



Institute of Cadastral Surveying (Inc)

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PONDERINGS FROM THE PRESIDENT - August 2012

Hello Fellow Members, two things:

1. The **AGM and workshop is on this weekend** at our usual venue. Get in touch with Bruce if you want more info. Saturday: AGM and several technical sessions. Sunday: Chch City and suburbs bus tour.
2. Earlier this year the **High Court** dismissed the ICS's application for a declaration. As you know the application was made specifically to identify what parts of the CSD the Licensed Cadastral Surveyor is certifying as correct. i.e. what parts in the CSD are our responsibility.

This was a situation where the Court was being asked to interpret statute. No charges, prosecutions or offensive activity or failures to comply with statute were any part of this action.

It was **not** a matter of winning or losing. We knew that whatever the outcome, there would be clarification. We are therefore far from disappointed with the result. The High Court has indeed '*Interpreted*' the statute.

The decision words which you all received take a bit of digesting. Some of you may not have read past the word "dismissed", however, there are some very significant points made by Justice Chisholm - in particular, paragraphs [29], [31] & [37].

Paragraph [31] & [36] in my view, sums up the situation. Namely that the CSD is a "concept", the components of which are able to be determined at any time by the SG.

And to quote Justice Chisholm:

"the Surveyor General has been entrusted with wide functions that directly impact upon cadastral surveyors."

In short, the Court has confirmed that there is no fixed 'list' of component parts in a CSD, and that the SG has the power to manage that 'list'.

Please note paragraph [23], this is part of Dr Grant's (SG) oral evidence, and this very clearly identifies and clarifies the ICS's main concern.

"They cannot be held responsible for information which has not come from them...."

Whilst this may be self-evident, this responsibility issue is the essence of the ICS's concerns. This is the first time on official record that this statement has been made.

This one sentence confirms that the CSD contains information (or component parts) for which we are not responsible.

Clearly then, our certification cannot cover the whole CSD, hence there has to be one remaining query, being the validity of the certification as it is currently worded.

See you on the weekend.

Simon Jenkin (President)