: it is the courage to continue that counts." - Winston S. Churchill

From: Lawson Price [<mailto:lawsonprice@gmail.com>]
Sent: Thursday, 24 January 2019 3:38 PM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Subject: Re: Opinion - 29 Everton Tce

Hi Phil

I established earlier that this land was provisionally cleared of s40 in February 1996. It was subsequently advertised in the Maori Protection Mechanism. This advertisement would usually only follow when a property was cleared of Public Works Act obligations.

I will put the papers to LINZ to see if it needs further clearance.

In the 1990's there was much debate about the Hospital/Health Board's authority to sell land in this locality because it was deemed to be public reserve. I would need to update myself on the outcome of all this. I know land in Wesley Street was reserve and had to be revoked before a sale eventuated.

If LINZ says this has not cleared s40 then a report would be required and yes the recommendation would be that it fits into s40(4).

It has a title so in theory CCDHB could sell it separately but whoever bought it couldn't do anything with it (build) other than sell to the adjoining owner. I can't imagine the Wellington City granting a building permit so this would support the s40(4) approach.

I'll let you know as ASAP.

Cheers

Lawson

Lawson Price Associates Limited

P O Box 31 179

Lower Hutt 5040

Phone 04 586 1901

Cell 027 450 1283

On Thu, Jan 24, 2019 at 12:48 PM Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz> wrote:

Hi Lawson you did a little work on this earlier. Can you provide me with an binding opinion on what sections of the PWA would need to be followed if we were to consider disposal. We have an interested party that has LINZ advice that we can simply dispose of this small parcel of land (assuming ministers agreement) under 40(4) and disregards other obligations under the PWA. Attached relevant documents and discussion with interested party.

PS thanks for tracking down Coromandel st. I have referred to MoH re whether there is a time limit on minister approvals etc.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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Philip Butter [CCDHB]

From: Thomas Davis [CCDHB]
Sent: Tuesday, 16 June 2020 12:06 PM
To: Philip Butter [CCDHB]
Subject: Everton Terrace Board Minute

Follow Up Flag: Follow up
Flag Status: Flagged

Phil

As discussed yesterday, this is the draft Board minute.

I interpret this as the CE having the delegation to proceed with Everton Terrace.

The RFR is paper would be progressed in parallel. Hopefully if all our land other than Everton Tce is subject to RFR there is no policy issue.

The paper should note the process for RFR and note that wrt Everton Terrace the outcome would be less attractive for CCDHB.

Next Board meeting July 29 so great to have a paper on this by 10 July.

Thanks
Thomas

1) EVERTON TERRACE SALE

*Presenters: Executive Director Corporate Services – Thomas Davis
Director-Property & Asset Management- Phillip Butter*

The Board approved:

- (a) The intention to declare the land at 29 Everton Terrace as surplus to CCDHB requirements.
- (b) The delegation of the sale process to the Chief Executive of CCDHB including execution of all documentation.
- (c) The delegation for declaring the land as being surplus to the Chief Executive if approval to sell is received from the Minister of Health.

The Boards noted:

- (a) CCDHB owns a 54 square metre section at 29 Everton Terrace.
- (b) Mr Jenkinson has been negotiating the purchase of the land.
- (d) Management recommends the Board declare this land as surplus.
- (e) Sale of land by DHBs must be underpinned by a detailed and prescribed process.

The Board **MOVED** to delegate the sale process to the Chief Executive of CCDHB including execution of all documentation.

MOVED Kathryn Adam **SECONDED** Chris Kalderimis **CARRIED**

ACTION: The Board REQUESTED Management provide more information around its legislation and policy in relation to the disposal of any assets surplus to its requirements and that it include Iwi where reasonable in the Right of First Refusal process.

Thomas Davis

Executive Director Corporate Services | Capital & Coast District Health Board | Upoko ki te uru hauora
M: 021 486 704 | T: 04 806 2269 | Ext: 82269 | thomas.davis@ccdhb.org.nz | www.ccdhb.org.nz

Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Tuesday, 15 September 2020 1:39 PM
To: Philip Butter [CCDHB]
Subject: Re: 29 Everton Terrace Kelburn

Follow Up Flag: Follow up
Flag Status: Flagged

Thanks Phil,
If the decision is made to approve the sale after receiving views will the property likely be open tendered and what is likely timeframe for its sale ?

Regards

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On 15/09/2020, at 12:55 PM, Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz> wrote:

Thanks you for the attached interest. Unfortunately this response is out of time and cannot be considered. All expressions of views must have been received by CCDHB no later than 11th September 2020.

Regards

Phil Butter
Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board |
Upoko Ki Te uru Hauora
M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz
<image001.png>

The best time to plant a tree was 20 years ago. The second best time is now. --Chinese Proverb

From: [REDACTED]
Sent: Tuesday, 15 September 2020 12:43 PM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Subject: 29 Everton Terrace Kelburn

Please see enclosed confirmation of interest and support in respect to the sale of 29 Everton Terrace.

Yours sincerely

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Philip Butter [CCDHB]

From: Nicholas Duffy [CCDHB]
Sent: Tuesday, 20 April 2010 1:46 PM
To: Leena Singh [CCDHB]
Cc: Ajay Makhija [CCDHB]
Subject: 29 Everton Tce
Attachments: 29 Everton Tce Memo 20th April 2010.pdf; 29 Everton Tce - Information Memorandum March 2010.pdf

Hi Leena,

Attached is my recommendation for 29 Everton Terrace (including the Information Memorandum Tim had prepared).

I have left a paper copy with Justine to give to you.

Kind regards

Nicholas Duffy
Property Manager
Non Clinical Support Services
Capital & Coast District Health Board
Cnr Mein and Daniell Streets, Newtown
Private Bag 7902, Wellington.
DDI: +64 4 918 5933; Mobile +64 27 666 3357
Facsimile: +64 4 385 5960
Email: Nicholas.Duffy@ccdhb.org.nz

To: Leena Singh – Executive Director, Clinical & Corporate Support Services

CC: Ajay Makhija – Integrated Service Manager, CCSS

From: Nicholas Duffy – Property Manager, Non-Clinical Support Services

Date: 20th April 2010

Subject: Enquiry to Purchase 29 Everton Terrace from CCDHB.

