

**Overseas Investment Office**

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The below excerpts are from the Overseas Investment Assessment Report regarding Colin Rath's acquisition of approximately 28.74 hectares of sensitive land in 244-246 Georges Road, Waipara, Canterbury, dated 19 January 2018 (the **Report**).

1. Paragraph 4 of the Executive Summary to the Report:

*Matters relating to good character of the individual with control include Mr Rath's suspected breach of section 43 of the Overseas Investment Act 2005 ("**Act**"), and charges relating to burglary and reckless driving under influence allegations in the 1980s. We have investigated the incident of the suspected breach, and did not find sufficient evidence in support of any breach of the Act. Charges for the historical matters were dropped, Mr Rath paid fines and completed required driving courses, with no similar incidents occurring since.*

2. Paragraph 7 of the Report:

*We note that this is a late submitted application considering the Agreement and Lease were entered into over one year ago, and we have concerns on whether the Applicant intended to avoid or circumvent the Act. However, after investigation, we are satisfied that there is no sufficient evidence of any breach of the Act due to reasons outlined in the good character section outlined in paragraphs **Error! Reference source not found.**-0.*

3. Paragraph 28 of the Report:

We have also conducted open source background checks on Mr Rath, and have recently investigated Mr Rath's suspected breach of section 43 of the Act. Mr Rath has also provided information in relation to good character. Below is a summary and our assessment relating Mr Rath's good character which have been considered under the criterion set out in section 19 of the Act.

Suspected breach of section 43 of the Act

Mr Rath obtained the Lease of the estate including the vineyard and associated properties in October 2016, well before he first submitted an application for consent under the Act in August 2017. Initially we were concerned Mr Rath may have attempted to avoid or circumvent the Act by entering into the Lease for the purpose of undertaking the proposed development as outlined in the business plan enclosed in the application for consent.

During investigation the Overseas Investment Office ("**OIO**") found insufficient evidence that Mr Rath breached section 43 of the Act. First, Mr Rath submits that the Lease was only entered to secure his family's residence and to demonstrate his intention to reside in New Zealand to the regulators (being the OIO and Immigration New Zealand "**INZ**"). Second, the Lease is for a period of less than three years, and was signed before a recent periodical article warning against transactions where the applicant had entered into a short term lease in order to commence the proposed development works prior to consent granted. Third, Mr Rath has not commenced significant steps on the property development as proposed in his application for consent. Mr Rath submits that investment on the Land so far is merely general maintenance of the vineyard during the term of the lease; the proposed development plan such as the expansion and renovation of existing buildings and vine replacement etc. will only commence if consent is granted.

As insufficient evidence was found to support Mr Rath knowingly or recklessly entered into the Lease with the purpose of circumventing the Act, we are satisfied that this matter does not adversely affect the good character of Mr Rath.

Burglary and reckless driving allegations in the 1980s

Mr Rath submitted that he committed burglary and reckless driving in 1983 and 1984 respectively when he was a student and involved in a fraternity at the University of Colorado. The burglary occurred during a rush initiation and a group of fraternity members were arrested after staying overnight in an abandoned building which was considered as illegal trespassing in Colorado. Mr Rath submitted that there were no fines, and charges were dropped.

In 1984 Mr Rath was twice convicted of reckless driving under the influence (DUI). The first DUI happened when he drove fraternity brothers back from a rally, and the second one after a football game. Mr Rath submitted that both the DUI charges were dropped; he paid his fine, and completed alcohol education course level 1 and 2.

We consider the disclosures relating to burglary and DUI are serious matters. However, considering the following reasons we do not think such matters adversely reflect the good character of the individual with control: First, Mr Rath voluntarily submitted these historical matters with the application. Second, these matters are over 30 years old, all the charges were dropped, and there have been no further incidents revealed since. Third, these disclosures relating to Mr Rath's character have been considered by other regulators (i.e. INZ) and no further regulatory action is required.

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