|  |
| --- |
| Council to advise when a person’s status under Resource Management Act is changed |
|  |
| Legislation Ombudsmen Act 1975, Resource Management Act 1991  Agency Local authority  Ombudsman Sir Brian Elwood  Case number(s) C6216  Date 2000 |

*Resource consent application—non-notified—s 94(2) Resource Management Act 1991—change of status from ‘adversely affected’ to ‘not adversely affected’—complainant not advised of change and believed right to object remained intact—Council agreed to amend its policies and procedures*

The complainant’s residential property adjoined a property for which resource consent as medical rooms and as a midwifery centre was being sought. The complainant withheld written approval pursuant to s 94(2) of the *Resource Management Act 1991* and in so doing believed the application would need to be notified and that his right to object would remain intact. When preparations commenced onsite for the change of use, the complainant contacted the Council which advised a non-notified consent had been granted. He complained about this decision.

The Council advised that the complainant had initially been identified to the applicant as adversely affected but that the Council Planner’s report was in terms that the adverse effects on adjoining property owners would be insignificant. The Council weighed the contending views and concluded the adverse effects would be minimal. The Council considered that the application met the test of s 94(2) and could be dealt with on a non-notified basis.

As the Council had not advised the complainant of the change of his status from ‘adversely affected’ to ‘not adversely affected’ the complainant had not known that his right to object had been removed. His opportunity to make his views known to the Council had been lost.

The Council agreed to amend its procedures so that if a person’s status is changed from ‘adversely affected’ to ‘not adversely affected’ Council staff will advise the person of the change. The Council also agreed to incorporate the change in its pamphlet on resource consents. The investigation was discontinued on that basis.

*This case note is published under the authority of the* [*Ombudsmen Rules 1989*](http://legislation.govt.nz/regulation/public/1989/0064/latest/DLM129834.html?src=qs)*. It sets out an Ombudsman’s view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.*