A letter was received from John Jenkins (a builder) enquiring if CCDHB was interested selling a 54 square metre section it owns situated at 29 Everton Terrace, Kelburn, Wellington.

Tim Goodson provided a report in March 2010 providing details of the land and ownership etc which should be referred to for further information.

The section has no other CCDHB owned property within the immediate area and due to it's small size is superfluous to our requirements.

I have spoken with John Jenkins to establish why he wants the land. John advised me that he was negotiating with two other parties to purchase further land either side of 29 Everton Terrace. The combined area of these 3 parcels of land is approximately 100sm. Site coverage for the area is 50% with a height limit of 2 storeys. Effectively Jenkins could build a 2 storey townhouse with a total dwelling area of 100sm. After discussions with a valuer I estimate that the completed townhouse would be worth at least \$525,000, including a land value of \$150,000.

The other parties owning land either side of 29 Everton Terrace are:

- The owner of 27 Everton Terrace. Their section has a total area of 1,371sm and Jenkins is currently negotiating to purchase approximately 23sm that is adjacent to 28 Everton Terrace.
- The owner of the land on the other side of 29 Everton Terrace is Wellington City Council and Jenkins is currently negotiating to purchase it from them. Total area of this land is approximately 23sm.

At the end of this memo is a simplified analysis of the profit margin Jenkins would make on the development of the land only if 1) he purchased the land based on Rating Value and 2) if he made a profit margin limited to 50%.

If we sold the section to Jenkins at the Rating Value of \$7,000, and based on total development costs of \$58,000, Jenkins would make a profit margin of \$92,000, i.e. 159%.

If Jenkins profit margin was limited to 50%, i.e. \$50,300 we could sell the section to him for \$29,500. This is still a very generous profit margin assuming the estimated development costs are correct.

Jenkins is suggesting a sale price of \$10,000. This would equate to a profit margin of \$86,400, i.e. 136%.

I recommend that we offer it to Jenkins for [REDACTED] and see how he responds. Bottom price we should settle for would be [REDACTED]

1) Profit Margin – Land sold at rating value

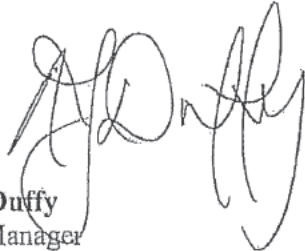
Bare Land Area Rating Value	Area (sm)	Rating Value	
29 Everton Terrace	54	\$ 7,000	Actual
Council Land on end	23	\$ 3,000	Est
27 Everton Terrace	23	\$ 3,000	Est
Total Bare Land Rating Value	100	\$ 13,000	
Completed House	Value	Area	PSM
Completed Land Value	\$ 150,000	100	\$ 1,500
Improvements Value	\$ 375,000	100	\$ 3,750
Completed House Value	\$ 525,000		
Profit on Developing Land			
Completed Land Value	\$ 150,000	259%	
Less Land Development Costs			
Land Cost (Rating Value)	\$ 13,000		
Survey, Legal, Resource Consent	\$ 15,000		
Earthworks & Services	\$ 20,000		
Miscellaneous	\$ 10,000		
Total Land Development Costs	\$ 58,000	100%	
Profit Margin	\$ 92,000	159%	

2) Profit Margin – Limited to 50%

Bare Land Area Suggested Sell Price	Area (sm)	Sale Price	
29 Everton Terrace	54	\$ 29,500	
Council Land on end	23	\$ 12,600	
27 Everton Terrace	23	\$ 12,600	
Total Bare Land Rating Value	100	\$ 54,700	
Completed House	Value	Area	PSM
Completed Land Value	\$ 150,000	100	\$ 1,500
Improvements Value	\$ 375,000	100	\$ 3,750
Completed House Value	\$ 525,000		
Profit on Developing Land			
Completed Land Value	\$ 150,000	150%	
Less Land Development Costs			
Land Cost (Suggested sell price)	\$ 54,700		
Survey, Legal, Resource Consent	\$ 15,000		

Earthworks & Services	\$ 20,000		
Miscellaneous	\$ 10,000		
Total Land Development Costs	\$ 99,700	100%	
Profit Margin	\$ 50,300	50%	

Regards,



Nicholas Duffy
Property Manager
Non Clinical Support Services
Capital & Coast District Health Board
Cnr Mein and Daniell Streets, Newtown
Private Bag 7902, Wellington.
DDI: +64 4 918 5933; Mobile +64 27 666 3357
Facsimile: +64 4 385 5960
Email: Nicholas.Duffy@ccdhb.org.nz

29 EVERTON TERRACE

WELLINGTON

Contents:

- 1) Background
- 2) Address
- 3) Legal Description
- 4) Certificate of Title
- 5) Size
- 6) Zoning
- 7) Rates
- 8) Rating Value
- 9) Site Description
- 10) Surrounding Area

Background:

The site is owned C&C DHB and comprises a bare parcel of land. A letter dated 3 March 2010 has been received by a Mr John Jenkins enquiring as to whether or not C&C DHB would be interested in selling the land and if so for how much

Address: 29 Everton Terrace, Wellington

Legal Description:

The land is legally described as Lot 27 Deposited Plan 6205

Certificate of Title: 5C/1496

Instruments/Interests/Encumbrances registered against the title – 842 Order in Council exempting Everton Terrace from (now) Section 128 Public Works Act 1928

Size: 54m²

Zoning: Inner Residential

Rates: Nil

Rating Value: \$7,000 as at 1 September 2007

Site Description:

The land comprises a steep unfenced predominantly grass covered undeveloped bank which has the appearance of being maintained. Situated on the corner of Everton and Talavera Terraces the site rises up from the road frontage continuing all the way to the elevated rear boundary beyond which an adjoining public access way runs through to Salamanca Road. The site has a north east aspect with views limited to a local outlook which includes Everton Hall (a student hostel) situated across the road.

