

23 March 2007

By fax: (02) 9219 5935

Grants Division
Legal Aid NSW
PO Box K847
HAYMARKET NSW 1238
Attention: Ms Lalitha Raman – Legal
Officer – Civil Law

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Partner
Christine Covington

Confidential and Not for Publication

Dear Madam

**APPLICATION FOR LEGAL AID BY DRAKE-BROCKMAN – FILE NUMBER:
07G000875
CARLTON & UNITED BREWERIES & MINISTER FOR PLANNING ats
MATTHEW DRAKE-BROCKMAN
LAND & ENVIRONMENT COURT PROCEEDINGS NO 40186/07**

We act for Carlton and United Breweries in the above proceedings (Proceedings).

We refer to the recent application by Matthew Drake-Brockman for financial assistance from Legal Aid NSW for the purpose of the Proceedings, which have allegedly been brought by Mr Drake-Brockman in the public interest (Application). We understand that Mr Drake-Brockman is a resident of Darlinghurst.

We have been advised by the solicitor for Mr Drake-Brockman that the Application will be assessed by the Grants Division of Legal Aid NSW on Monday, 26 March 2007.

We wish to bring to your attention that the Application may not satisfy the means test as detailed in the publication entitled *Legal Aid Policies* (published by the Legal Aid Commission of New South Wales, Strategic Planning and Policy Division Review and Reform Unit and dated 9 March 2007).

Means Test

In accordance with paragraph 1.3(c) of the *Legal Aid Policies*, the means test to be applied in a public interest environmental matter is 'Means Test A'. Means Test A requires consideration of whether it is reasonable in all the circumstances to grant Legal Aid.

The Means Test Guidelines, as set out in paragraph 1.3(c) of the *Legal Aid Policies*, state that:

- *"The means test is to be applied to an individual applicant seeking legal aid for an environmental matter. Where the applicant seeking legal aid for an*

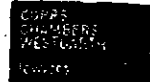
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environmental matter is a group then the means to be considered are the means of the group.

- *In considering the means of the applicant/group regard should be had to the financial support that would be available from those members of the community who would be likely to support the aims of the group in the matter for which aid is sought.* [emphasis added]

At a meeting of the Coalition of Chippendale Community Groups on 15 March 2007, at which there were approximately 30 people in attendance, it was publicly stated by a speaker that Mr Drake-Brockman has been "selected" to bring the Proceedings, even though he is not a local resident, because he is a "student with a low economic status" and, therefore, is the "best candidate" for obtaining Legal Aid.

We bring this matter to the attention of Legal Aid NSW so that it can consider whether the selection of an impecunious person to bring a legal action with the publicly expressed aim of obtaining Legal Aid is contrary to the public interest, undermines the purpose for which Legal Aid is afforded to applicants and is an abuse of the Legal Aid process.

Further, having regard to the Means Test Guidelines, we make the following observations:

- The proceedings have been brought by Mr Drake-Brockman, an individual allegedly with little means, rather than by the group(s) which is (are) supporting the bringing of the Proceedings;
- The Proceedings are publicly supported by the Coalition Chippendale Community Groups, which includes Chippendale Residents Interest Group, Friends of Carlton United Site and East Chippendale Community Groups, as stated at their meeting on 15 March 2007; and
- The Proceedings have also been publicly supported by The Deputy Lord Mayor, Councillor Chris Harris, Greens Candidate for Sydney in a letter to residents dated 15 March 2007 (attached) in which Councillor Harris seeks financial support for the Proceedings on behalf of Mr Drake-Brockman and also offers to personally accept donations on Mr Drake-Brockman's behalf.

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Please contact the writer, if you have any queries.

Yours faithfully
Cora Chambers Westgarth

A handwritten signature in black ink, appearing to be 'Christine Covington'.

Christine Covington
Partner

attachments