

Crown unreasonably delays negotiation for sale or lease of crown land

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| Legislation | Ombudsmen Act 1975, Land Act 1948 |
| Ombudsman | Sir John Robertson |
| Case number(s) | A3660 |
| Date | 1993 |

Unreasonable delay in negotiations for sale or lease of Crown land—events overtaken by Cabinet directive to place surplus Crown land in land bank for Treaty of Waitangi claims

The complainant and his family had farmed an area of land adjacent to some Crown land for many years. At the beginning of 1951 an application to acquire the land was made to the Commissioner of Crown Lands. Negotiations continued for over 40 years without any decision being made on whether or not the complainant could have the land. In late 1992, the complainant sought the Ombudsmen’s assistance.

An examination of the substantial documentation associated with the case showed that the complainant had continued to pursue the application, corresponding with various government agencies about it from 1951 through to 1993. However, not all the agencies which dealt with the matter over the years were aware of the full history of the application. There had been some confusion over the years as to the status of the land itself. Other parties, such as the former Wildlife Section of the Department of Internal Affairs, the Department of Conservation, Landcorp and local Maori interests had also recorded interest in acquiring the land in question, but all those approaches had occurred many years after the complainant had originally expressed his interest. Apart from these matters, there had clearly been an incomprehensible number of delays on the part of the Crown in determining the complainant’s application. At no stage had the Crown offered the land to the complainant for sale, and neither had it ever indicated that the land would ultimately be offered for sale.

Given the length of time the matter had been on-going, the complaint could clearly be sustained. It was patently unreasonable for the Crown not to have made a decision one way or the other on the application at a much earlier date.

The Department accepted that it needed to address the issues once and for all and proposed that the land be offered for sale pursuant to sections 52(2) and 52(5) of the Land Act 1948. The complainant could then bid for the land. This appeared to provide a satisfactory means of resolving the matter.

Comment

However, before this proposal could be implemented, on 1 July 1993 Cabinet directed that surplus Crown land be made available for 'land banks' for use in the settlement of Treaty of Waitangi claims. Therefore, just as it seemed the complainant would have the opportunity of acquiring the land in which he had expressed interest for more than 40 years, the implementation of the policy on surplus Crown land meant there was little prospect of it ever becoming available on the public market.

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