Surrounding Area:

The surrounding area comprises a mixture of established turn of the century villas, infill developments including townhouses, apartments and student accommodation. Everton Terrace is close to The Terrace, motorway access and within easy walking distance to Victoria University and Kelburn Park. The cable car is also within close proximity.

Everton Terrace is a steep and at times narrow road extending to Salamanca Road which is situated on the ridgeline overlooking the city and harbour. The general area comprises an established high cost suburb close to the city with established gardens and mature trees.

CERTIFICATE OF TITLE



**COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952**



R.W. Muir
Registrar-General
of Land

Identifier **WN5C/1496**
Land Registration District **Wellington**
Date Issued **26 February 1968**

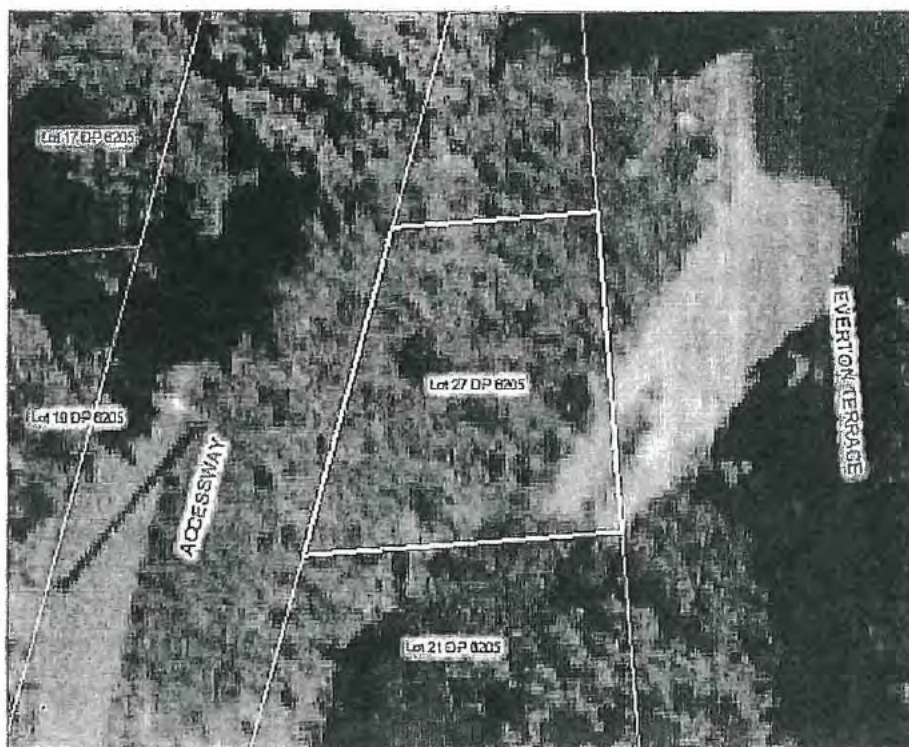
Prior References
WN347/75

Estate Fee Simple
Area 54 square metres more or less
Legal Description Lot 27 Deposited Plan 6205

Proprietors
Capital and Coast District Health Board

Interests
842 Order in Council exempting Everton Terrace from (now) Section 128 Public Works Act 1928

SITE PLAN

Rates - Aerial Photo - Wellington - New ZealandAddress: 29 Everton Terrace Kelburn 6012
Account: 1120910**Important Notice**

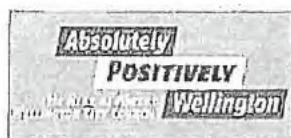
- This map does not form part of the official rating information database. Wellington City Council does not guarantee that the map accurately or completely represents the rating unit.
- The position of building tops may often seem wrong, relative to boundary lines. This is because the camera was not vertically above the building.
- Accurate information relating to legal title can be obtained from Land Information New Zealand. A surveyor can provide accurate information on the boundaries for a property.
- Any person wishing to rely on the information shown on this map must independently verify the information.
- If you think there is an error on the map, email rates@wcc.govt.nz

Understanding the Aerial Photo

Rate accounts are based on rating units, but this map shows surveyed property boundaries. These boundaries may include several rating units, such as when several separate units are included within the same surveyed parcel.

Data Statement

- Parcel Boundaries Land Information NZ Licence WN 0853547/2 Crown Copyright Reserved
- Accuracy in urban areas: generally +/- 1 m
- Accuracy in rural areas: generally +/- 30 m
- High resolution colour Orthography flown 16 March 2006, owned by Wellington City Council.
- Low resolution colour Orthography flown 10 January 2004, owned by Wellington City Council.

 Close

www.Wellington.govt.nz

RATING VALUE

Property Management Proposal: 29 Everton Terrace, Wellington

Intent:	Proposed sale of land parcel 54m2, 29 Everton Terrace
Proposal:	To place the intent to sell 'on hold' and review in 12 - 18 months time
Description of Proposal:	To formally advise the two interested parties of Mr John Jenkins and [REDACTED] that C&C DHB are not proceeding with the possible sale of the land at this time.
Background:	<ul style="list-style-type: none"> • A letter of enquiry was received from Mr J.Jenkins in 2010 offering a purchase price of \$10,000; • Property recommended the sale of the land and speculated a sale price of around \$20,000 - \$35,000; • Property received an offer from [REDACTED] in July 2010 for \$16,000. [REDACTED] was advised at the time that she was the preferred responder. • [REDACTED] believes her offer has been accepted subject to Ministry approval <p>Section 40 Public Works Act relevance:</p> <ul style="list-style-type: none"> • It has not been ascertained whether the land is able to be sold by C&C DHB. • It is identified that the land was in some form of Hospital / Health ownership with the land identified as Orphanage Reserve in 1888 • It is speculated that the land was in some form of private ownership before becoming institutional land
Proposal Justification:	<p>After reviewing the file and considering the following points:</p> <ul style="list-style-type: none"> • Cost to determine how the land came into CCDHB possession is estimated to be between \$3,500.00 - \$5000.00 (though could be higher) • Current WCC rating value is \$6,500.00 • Current market value - yet to be determined. <p>It is recommended that C&C DHB do not proceed at this time, because:</p> <ul style="list-style-type: none"> • The property market is still suffering the effects of the recession, which will minimise the possible sale price • Informal market advice by a registered valuer is that this is not the right time to sell residential properties or land due to current low returns • The cost of fulfilling Public Works Act requirements may be close to the rating value of the land. Therefore, the potential return may not justify the costs to proceed to instigate S40 query via Opus.
Supporting Documents:	File correspondence available
Implementation:	It is recommended that C&C DHB inform the two prospective purchasers (Mr John Jenkins and [REDACTED] that the proposal is in abeyance. (that the sale will not be proceeding at this time).

