
From: David Chandler
Date: 22 November 2021 at 5:37:00 pm AEDT
To: David Shoebridge
Cc: Elizabeth Stewart; Eric Aubert
Subject: FW: Icon + Building Commission meeting [ME-ME.FID6270808]

PRIVILEGED

Dear David,
As requested in Committees today, attached are the documents relevant to Icon.
Regards
David

From: Edward Whiting
Sent: Thursday, 18 November 2021 10:03 AM
To: Yolande Nyss
Cc: David Chandler; Evan Byrne; Maha Payne; Michael Read; Peter Wood
Subject: RE: Icon + Building Commission meeting [ME-ME.FID6270808]

Dear Yolande

Thank-you for your email and the agenda of matters that Mr Chandler wishes to discuss. Evan has passed on your email to me as the NSW director.

Michael and I are available to meet with you on Tuesday 30th November at 8am.

In terms of your agenda items:

1. Overview of the functions between Icon Co (NSW) Pty Ltd and Icon Si (Aust) Pty Ltd

This is a legal question which should be addressed to our lawyers, MinterEllison. Please contact Peter Wood at MinterEllison if you have specific queries.

2. List of class 2 projects undertaken by Icon Si (Aust) Pty Ltd

There are two projects, namely Arkadia Apartments, 18 Huntley Street, Alexandria and CASA II 74 McDonald Street, Erskineville. There are no material or non-minor defect issues on those two projects.

3. List of class 2 projects undertaken by Icon Co (NSW) Pty Ltd that are involved in dispute about defects

4. Discussion of defects in the following projects undertaken by Icon Co (NSW) Pty Ltd:
 - o 1-31 Victoria Street, Roseville (Uptown)
 - o 23-41 Lindfield Avenue, Lindfield (Lindfield Village)
 - o 659-669 Gardeners Road, Mascot (Avantra)

In relation to agenda items 3 and 4 there are Supreme Court proceedings on foot concerning the three named projects. As you are aware, there are also Supreme Court proceedings on foot concerning Opal Tower.

We do not wish to be involved in informal discussions in relation to projects which are the subject of Supreme Court proceeding, whilst those proceedings are before the Court.

If there is specific information you require, we invite you to place such request in writing and Icon will respond to it promptly.

Please confirm you will respect this request in our meeting.

Regards

Edward Whiting

Director

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MinterEllison

13 September 2021

BY EMAIL

Mr Sandy Pintamalli
Principal Solicitor
Legal – Corporate Services
NSW Department of Customer Service
Level 7, McKell Building
2-24 Rawson Place
Haymarket, NSW 2000

Dear Mr Pintamalli

Icon Co (NSW) Pty Ltd v Secretary of the Department of Customer Service (2021/00228168) and the Otto 2 Project

1. We refer to:
 - (a) the email dated 18 August 2021 sent by Mr David Chandler to the Chief Executive Officer of Icon Co Pty Ltd and the attachment to that email;
 - (b) our letter to the Department dated 24 August 2021 expressing our clients' concerns in relation to the email and attachment;
 - (c) your letter dated 27 August 2021;
 - (d) our letter dated 30 August 2021;
 - (e) your letter dated 2 September 2021;
 - (f) our letter dated 3 September 2021; and
 - (g) your letter dated 6 September 2021.
2. We refer to your letter dated 6 September 2021.
3. We note that you state that *'As an authorised officer, the Building Commissioner has powers under section 17AA of the Fair Trading Act 1987 (NSW) to publish certain information for public access that is in the public interest and powers under section 17AB of the Fair Trading Act 1987 (NSW) for the exchange of information with other relevant agencies, including other State and Commonwealth regulators'*.
4. If that is the relevant provision relied upon by the Department, please provide us with a copy of the relevant 'information sharing arrangement' (as defined in section 17AB) upon which the Department relies.
5. Our client is obviously aware that a public official cannot lawfully fetter his or her discretions and cannot contract out of his or her statutory duties. However a public official can undertake not to act unlawfully, and that is the undertaking that our client has requested on three previous occasions, namely by our letters dated 24 August 2021, 30 August 2021 and 3 September 2021.
6. In light of your request for the wording of the undertaking that our client seeks, we enclose the words of the proposed undertaking.

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7. Please advise whether Mr Chandler will provide the requested undertaking by **5pm on Friday 17 September 2021**.
8. Our clients reserve all their rights generally.

MinterEllison

Peter Wood
Partner