



**CORRUPTION AND CRIME COMMISSION
OF WESTERN AUSTRALIA**

Your ref:
Our ref: 2477

16 September 2004

Mr Neil Smithson
Smithson Planning
PO Box 5377
ALBANY WA 6332



CONFIDENTIAL

Dear Mr Smithson

Thank you for your letter dated 6 August 2004 regarding an application in 1998 to the City of Albany to change the use of your business from a restaurant to a nightclub.

You complained that the City of Albany sent a copy of the letter acknowledging your application to the owner of the existing nightclub. You believe that this shows the Council was giving the other nightclub owner preferential treatment and that it was not until you confronted the Council about this matter that your application was approved.

In your letter you indicate that the Planning Officer at the time, Mr Pursey, can confirm that he was instructed to by a senior officer to send the copy of the letter to the other nightclub owner.

However, it also appears from your letter that Mr Pursey is no longer an employee of the Council and is on a working holiday in the eastern states.

The Commission has considered your request that these matters be investigated and has decided not to investigate your complaint. In reaching this decision the Commission has carefully considered:

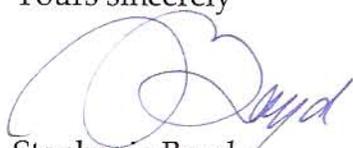
- The seriousness of the alleged conduct;
- Whether the matters have been the subject of other action or appropriate investigatory action; and
- Whether or not further action in relation to these matters would be in the public interest.

As you would appreciate it would be difficult to investigate this matter if it is not possible to contact Mr Pursey. In addition, the length of time since the incident would also make your concerns more difficult to look into.

As the Commission has limited resources it is necessary to use those resources in the most effective manner. Taking the above into consideration and that the planning application was approved, the Commission has decided that there are no grounds to take further action on this matter. The Commission has therefore closed its file on your complaint.

Thank you for bringing this matter to the attention of the Commission.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Stephanie Boyd', written in a cursive style.

Stephanie Boyd
REVIEW/ ASSESSMENTS

SMITHSON PLANNING

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Our Ref : WSP-Legal
Your Ref : 2477

Commissioner Kevin Hammond
Corruption & Crime Commission of Western Australia
PO Box 7667
CLOISTERS SQUARE WA 6850

22 September 2004

Dear Commissioner Hammond

DRAFT

CITY OF ALBANY –

CONFIDENTIAL

Allegation of Corruption / Conspiracy by Council Officers

Thank you for your letter dated 16 September 2004 (received 22 Sept 2004).

Firstly, let me correct your assumptions : both applications for planning consent submitted to the City of Albany were prepared by Concept Building Design & Drafting acting for their client – Autingo Pty Ltd.

Smithson Planning was engaged by Autingo Pty Ltd to act in respect of the Planning Appeal and Building Appeal processes – Autingo Pty Ltd were and still are the business owners.

Mr Pursey was at the time of the application a Planning Officer with the City of Albany, but shortly thereafter was promoted to the position of Manager Planning Services under the Executive Director Development Services Mr Robert Fenn.

The promotion of Mr Pursey (regardless of merit) was in our opinion, not an action consistent with that of a probity issue in the City of Albany administration, notwithstanding that Mr Fenn had already indicated that he had no prior knowledge of the referral to the then CEO & Commissioners, and it was Mr Pursey's name on the bottom of the letter.

If it is not conventional practice to promote subordinate staff to managerial positions in an organisation when there was clearly a corruption / conspiracy issue to be addressed – one could reasonably expect that Mr Fenn would have eventually prepared a report to the Council.

It would appear from our inquiries and your letter that the Corruption & Crime Commission of WA has not made contact in any capacity with either Smithson Planning, Concept Building Design & Drafting or Autingo Pty Ltd to investigate the allegations contained in our letter, or that of Mr Pursey and the City of Albany (as authors of the letter), and Mr Danielle as the recipient of the CC'd letter (the *raison d'être*).

You will pardon my scepticism in relation to the role of governance reviewing the relative performance of governance (particularly in a regional context between State & Local government), but it would appear to us that your stated lack of resources is more of a consideration than the potential for effective use of those resources.

One or both of the City of Albany officers concerned is clearly guilty of corruption and or conspiracy to pervert the course of justice, and yet one of those parties is still practising in the City of Albany under questionable circumstance (apparently with the sanction of the Corruption & Crime Commission of Western Australia).

As a practitioner in Planning (and member of several kindred professional associations), I regarded the Council's action at the time as extremely serious (grounds for dismissal).

Further, there does not appear to have been any appropriate investigative action by the Council in response, and the resolution of this matter is clearly impacting elsewhere on the public interest by virtue of other matters remaining unresolved.

I do not regard this matter as difficult to investigate – you have documentary evidence, there are several material witnesses present in Albany capable of providing statements, and there should be an internal report to the Commissioners of the City of Albany (and a consequent action statement on the personnel record of Mr Pursey at least).

I trust this information clarifies our position, and I do not consider the file closed.

Yours faithfully,
SMITHSON PLANNING

NEIL R. SMITHSON

Managing Director

PIA, EIANZ, NELA, LGPA, AAPC, NTWA, FDI, CSC 2003

CC : Mr Peter Watson MLA
Mrs Robyn McSweeney MLC
Cr Roley Paver, City of Albany
Concept Building Design & Drafting
Autingo Pty Ltd

DRAFT