Marie Gough
Property Manager
Date: 17th January 2011

Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Monday, 13 August 2018 9:33 AM
To: Tina Wood [CCDHB]
Cc: Fiona MacGregor [CCDHB]
Subject: RE: 29 Everton Tce

Thanks Tina

This is obviously a bit left over and still in our name on the title.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru
Hauora
M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

“Go as far as you can see; when you get there, you’ll be able to see further.” – Thomas Carlyle

From: Tina Wood [CCDHB]
Sent: Monday, 13 August 2018 9:12 AM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Subject: 29 Everton Tce

Hi Phil,

We have never paid rates on 29 Everton Tce, Kelburn. Murray Harrison (Management Accountant) did mention the hospital once owned a lot of property in Kelburn as that is where the original hospital in Wellington was, all the properties were sold.

Kind regards

Tina Wood

Assistant Management Accountant | CSS & MCC | Capital & Coast District Health Board | Upoko ki te uru hauora
T: 04 806 2834 | Ext: 82834 | tina.wood@ccdhb.org.nz | www.ccdhb.org.nz

Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Monday, 29 October 2018 9:46 AM
To: 'Lawson Price'
Subject: RE: Lot 27 DP 6205 - 29 Everton Tce, Wellington

Many thanks Lawson

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru
Hauora
M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

"Success is not final, failure is not fatal: it is the courage to continue that counts." - Winston S. Churchill

From: Lawson Price [mailto:lawsonprice@gmail.com]
Sent: Monday, 29 October 2018 9:45 AM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Subject: Re: Lot 27 DP 6205 - 29 Everton Tce, Wellington

Hi Phil

At first glance I would say that this would need to be put through the s40 process - i.e. it would need to be determined (formally) that it is a s40(4) option.

I'll have a look and get back to you.

Cheers

Lawson

Lawson Price Associates Limited
P O Box 31 179
Lower Hutt 5040
Phone 04 586 1901
Cell 027 450 1283

On Mon, Oct 29, 2018 at 9:05 AM Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz> wrote:

Hi Lawson

Can you undertake an investigation for me please.

The above CT is for a small parcel of land in Everton Tce approve 54m2. It seems to have been forgotten! When the bulk of the land was disposed of in the past.

The question is whether the DHB can use section 40(4) of the PWA or is it still a requirement to go through section 40(2).

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Monday, 29 October 2018 9:06 AM
To: 'Lawson Price'
Subject: Lot 27 DP 6205 - 29 Everton Tce, Wellington
Attachments: WN5C1496.tif

Hi Lawson

Can you undertake an investigation for me please.

The above CT is for a small parcel of land in Everton Tce approx 54m². It seems to have been forgotten! When the bulk of the land was disposed of in the past.

The question is whether the DHB can use section 40(4) of the PWA or is it still a requirement to go through section 40(2).

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru
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"Success is not final, failure is not fatal: it is the courage to continue that counts." - Winston S. Churchill

Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Monday, 5 November 2018 8:33 AM
To: Thomas Davis [CCDHB]
Cc: Michael McCarthy [CCDHB]
Subject: RE: Enquiry - Disposal process - Everton Terrace

Ok

Once I get the response from Lawson to clarify our position I will ask John the question.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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From: Thomas Davis [CCDHB]
Sent: Monday, 5 November 2018 8:20 AM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Cc: Michael McCarthy [CCDHB] <Michael.McCarthy@ccdhb.org.nz>
Subject: RE: Enquiry - Disposal process - Everton Terrace

I agree we would still need to follow the process but most unlikely that anyone else will want the land. This isn't a priority for us. We shouldn't start the process and incur costs unless John is prepared to cover the costs even if he doesn't get the land in the end.

From: Philip Butter [CCDHB]
Sent: Monday, 5 November 2018 7:49 a.m.
To: Thomas Davis [CCDHB] <Thomas.Davis@ccdhb.org.nz>
Subject: RE: Enquiry - Disposal process

Yes I did a title search dated 6th August 2018 and it clearly indicates the proprietor as CCDHB.

I am sure John would be prepared to pay reasonable costs and he has said so much earlier is about 2012. My concern is that requesting a response from John on that point could be seen as pre determining the PWA and MOH process. If Lawson confirms that we do need to follow that process then we need to research possible successors, then any treaty obligations then offer to the market assuming ministerial approval. I am uncertain whether we can just offer straight to John under that process as at the very least other adjoining neighbours (owners) would need to be considered in equity terms..

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

“Success is not final, failure is not fatal: it is the courage to continue that counts.” - Will

From: Thomas Davis [CCDHB]
Sent: Monday, 5 November 2018 7:28 AM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Subject: Re: Enquiry - Disposal process

Thanks

I discussed this land with Michael McCarthy on Friday. He thinks this was transferred to MoH years ago.

Please check the title.

Also ask John if he is prepared to pay our costs as disposal costs might be more than land value.

