

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU ROHE**

CIV-2018-404-001501

UNDER Part 30 of the High Court Rules and the New
Zealand Bill of Rights Act 1990

BETWEEN AXIOMATIC MEDIA PTY LTD t/a
AXIOMATIC EVENTS
First Applicant/Plaintiff

MALCOLM BRUCE MONCRIEF-
SPITTLE
Second Applicant

DAVID CUMIN
Third Applicant

AND REGIONAL FACILITIES AUCKLAND
LTD
First Respondent/Defendant

AUCKLAND COUNCIL
Second Respondent

PHILIP BRUCE GOFF
Third Respondent

Hearing: On the papers

Minute: 25 July 2018

MINUTE (2) OF WYLIE J

Solicitors/counsel:
Franks Ogilvie, Wellington/J Hodder QC
Anthony Harper, Auckland

Copy to:
Human Rights Commission

[1] On 19 July 2018, the applicants commenced judicial review proceedings against the respondents. It was alleged that on 6 July 2018 the first respondent – Regional Facilities Auckland Limited – purported to cancel a licence it had granted to the first applicant – Axiomatic Media Pty Ltd – permitting it to hold a public speaking event at the Bruce Mason Theatre in the Bruce Mason Centre on the North Shore in Auckland. It was alleged that the decision to cancel the licence was in breach of natural justice, that it was irrational and perverse, and that it was inconsistent with rights guaranteed under the New Zealand Bill of Rights Act 1990. Although there was some uncertainty as to the factual position, it was also asserted that the third respondent – Mr Goff – the Mayor of Auckland – was unlawfully involved and that he directed that the decision should be made. Declarations were sought, as well as orders setting aside the decision to cancel the licence.

[2] At the same time, the applicant applied for urgency and interim orders.

[3] The proceedings were promptly referred to the Duty Judge – Churchman J – and he convened two conferences with counsel on the day the proceedings were filed.

[4] The applicants were offered a fixture for the urgent interim orders application in Auckland on Wednesday 25 July 2018. That date did not suit counsel. They requested that the application should be heard on 30 July 2018. The Court was able to accommodate that request, and a one-day fixture was allocated for that day. A timetable was put in place to ready the application for hearing.

[5] Yesterday, I granted the Human Rights Commission leave to intervene, with the consent of all parties.

[6] This morning the Registrar has received a memorandum from counsel for the applicants, advising that the application for urgent interim orders is no longer being pursued, and stating that the timetable orders that were made to facilitate the hearing on 30 July 2018 are no longer necessary. The applicants seek that the proceeding be set down for a further case management conference in approximately a month's time, so that they can have further discussions with the respondents and/or refine the pleadings.

[7] No reason for this change of stance has been given.

[8] The applicants' memorandum has been referred to me as Civil List Judge.

[9] Given that the applicants have now abandoned their request for urgent interim orders, I vacate the fixture scheduled for Monday 30 July next. Counsels' appearances are excused. The timetable orders are vacated.

[10] The respondents are entitled to seek costs consequent on the abandonment of the hearing scheduled for Monday next. Any memoranda seeking costs are to be filed and served within 10 working days of the date of this minute. Any memorandum in response is to be filed and served within a further 10 working days. Memoranda are not to exceed five pages in length. Unless the Court requires the assistance of counsel, any costs application(s) will be dealt with on the papers.

[11] The substantive application for judicial review is adjourned for call in the judicial review list on **Thursday 6 September 2018 at 9am**. Not less than two working days prior to that date, counsel are to file a joint memorandum. The memorandum is to identify what further procedural directions are sought to ready the substantive proceeding for hearing. If there is any difference between the parties, it is to be identified in the memorandum and the parties' respective positions are to be set out.

Wylie J