

## Request for details of Housing New Zealand's top ten rental arrears by city or town

<b>Legislation</b>	Official Information Act 1982, s 9(2)(j)
<b>Agency</b>	Housing New Zealand
<b>Ombudsman</b>	Anand Satyanand
<b>Case number(s)</b>	W45412
<b>Date</b>	February 2002

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*Request for details of Housing New Zealand's top ten rental arrears by city or town—Housing New Zealand considered release of information would prejudice negotiations to recover rental arrears—public interest in accountability outweighed need to withhold—information released*

A journalist asked Housing New Zealand (HNZ) to release details of its top ten rental arrears. In order to avoid any privacy concerns, the journalist stated that the names of the tenants were not required and that identifying the relevant city or town would be sufficient. Housing New Zealand refused this request in reliance upon ss 9(2)(a), 9(2)(b)(ii) and 9(2)(i) of the OIA.

It became clear HNZ's primary concern was that release of the information would prejudice its ability to negotiate with its tenants regarding the repayment of rental arrears. Consideration was therefore given to whether section 9(2)(j) of the OIA applied.

The first issue was whether pursuit of rental arrears from tenants could properly come within the meaning of 'negotiations'. Investigation revealed that HNZ preferred to negotiate and reach an agreement with tenants about the repayment of arrears, rather than exercise its right of recourse to the Tenancy Tribunal. This was confirmed in HNZ's formal policies on managing rental arrears. The Concise Oxford Dictionary defines 'negotiation' as meaning 'to confer with others in order to reach compromise or agreement'. The view was formed that HNZ's methods of reaching an agreement regarding the repayment of rental arrears could be considered to be 'negotiations' in the ordinary meaning of the word, even though formal legal remedies were available.

The next issue was whether release of the information requested would prejudice those negotiations. HNZ had expressed concern that if the top ten rental arrears were disclosed, tenants would be less willing to enter into negotiations with HNZ over the repayment of small amounts of rental arrears, as they would assume that they would not be evicted for such small debts. It was accepted that the release of the information would cause some prejudice to such negotiations, even though it was not considered that such prejudice would be of a long term nature. The view was therefore formed that section 9(2)(j) applied.

It was then necessary to assess whether there were any public interest considerations in terms of section 9(1) of the OIA which outweighed the need to withhold. In this regard, it was considered there was a strong public interest in the accountability of HNZ for the level of outstanding rental arrears. The view was formed that the public interest in this particular case outweighed the need to withhold the information under section 9(2)(j). HNZ agreed to release the information to the requester.

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