Thomas Davis
021 486 704

On 5/11/2018, at 7:21 AM, Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz> wrote:

Hi Thomas

Just a heads up. John Jenkinson has a long history i.e. since 2010 attempting to buy a small parcel (56m²) of land at 29 Everton Tce, Kelburn. Apparently a small lot missed when the original land was sold quite some time ago. I have told John that in CCDHB opinion we would need to go through the PWA sec 40 process and the MoH process as dictated by law. He does not share that opinion and went to LINZ for their view, who have said that if the land is CCDHB then they have no jurisdiction and our CEO could make the determination to sell. I suspect however that LINZ did not possess the facts as it seems pretty clear that this land was taken for a public work so sec 40 applies, and MOH approval is mandatory. I have asked Lawson Price to give me his opinion (his preliminary view confirms my position but he is investigating further.

I believe John is a builder and adjoining owner and correspondence over the years seems to indicate he will get considerable benefit if he can acquire the land i.e. current rateable value a little over \$6000. My contention is that the costs and time CCDHB will need to bear to advance this does not make the sale economic to us so I have said no.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board |
Upoko Ki Te uru Hauora
M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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From: John Jenkinson [<mailto:johnjenkinson000@gmail.com>]
Sent: Sunday, 4 November 2018 5:48 PM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Subject: Re: FW: Enquiry - Disposal process

Dear Mr Butter,

I will be referring this matter to the ombudsman and the CEO of Capital and Coast DHB, as I believe that you have ignored any evidence that did not support your predetermined answer.

Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Monday, 5 November 2018 2:37 PM
To: Thomas Davis [CCDHB]
Cc: Michael McCarthy [CCDHB]
Subject: RE: Enquiry - Disposal process - Everton Terrace

Apparently an old LINZ file indicates provisional sec 40 clearance 1996. Note provisional only hopefully MoH file will give more clarity.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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From: Thomas Davis [CCDHB]
Sent: Monday, 5 November 2018 12:59 PM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Cc: Michael McCarthy [CCDHB] <Michael.McCarthy@ccdhb.org.nz>
Subject: Re: Enquiry - Disposal process - Everton Terrace

Ask LP to wait until Michael gets a file from MoH to clarify ownership.

Thomas Davis
021 486 704

On 5/11/2018, at 8:32 AM, Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz> wrote:

Ok

Once I get the response from Lawson to clarify our position I will ask John the question.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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Cc: Michael McCarthy [CCDHB] <Michael.McCarthy@ccdhb.org.nz>
Subject: RE: Enquiry - Disposal process - Everton Terrace

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Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board |
Upoko Ki Te uru Hauora
M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Monday, 5 November 2018 2:13 PM
To: 'Lawson Price'
Subject: RE: 29 Everton Tce

Thanks Lawson

Yes please invoice for your time and close file. We might need to re-open dependant on what is found this end.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru
Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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From: Lawson Price [mailto:lawsonprice@gmail.com]
Sent: Monday, 5 November 2018 2:10 PM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Subject: Re: 29 Everton Tce

Hi Phil

I have all but finished anyway - I got the old LINZ file today and that confirms it was at least provisionally cleared of s40 in February 1996.

I'll hold off confirming that until I hear back. Spent ~ hours on this and run up about worth of disbursements. Do you want me to invoice for that and close the file meantime?

Cheers

Lawson

Lawson Price Associates Limited
P O Box 31 179
Lower Hutt 5040
Phone 04 586 1901
Cell 027 450 1283

On Mon, Nov 5, 2018 at 1:31 PM Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz> wrote:

Hi Lawson

Can you hold off further investigation on above. Apparently our CFO thinks this was transferred to MoH and is retrieving the file to verify or not. Will get back to you.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
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To: 'Lawson Price'
Subject: 29 Everton Tce

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Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru
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M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Thursday, 28 February 2019 2:34 PM
To: Thomas Davis [CCDHB]
Subject: RE: 29 Everton Terrace

Even though I have an understanding of the legislation I am taking my lead from the solicitors and Lawson who both are of the opinion the steps we are aware of are true. We are going to a lot of work for a very small return but we are also tied by legislation and MoH approvals process (Trouble with being Crown Entity etc). At the moment I cannot see another way around this unless both the MoH and solicitors' advice states we can just sell.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

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From: Thomas Davis [CCDHB] <Thomas.Davis@ccdhb.org.nz>
Sent: Thursday, 28 February 2019 2:03 PM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Subject: Fwd: 29 Everton Terrace

FYI below.

The info he has provided below is not consistent with our advice. Are we making this harder than necessary?

Perhaps share this with GR for comment.

Thomas Davis

Begin forwarded message:

From: john jenkinson <john_j_jenkinson@yahoo.co.uk>
Date: 28 February 2019 at 12:10:26 PM NZDT
To: "Thomas Davis [CCDHB]" <Thomas.Davis@ccdhb.org.nz>
Subject: Re: 29 Everton Terrace

Dear Mr Davis,

For the Reserve Act 1977 to be in effect over the land, typically there would be one of several types of concession document lodged over the land title, typically:

- (i)
a lease; or
- (ii)
a licence; or

(iii)

a permit; or

(iv)

an easement—

Most of these would be in evidence on the land title information certificate documents.

There are none visible on my most recent search (admittedly this was three months ago), and the land is still listed as residential and held under the Public Works Act.

The process to declare land a reserve includes a signed, sealed and delivered deed that outlines the following information, and delegates the authority to a management body (typically a council or independent charity):

- declaration as reserve (s.14)
- exchange of land (s.15)
- classification (ss.16-23)
- revocation, change of purpose or classification (s.24)
- approval of management plans (prior to Ministerial approval where required) (s.41)

There is little, if any, evidence that any of these have taken place.

I appreciate that you wish to bamboozle me with strongly worded legalese, but the side effect of this legal fiction is to undermine good governance in New Zealand and undermine accountability.

The actual motive of not wanting to sell the land is evident in your email, and prior to this Mr Butter's email of six months ago. You state clearly that this sale process is not a priority, as did Mr Phil Butter on the 1st of August 2018. I expressed an interest in purchasing 29 Everton Terrace, the response was negative citing "the costs of selling this land is not economic, given the ratio of costs to fair market value [of the sale].

