

**Ngati Apa Ki Te Waipounamu Trust v A-G 1/9/02, France J, HC Wellington
CP115/98**

Unsuccessful application for judicial review of Maori Appellate Court ("MAC") decision - Ngai Tahu filed a claim to the Waitangi Tribunal in 1986 regarding particular land on West Coast of South Island - overlapping claims regarding that land were filed, and the case went to MAC by way of case stated - MAC determined that, at relevant time, Ngai Tahu had sole rights of ownership of the particular land according to customary law principles of "take" and occupation or use - applicants Ngati Apa, Ngati Rarua, and Ngati Toa pleaded procedural impropriety due to disparate resourcing of the parties and breach of natural justice or procedural fairness.

Held, the highest the funding point can be put is that once the MAC was aware of the funding difficulties, it ought to have considered adjournment, which it did - there is no duty to provide Ngati Toa with legal representation, as the statutory scheme contemplates lay representation, which Ngati Toa did - there is no duty on the MAC to ensure Crown funding due to the fact that the Crown did not give evidence - although the decision is determinative in nature, this does not mean the legal position regarding funding is any different - there is no breach of natural justice because the MAC took the necessary steps to meet the requirements of natural justice, making inquiries regarding representation and adjourning so matters could be resolved - the evidence does not establish that the MAC did not give sufficient notice of its hearing - neither was there sufficient material to indicate to the MAC that there were other interests that were not being represented but ought to be - the MAC made the necessary inquiries regarding authorisation of representation - Treaty of Waitangi obligations bind the executive Government but not Courts unless incorporated in statute - further, the principles from the Treaty of Waitangi do not add to the obligation the MAC had to act fairly - although it is not necessary to consider relief, relief would have been declined on the basis of delay - the applications are dismissed.