

IN THE MĀORI LAND COURT OF NEW ZEALAND  
TAITOKERAU DISTRICT

A20160006309

UNDER	Sections 239, Te Ture Whenua Māori Act 1993
IN THE MATTER OF	Omapere Taraire E & Rangihamama X3A Ahu Whenua Trust
BETWEEN	Omapere Rangihamama Trust Applicant
AND	Rose Dudley Respondent

Date: 19 December 2017

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MINUTE OF JUDGE M P ARMSTRONG

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- [1] On 16 August 2017, I appointed Rachel Witana as an additional trustee, and confirmed the reappointment of Taoko Wihongi and Bruce Cutforth. I adjourned the application seeking the reappointment of Raniera Tau and directed that:
- a. This be reconsidered at the annual general meeting on 14 October 2017;
  - b. The trustees are to keep a record of those beneficial owners who vote in support of Mr Tau being reappointed and those who do not; and
  - c. The trustees are to file copies of the notice, agenda and minutes of the meeting and the outcome of the vote.
- [2] The annual general meeting was held. Ms Dudley, on behalf of the Ngatote Eruera Pirini & Ngawai Erika Akuhata Whānau Trust, has requested copies of all materials held by the trustees concerning the vote. The trustees agree to this material being disclosed, but contend that information on who voted for or against the resolution, should not be provided.

- [3] The rights of beneficiaries to obtain trust information was considered by the Supreme Court in *Erceg v Erceg*<sup>1</sup>. A beneficiary may seek access to documentation necessary to assess whether the trustees have acted in accordance with the trust deed. The case for disclosure will be compelling if meaningful monitoring of the trustees' compliance with the trust deed, and the administration of the trust, could not otherwise occur. Where there are issues of confidentiality, recognition should be given to the need to protect confidential matters of a personal nature. The Court should also consider the likely impact on the trustees and the other beneficial owners if disclosure is made.
- [4] Mr Jones, for the Trust, argues that personal information disclosing which beneficial owner voted for or against the resolution is not required by Ms Dudley to argue her case. He contends beneficiaries have expressed concern over their personal information being released. They are anxious that they may be subjected to intimidation to persuade them to change their position. The Registrar has received a number of emails from beneficial owners confirming these concerns.
- [5] Ms Dudley argues that the process used by the trustees when conducting the vote was flawed as: late registrations for voting were not accepted, a poll vote was conducted instead of voting by a show of hands, and there was limited space in the Marae and not all owners were able to sit inside the Wharenui. Ms Dudley submits all information concerning the vote should be disclosed.
- [6] The issues raised by Ms Dudley do not concern which beneficial owner voted for or against the resolution. Ms Dudley does not need this information to put forward the arguments she has outlined. Beneficial owners have expressed concerns about their personal information being released. That information should be protected. I also note that the votes cast were scrutineered and counted by John Parmenter, a professional accountant, and was overseen by Court staff. Ms Dudley has not raised any issues concerning this process.

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<sup>1</sup> *Erceg v Erceg* [2017] NZSC 28.

[7] I direct the trustees to provide to Ms Dudley copies of the Trust records concerning the annual general meeting, and the resolution voted on by beneficial owners, excluding any information or records that disclose the identity of the beneficial owners and whether they voted for or against the resolution. Any such information held on the Court record is not to be released to any person unless first authorised by the Court.

Copy of minute to applicant and interested parties.



M P Armstrong  
JUDGE