I have also stated in previous correspondence that I was buying the small parcel of land adjacent to 27 Everton Terrace, from Victoria University, as well as an encroachment on the road immediately behind the property - I offered Mr Butter and Mr Davis the details of this process so that the overhead of paperwork would be reduced. There has been no correspondence from either regarding this offer.

In October 2018 I contacted LINZ for further explanation of the sale process (of land held under the Public Works Act), LINZ had forwarded on several documents relating to best practice for selling surplus government owned lands held under the Public Works Act, from these documents the sale could be authorised by the CEO of the relevant government entity, if "It is believed on reasonable grounds that, because of the size, shape or situation of the land that it could not be expected to be sold to any person who did not own land

Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Thursday, 7 March 2019 12:47 PM
To: Roger Palairet [CCDHB]; Thomas Davis [CCDHB]
Subject: Re: 29 Everton Terrace

Will get Renee to comment

Get [Outlook for iOS](#)

On Thu, Mar 7, 2019 at 12:45 PM +1300, "Roger Palairet [CCDHB]" <Roger.Palairret@ccdhb.org.nz> wrote:

Agreed. Only additional step that seems to me to be prudent would be to ask GR to double-check the reserve status conclusion. If John Jenkinson is right then there is the opportunity to save some money (and hassle).

R

From: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Sent: Thursday, 7 March 2019 12:32 PM
To: Thomas Davis [CCDHB] <Thomas.Davis@ccdhb.org.nz>; Roger Palairet [CCDHB] <Roger.Palairret@ccdhb.org.nz>
Subject: RE: 29 Everton Terrace

It seems like we are the meat in the sandwich. We can sell under PWA (4) 4 which seems we do without going back to LINZ. We have no objections in declaring surplus but we must follow due process, So our steps appear clear.

- 1 Remove reserve status in accordance with our legal advice
- 2 Obtain MoH approval under their rules of sale
- 3 Confirm we have authority to sell under PWA (4) 4 which seems we do without going back to LINZ

All of this comes at a cost so I will try to assess that cost which as an absolute minimum should be what we ask, noting back in 2010 the value to Mr Jenkinson was assessed around \$30k not the GV of \$6k.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora
M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

"Success is not final, failure is not fatal: it is the courage to continue that counts." - Winston S. Churchill

From: Thomas Davis [CCDHB] <Thomas.Davis@ccdhb.org.nz>
Sent: Thursday, 7 March 2019 10:39 AM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>; Roger Palairet [CCDHB] <Roger.Palairret@ccdhb.org.nz>
Subject: Fwd: 29 Everton Terrace

For consideration.

Thomas Davis
021 486 704

Begin forwarded message:

From: john jenkinson <john_j_jenkinson@yahoo.co.uk>
Date: 7 March 2019 at 9:06:25 AM NZDT
To: "Thomas Davis [CCDHB]" <Thomas.Davis@ccdhb.org.nz>
Subject: Re: 29 Everton Terrace

Dear Mr Davis,

As and update to last weeks email, I have also discussed the issues with a lawyer - the main arguments are summarised here:

When land is held under the Public Works Act, or any other Act or any manner for any public work, is no longer required for that public work or any other public work and not required for exchange or compensation purposes, the Crown or local authority shall endeavour to dispose of the land with certain prescriptions.

As 29 Everton Terrace has been idle for forty years or more, with no declared or planned hospital works in the area, there seems basis for declaring the land surplus.

Section 40(2) exempts a Public Landowner from having to offer land back where it would be "unreasonable, or unfair to do so". In the past this exemption has applied in situations such as:

- land was acquired voluntarily, only after the former owner advertised it for sale, or at the former owner's insistence
- land was so worthless that the cost of offering the land back is likely to exceed its value
- the former owner had disclaimed any interest in an offer back

Certainly the second point applies, as Mr Butter had certainly stated that in email correspondence to me (17th of September 2018).

As for the claim that the parcel of land is a reserve, the title shows that 29 Everton Terrace is held under the Public Works Act, and reserves are not automatically public works - as the two definitions are dealt with separately in different acts, meaning these are to dealt with separately. It would be unlikely that both acts would apply to the same parcel of land.

Additionally, In *Dunbar v Hurunui District Council* (HC CHCH CIV 2004-409-000171 5 August 2004), Panckhurst J stated that land held (under the predecessor of s 26 of the Reserves Act) as a "public reserve" was not subject to the Public Works Act 1981.

It would seem the reserve status and Public Works status are incompatible, there is ample precedent for the land to be sold using the case law examples provided in this email, and in previous correspondence.

Sincerely,

Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Wednesday, 27 March 2019 9:22 AM
To: 'Jenny Chalmers'
Subject: Everton Tce-in confidence
Attachments: Re: 29 Everton Terrace

Hi Jenny I attach an email from Mr Jenkinson who is implying that the University intends to sell their piece of land to him. I was lead to believe this was not the case. Would the university entertain a joint approach to get rid of our respective small parcels with a view to maybe reducing costs. We need to seek MoH approval as well as removing reserve status and the get LINZ agreement. I am not sure what approach the University needs to go through hence this email to see whether there is a willingness to go down this track.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

“Success is not final, failure is not fatal: it is the courage to continue that counts.” - Winston S. Churchill

Philip Butter [CCDHB]

From: Thomas Davis [CCDHB]
Sent: Monday, 1 April 2019 10:31 AM
To: Philip Butter [CCDHB]
Subject: RE: Assessed costs to release small 29 Everton Tce to Jenkinson

Interesting – agreed.

