

18 May 2016

NZ Taxpayers Union  
(via email [requests@taxpayers.org.nz](mailto:requests@taxpayers.org.nz))

To Whom It May Concern

**Correspondence to and from the Wellington Employer's Chamber of Commerce (WECC) between 1 October 2015 to 22 March 2016 – IR#160669.**

Thank you for your request dated 22 March 2016. Please accept my apologies for the delay in responding. Your request is granted and for not cost at this time. You have asked for the following information:

***“Copies of all correspondence sent to and received from the Wellington Employers Chamber of Commerce between 1 October 2015 to present.”***

After assessing the scope of your request and the information held, the Chief Executive office holds two letters during the period you have asked. The information held covers two specific letters dated;

- a) 3 November 2015 from WECC to CEO Kevin Lavery
- b) 5 November 2015 from CEO Kevin Lavery to WECC.

These relate specifically to the decision reached on 28 October 2015 where Council resolved to implement a Wellington Living Wage rate to the preferred contractor for security services.

The Chamber raised serious concerns regarding the lawfulness of this decision under the Local Government Act 2002 and signalled it was very likely to take judicial review proceedings to determine if the decision was lawful.

The Chief Executive instructed the Council's legal advisors to work with the Chamber's legal advisors to manage any potential litigation in a cooperative way in order to expedite a resolution.

Please note this request does not cover information held between the Chamber's lawyers or the Council's lawyers during this period which is legally privileged information.

Please find attached copies of the two letters.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Howse', with a long, wavy horizontal line extending to the right.

Deborah Howse

**Manager – Issues Resolution Office**

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3 November 2015



**PRIVILEGED & CONFIDENTIAL**

**BY EMAIL:** kevin.lavery@wcc.govt.nz

Kevin Lavery  
Chief Executive Officer  
Wellington City Council  
PO Box 2199  
Wellington 6140

Dear Kevin

### Contract for Security Services

As you are aware, the Wellington Chamber of Commerce (the **Chamber**) has serious concerns regarding the lawfulness of the decision taken on 28 October 2015 (the **Decision**) by the Wellington City Council (the **Council**) to require the preferred supplier of the recent security services tender to pay its staff an increased remuneration rate despite Council officials noting this would provide little by way of tangible benefits to the Council and legal advice strongly advising against the Decision.

We note your comments at the Council meeting on 28 October 2015 that it would be sensible to obtain a ruling from the High Court before implementing the Decision. As you know, the Chamber does not agree with the Decision and believe that seeking such a ruling would have been reasonable given the legal advice.

You will be aware from our media statements and subsequent comments that the Chamber is currently working through a process to consider the options available. We have received legal advice on the process for referring the matter to the High Court.

As such, we ask that you consider the following approach and seek your agreement to undertake the following actions:

- a) postpone any implementation of the Decision until the High Court has ruled on the lawfulness of the Decision; and
- b) agree for the matter to be referred to the High Court for a ruling on the lawfulness of the Decision.

By postponing the implementation of the Decision until after the High Court has made a ruling on the lawfulness of the Decision, you will preserve the status quo and potentially save the Council unnecessary legal costs defending any preliminary legal challenges (e.g. an application for an interim injunction).

We would be happy to discuss a joint approach in seeking a possible declaration from the High Court on the lawfulness of the Decision, but failing that, the Chamber reserves the right to commence judicial review proceedings against the Council.

We ask that you respond to our proposal by 5pm on **Friday 6 November 2015**. If we have not received a response by the above deadline we will have no option but explore other legal avenues.

We look forward to receiving your comments.

Yours sincerely,

John Milford



5 November 2015

John Milford  
Wellington Chamber of Commerce  
PO Box 1087  
WELLINGTON

Dear John

**Contract for Security Services**

I am writing in response to your 3 November 2015 letter. I have taken legal advice and, based on that, have decided not to implement the Council's decision and conclude an unconditional 'living wage' contract with the successful security services tenderer pending the outcome of the Chamber's intended application for judicial review. I trust that this will avoid the Chamber seeking to injunct the Council at this stage.

It is in the Council's interest that the litigation be concluded as quickly as possible. I have instructed the Council's lawyers, DLA Piper, to manage the litigation in a cooperative way in order to achieve this end.

I understand that your lawyers will liaise with the Council's lawyers regarding documents they are seeking, and timetabling.

Yours faithfully,

Kevin Lavery  
CHIEF EXECUTIVE