

**IN THE DISTRICT COURT  
AT TAURANGA**

**I TE KŌTI-Ā-ROHE  
KI TAURANGA MOANA**

**CIV-2018-070-001106  
[2019] NZDC 22875**

IN THE MATTER OF	AN APPLICATION UNDER S 322-325 OF THE PROPERTY LAW ACT 2007
BETWEEN	CHRISTOPHER GEOFFREY RALPH SIMMONDS, JUDITH FLORENCE SIMMONDS, THOMAS WILLIAM SMITH and DEBORA JOY STEWART Applicants
AND	ELLEN MARY ANN ROMBOUS Respondent

Counsel: T Castle and M Douglas for the Applicants  
Respondent self-represented

Judgment: 18 November 2019

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**FURTHER JUDGMENT OF JUDGE P G MABEY QC IN CHAMBERS**

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[1] In my reserved judgment of 16 October 2019 I refused to issue a mandatory injunction binding the respondent from further encumbering the right-of-way over her property in favour of the applicants.

[2] I invited the respondent to provide a written undertaking to the Court that she will not in the future obstruct the applicants' passage across the right-of-way.

[3] In my judgment I indicated that any such undertaking, if broken, would be enforceable as a contempt of Court.

[4] I have now received a document signed by the respondent providing the following undertaking:

I herewith reply to the Reserved Judgment of Judge P G Mabey QC in the matter of CIV-2018-070-1106 [2019] NZDC 20455, and advise the Court that I give an undertaking not to obstruct or impede the applicants' free access to the right of way.

[5] I am prepared to accept the undertaking in those terms. It is clear in its purpose and in its intent and expressly provides the respondent's assurance that she will not in future obstruct or impede the applicants free access to the right-of-way.

[6] That being the case there is nothing further to be done in relation to the application I have before me.

[7] It is now disposed of and as indicated in my reserved judgment costs will lie where they fall.

[8] The only way in which this matter could come back before the Court is:

- (a) If the respondent chooses to bring an application under s 317 of the Property Law Act 2007 to extinguish the easement; or
- (b) If the respondent breaches her undertaking not to obstruct or impede the applicants' free access to the right-of-way.

[9] If an application is brought by the respondent it will be dealt with on its merits.

[10] If the applicants inform the Court that the respondent is in breach of the undertaking that breach will be inquired into by the Court and if necessary enforced by contempt proceedings.

P G Mabey QC  
District Court Judge