From: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Sent: Monday, 1 April 2019 10:09 AM
To: Thomas Davis [CCDHB] <Thomas.Davis@ccdhb.org.nz>
Subject: Assessed costs to release small 29 Everton Tce to Jenkinson

Hi Thomas

Estimate of costs (note hourly rates assessed with salary (40hrs per week) and overheads factor of 30%)

Legal

- To date \$3004.37
- Conveyancing \$1500
- Title amendment (change of ownership) \$150
- Advice reserve status release \$1200

Accredited Agent (Lawson Price)

- To date \$376.63
- LINZ approvals \$1200.00

Phil Butter (prep of MoH/Conservation/LINZ approvals etc. plus oversight-\$87/HR)

- MoH documentation (15 hrs) \$1305
- Reserve status release documentation (10hrs) \$870
- Instruction to Lawson re LINZ approvals (2 hrs) \$174.00
- Board Papers (8 hrs) \$696

Thomas Davis (approvals and oversight) Say \$120/hr)

- Confirm MoH documentation (2hr) \$240
- Confirm Reserve Status documentation (2hr) \$240
- Confirm Board Papers (2hrs) \$240

Board (approvals)

- Two papers one to agree to process, second to declare surplus say \$500

Total \$11695

Note I was discussing this with Victoria University (their Otto a solicitor and he indicated the WCC calculate their sale costs at between \$12 and \$15k So I would recommend we set in email between \$12,000 and \$15,000. Further if we can sell direct to Mr Jenkinson then any ASAP would have to be unconditional from him apart from subject to

CCDHB getting approvals to sell from MoH and Linz and approval from MoH and DOC to remove reserve status. He should not have any conditions otherwise we could well spend the money and he could pull out of the agreement.

I will send email if you concur on this basis noting these are costs are in addition to the price (latest rateable valuation \$6500 1 sept 2015) unless you wish us to get a valuation completed. Given the small value I would not expect any value increase to be significant unless the valuation considers betterment issues to Mr Jenkinson.

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Kī Te uru Hauora

M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz

"Success is not final, failure is not fatal: it is the courage to continue that counts." - Winston S. Churchill

Philip Butter [CCDHB]

From: Patricia Yee-Nagy <p.yeenagy@haymanlawyers.co.nz>
Sent: Tuesday, 7 May 2019 1:00 PM
To: Philip Butter [CCDHB]
Subject: Prospective purchase of 29 Everton Terrace, Kelburn - John Jenkinson
Attachments: SKM_C36802419050617101.pdf

Hi Philip

Further to your email to John of 9 April 2019, please find attached a draft agreement for sale and purchase for your consideration.

Please advise whether the contract is acceptable and what the next step in the process is.

We have also sent a draft contract to Victoria University for the purchase of the adjoining section at 37 Everton Terrace.

We look forward to hearing from you.

Kind regards

Patricia

Patricia Yee-Nagy, Lawyer



Level 14, Kordia House, 109–125 Willis Street, Wellington, New Zealand
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PO Box 204, Wellington, 6140, New Zealand

Direct dial: +64-4-282-0258 | **Office telephone:** +64-4-472 0338 | **Fax:** +64-4-471 2212

p.yeenagy@haymanlawyers.co.nz | www.haymanlawyers.co.nz

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From: copier@haymanlawyers.co.nz [mailto:copier@haymanlawyers.co.nz]

Sent: Monday, 6 May 2019 5:12 p.m.

To: Patricia Yee-Nagy <p.yeenagy@haymanlawyers.co.nz>

Subject: Message from KM_C368

Philip Butter [CCDHB]

From: Philip Butter [CCDHB]
Sent: Wednesday, 27 May 2020 9:06 AM
To: Thomas Davis [CCDHB]
Subject: RE: 29 Everton Terrace - URGENT

Morning Thomas responses in red below

Regards

Phil Butter

Director-Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Upoko Ki Te uru Hauora
M: 027 553 4015 | T: 04 918 5634 | Ext: 5634 | Philip.Butter@ccdhb.org.nz | www.ccdhb.org.nz



Manaakitanga Respect, caring, kindness
Kotahitanga Connection, unity, equity
Rangatiratanga Autonomy, integrity, excellence

The best time to plant a tree was 20 years ago. The second best time is now. –Chinese Proverb

From: Thomas Davis [CCDHB] <Thomas.Davis@ccdhb.org.nz>
Sent: Wednesday, 27 May 2020 8:28 AM
To: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Subject: Fwd: 29 Everton Terrace - URGENT

Please see questions below for Board meeting this morning

Can you provide answers?

Thanks
Thomas Davis
021 486 704

Begin forwarded message:

From: "Arawhetu Gray [CCDHB]" <Arawhetu.Gray@ccdhb.org.nz>
Date: 27 May 2020 at 8:23:10 AM NZST
To: "Thomas Davis [CCDHB]" <Thomas.Davis@ccdhb.org.nz>
Subject: 29 Everton Terrace - URGENT

Morning Thomas

At the Board today Tristram is going to ask about 29 Everton Tce, questions from him will be:

- Was this land acquired from Māori i.e. Tenths Trust. This is difficult to determine. Land was first acquired by the Wellington Hospital Board circa July 1928 for the purposes of

maintaining and supporting a General Hospital. There was an exemption order in Council #842 exempting the larger site at the time from sec 117 of the Public Works Act 1908 which seems to indicate that the land would have been acquire via the then public works mechanism. I can find no information regarding the land (noting it would have been a large parcel) pre 1928 as to ownership. We would normally be alerted to any interest by a notification on the title such as the Port Nicholson Settlement Act 20087 etc. no such title notation exists.

- he notes that the land has not been cleared of its s40 obligations of the Public Works Act 1981 The land was cleared under s40 (2) of the 1981 PWA 5 March 1996. "The land be exempt from the offer back pursuant to section 40(2) of the PWA 1981 on the grounds that it would be unreasonable to offer the land back to the Crown". Further this decision was subject to the land going through the then Maori Protection Mechanism and Sites of Significance process. This lot was advertised in and cleared through this mechanism in 1997.
- and what is the CCDHB's policy with respect to s42 of the PWA and giving Iwi right of first refusal. Sec 42 of the PWA applies where either sec 40 (2) or (4) do not apply. In this case both could apply dependent on the ultimate purchaser. Accordingly I would think sec 42 does not apply but I would add the caveat that this opinion should be verified by our legal advisers.

