

May 2020 Newsletter: High Court Decision



The Northern Action Group Incorporated

Dear NAG Member/Supporter

High Court Appeal

I hope this Newsletter finds you free of the dreaded Covid-19 disease and not suffering too much from the lockdown requirements.

At last, and after more than 6 months waiting, we have a decision from the High Court on our appeal against the Local Government decision 2 years ago to not allow us to leave the clutches of Auckland Council and have our own fully independent local Unitary Council.

Unfortunately the appeal has been **rejected** by the Court. The decision is orthodox and conservative and we consider places undue weight on the freedom given the Commission by the Act to do much as it pleases as long as it follows the letter of the prescribed process. If it acknowledges the purpose of the legislation, it apparently does not have to show it gave effect to it.

Our appeal was confined to points of law and the full decision (46pages of it it) is on our website if you'd like to wade through the detail. Points to note are that:

1. We argued that the Commission had not discharged their duty to “... *allow the community to initiate and participate in considering alternative administrations for their area.*” as expressly provided for in the legislation.. The judge said they had no obligation to do that! and that, being a ‘Commission of Enquiry’, the Commission could go about the process in whatever way they pleased. Absolutely amazing!!
2. We also argued that the Commission had breached natural justice by refusing to take any cognisance of the NAG commissioned APR report which showed a completely contrary picture of the potential benefits our proposal would have for the North Rodney Community.

Here the judge somehow concluded that the Commission had followed process in allowing everyone a chance to participate (read that as make comments which could be ignored) and was entitled to consider whatever it thought was relevant in its deliberations as an “expert panel”.

We were surprised to see the judge commented that the Commission was appointed by Government as “experts” in matters to do with Local Government, when the reality was that the only person on the Commission with any first-hand experience in Local Government was Janey Annear and she was not dealing with our proposal being based and focussed on the south island!!!

However, on the plus side, the judge was not critical of NAG for bringing the appeal, nor of its raising of the points of law in question, so we made our case well!

We must say that is due to the hard work and commitment of our Barrister, James Gardner-Hopkins, who did an excellent job and believed in our cause! He too is disappointed that the Judge did not accept the points of our case.

Unfortunately the legislation does not allow any appeal so our legal pathway has now been exhausted.

So there we have it Folks. What this means is that the Commission is deemed the absolute arbiter of whether applications for governance changes have merit – in their view. Communities have no effective say and a conservative and politically led (Status Quo) approach to governance structures will prevail under the existing legislation, leaving no room for innovation in local government and the much touted devolution and “localism” of the LGNZ.

What we do now is yet to be decided when your committee is allowed to meet after pandemic restrictions are sufficiently relaxed but it does seem that we are forced to continue to suffer the tyranny of the AC majority under the ill-conceived structure of that organisation.

We now have to convince the Politicians (that are supposed to be representing us) that we want out (or at the very least a chance to represent ourselves and make decisions for our area and communities).

As you are aware none of the current batch of local politicians seem willing to do anything for us in terms of promoting legislation for a referendum on getting out of Auckland Council, so with the elections coming up this year we must make it loud and clear that they will not get our support unless they give us theirs on this issue of our Local Government.

Therefore I ask of all of you to take every opportunity to get that message across as loudly and clearly as you can.

In the meantime I wish to take this opportunity to thank you all for your on-going support whether it be financial or moral and both. Rest assured we will continue to advocate for better representation and governance for North Rodney, and, as always, welcome any suggestions as to how we can move forward on this issue.

Yours sincerely

Bill Townson

Chair - Northern Action Group Inc.