

Martinez v Auckland City Council 3/10/02, Priestley J, HC Auckland AP38/02

Successful application to adduce further evidence at appeal hearing - appellants ("M") appealed a decision of the Environment Court ("EnvC") on the grounds they had erred in law by allowing the building of an apartment block that would block views of the harbour - M sought leave to adduce pictorial evidence that would illustrate EnvC had erred in law - at trial second respondents ("SCL") claimed they were able to erect a three building apartment building as of right, and they further claimed they should be able to erect an eight bedroom building as the visual effects would be the same - first respondent ("ACC") argued any shortcomings in SCL's plans should have been challenged at trial - ACC claimed there had been no change of circumstances which justified calling further evidence.

Held, M does not seek to introduce fresh evidence, rather they seek to put forward evidence to illustrate the alleged error in law they claim EnvC made - it is relevant the evidence is solely for illustrative purposes - M may introduce the evidence described in this application - application granted.