Ngā mihi

Arawhetu Gray

Executive Director Māori Health | Māori Health Development Group | Capital & Coast District Health Board | Ūpoko ki te uru hauora

M: 027 224 8401 | T: 04 806 2299 | Ext: 82299 | www.ccdhb.org.nz | www.facebook.com/CCDHB

Philip Butter [CCDHB]

From: Gwendoline Callaghan <gwendoline.callaghan@collierswgtn.co.nz>
Sent: Monday, 22 July 2019 2:36 PM
To: Fiona MacGregor [CCDHB]
Subject: RE: 29 Everton Terrace, valuation

Dear Fiona,

Apologies, I overlooked replying to your email - we are still working on it, I knew finding comparables date would be a challenge and it is! We'd hope you can get it to you by the end of the week or the beginning of next week at the latest; would it help if we gave you a Valuation Certificate with the report following?

Kind Regards, Gwendoline

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From: Fiona MacGregor [CCDHB] <Fiona.MacGregor@ccdhb.org.nz>
Sent: Monday, 15 July 2019 2:26 PM
To: Gwendoline Callaghan <gwendoline.callaghan@collierswgtn.co.nz>
Subject: FW: 29 Everton Terrace, valuation

Hi Gwendoline

Could you please give me an update on when you think you could get the valuation to me?

Thanks very much.

Kind regards

Fiona

Fiona MacGregor

Senior Coordinator – Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Ūpoko ki te uru hauora
M: 027 643 2557 | T: 04 918 6306 | Ext: 6306 | www.ccdhb.org.nz | www.facebook.com/CCDHB

From: Fiona MacGregor [CCDHB]
Sent: Monday, 24 June 2019 4:13 PM
To: 'Gwendoline Callaghan' <gwendoline.callaghan@collierswgtn.co.nz>
Cc: 'Megan Lee-Joe' <megan.lee-joe@collierswgtn.co.nz>
Subject: RE: 29 Everton Terrace, valuation

Hi Gwendoline

That's fine.

Regards

Fiona

Fiona MacGregor

Senior Coordinator – Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Ūpoko ki te uru hauora
M: 027 643 2557 | T: 04 918 6306 | Ext: 6306 | www.ccdhb.org.nz | www.facebook.com/CCDHB

From: Gwendoline Callaghan <gwendoline.callaghan@collierswgtn.co.nz>
Sent: Monday, 24 June 2019 8:05 AM
To: Fiona MacGregor [CCDHB] <Fiona.MacGregor@ccdhb.org.nz>
Cc: Megan Lee-Joe <megan.lee-joe@collierswgtn.co.nz>
Subject: 29 Everton Terrace, valuation

Dear Fiona,

Hello, I was just checking this piece of land out, it looks interesting, yes we will look at it from the added value to the adjoining parcel and as stand alone. To do this and give you a short report would be about 15 days, and would be ~~1~~ ~~gst~~. Its not a part of the city with many land sales so will involve some detective work.

Kind Regards, Gwendoline

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Additional info

Philip Butter [CCDHB]

From: Gwendoline Callaghan <gwendoline.callaghan@collierswgtn.co.nz>
Sent: Monday, 30 September 2019 12:27 PM
To: Fiona MacGregor [CCDHB]
Cc: Megan Lee-Joe
Subject: RE: Everton Terrace, 29

Dear Fiona,

In these circumstances if the purchaser has obtained one we would suggest to exchange them, then if there are differences the valuers may discuss those. However, if this is not the case, its really entirely up to you as you have paid for it! I just re-reviewed it and do note it is not a Standards compliant report although that really relates to the manner of reporting not the content, which has of course been researched in a completely Standards compliant manner.

There is a lot of IP in here, these types of properties have so few comparables they are like hens teeth. One would hope it is a case of the purchaser wanting to satisfy themselves that what has been assessed is reasonable and soundly based, so providing them with the material may assist to facilitate a transaction.

If there is a relationship of good will thus far it may be constructive. Perhaps you could say to them that normally you would expect them to obtain their own (if they have not already) however in a spirit of goodwill you are prepared to share our letter with them...

Kind Regards, Gwendoline

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From: Fiona MacGregor [CCDHB] <Fiona.MacGregor@ccdhb.org.nz>
Sent: Friday, 27 September 2019 3:40 PM
To: Gwendoline Callaghan <gwendoline.callaghan@collierswgtn.co.nz>
Cc: Philip Butter [CCDHB] <Philip.Butter@ccdhb.org.nz>
Subject: RE: Everton Terrace, 29

Hi Gwendoline

The purchaser's solicitor has asked for a copy of the valuation.

What should I say?

Kind regards

Fiona

Fiona MacGregor

Senior Coordinator – Property & Asset Management | Corporate Services | Capital & Coast District Health Board | Ūpoko ki te uru hauora
M: 027 643 2557 | T: 04 918 6306 | Ext: 6306 | www.ccdhb.org.nz | www.facebook.com/CCDHB

From: Gwendoline Callaghan <gwendoline.callaghan@collierswgtm.co.nz>
Sent: Friday, 6 September 2019 10:09 AM
To: Fiona MacGregor [CCDHB] <Fiona.MacGregor@ccdhb.org.nz>
Cc: Megan Lee-Joe <megan.lee-joe@collierswgtm.co.nz>
Subject: FW: Everton Terrace, 29

Dear Fiona,

I have added the GST exclusive breakdown at the back, hopefully that will be satisfactory; let us know if it needs to be broken down any further.

Cheers and have a good weekend,

Gwendoline and Megan

Gwendoline Callaghan FRICS, FNZIV (Life) LPINZ
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From: Brid Moore <brid.moore@collierswgtm.co.nz>
Sent: Friday, 6 September 2019 9:53 AM
To: Gwendoline Callaghan <gwendoline.callaghan@collierswgtm.co.nz>
Subject: Everton Terrace, 29