

# IAN FARQUHAR

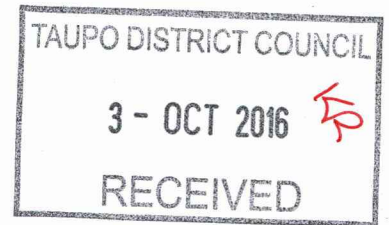
## LAWYER

10 Totara Mews  
20 Totara Street PO  
PO Box 1239  
TAUPO

TELEPHONE +64 7 378 1859  
FAX +64 7 378 1874  
DX KP 37026  
[office@farquharlaw.co.nz](mailto:office@farquharlaw.co.nz)

30 September 2016

The CEO  
Taupo District Court  
Private Bag 2005  
**TAUPO**



Dear Sir

### DENISE BARNES APPEARANCE BEFORE THE FRReD COMMITTEE ON 22.9.15

I act for Denise Barnes of Taupo who is an elderly long term resident of the town.

I write to raise on behalf of my client a matter involving the Council in which she feels she was treated unfairly and has been left with a strong sense of injustice and seeks rectification by the Council.

The matter at issue occurred on 12 August 2015 when my client's dog, Tilly Matilda (Reg No 151202) was classified as a menacing dog pursuant to S. 33A of the Dog Control Act 1996. This classification was subsequently upheld by the FRReD Committee.

My client now seeks to have this classification reviewed and rescinded on the basis that the finding was factually flawed and a fair process was not followed.

Of most concern is that the Council process at the FRReD Committee failed to pay heed to the rules of natural justice as set out as follows.

1. The complaint against her dog was accepted without question or adequate investigation. For instance the complaint was made by telephone and the dog was not seen by Council officials until 9 days after the incident.
2. Mrs Barnes was not given an opportunity to provide an explanation for her dog's behaviour at the hearing.
3. An independent eye witness to the incident, Ms Foden –Frazer a Police Officer at the time was not permitted to fully give her version of the

evidence which was quite different to that of the complainant. Indeed it paints quite a different picture of the incident compared.

4. Mrs Barnes expert in dog behaviour, Shirley Fraser was not given an opportunity to comment on the incident. This is important because it would appear that Tilly was in effect defending herself from the intrusion of the complainants dog which it can be argued was not adequately under control.
5. The committee referred to other complaints by members of the public about Tilly but such information was never disclosed to Mrs Barnes.
6. On the other hand numerous unsolicited letters from members of the public were produced in support of Tilly but appear to have been given no weight whatsoever.
7. There appears to have been numerous assumptions made by the committee about Tilly's alleged aggressive behaviour and that she had been at large which are wrong and are without supporting evidence.
8. The Committee has also relied on incorrect evidence such as a claim that the SPCA did not support Tilly when no such statement was ever made and in fact was refuted by the SPCA officer.
9. That the meeting was stacked with an intimidating amount of staff people and councillors which for a woman in her 70s she found somewhat overwhelming.
10. Finally the manner of the chairman, Mr Hickling indicated a degree of bias and pre-judgment of the case against my client. In particular he did not permit my client to fairly present her case by improperly limiting time and not permitting my client to fairly and fully present her defence.

In light of the above matters my client has strong grounds for asserting that she has not been treated fairly in her defence of the classification of her dog as menacing. It would appear that the Committee was somewhat cavalier in conducting its hearing process which is unfortunate given my client's age and unblemished record. Accordingly my client seeks to have the classification of her dog as menacing rescinded or at least a rehearing of the matter be permitted.

I look forward to hearing from you at your earliest convenience.

IAN FARQUHAR



**I D FARQUHAR**  
Email - [i.farquhar@farquharlaw.co.nz](mailto:i.farquhar@farquharlaw.co.nz)