

IN THE COURT OF APPEAL OF NEW ZEALAND
I TE KŌTI PĪRA O AOTEAROA

CA123/2025
[2025] NZCA 404

Court: Courtney and Collins JJ

Counsel: G J Judd KC, B E Morten and A P Miller for Appellant
A S Butler KC, S A H Bishop and T G Bain for First and Second Respondents
No appearance for Third Respondent
M S Timmins and H K Clow for Applicant to Intervene

Judgment: 15 August 2025 at 12.30 pm
(On the papers)

JUDGMENT OF THE COURT

- A The application for leave to intervene is declined.**
- B By agreement, there is no order as to costs.**

REASONS OF THE COURT

(Given by Collins J)

Introduction

[1] Mrs Dickson was a licenced real estate agent. Her registration was cancelled when she declined to undergo a 90-minute te ao Māori course called “Te Kākano” as part of her continuing professional development (CPD). Pursuant to ss 37(1)(d)(i) and 54(d) of the Real Estate Agents Act 2008, where a person’s licence is cancelled because they have failed to meet their CPD requirements, they become ineligible to hold a licence for at least five years.

[2] Mrs Dickson applied to judicially review the decision of the Real Estate Agents Authority (the Authority) which resulted in the cancellation of her licence. Specifically, Mrs Dickson pleaded:

- (a) That the practice rules under which the Authority purported to mandate Te Kākano are invalid.
- (b) The Authority’s decision to mandate Te Kākano was invalid.
- (c) The decision of the Registrar of Licenced Real Estate Agents (the Registrar) declining Mrs Dickson’s application for an exemption was invalid.

[3] In the High Court, McQueen J dismissed the application for judicial review.¹ Mrs Dickson has appealed that decision. The Free Speech Union (New Zealand) Inc (the Union) now seeks leave to intervene under r 48(1)(a)(ii) of the Court of Appeal (Civil) Rules 2005 (the Rules). The Union’s application is supported by Mrs Dickson but opposed by the Authority and the Registrar. The third respondent, the Associate Minister of Justice, abides the Court’s decision.

¹ *Dickson v Real Estate Agents Authority* [2025] NZHC 50, [2025] 2 NZLR 265.

Governing principles

[4] In *Ngāti Whātua Ōrākei Trust v Attorney-General*, this Court summarised the relevant principles concerning applications for leave to intervene.²

- (a) The power is broad in nature but should be exercised with restraint to avoid the risk of expanding issues, elongation of hearings and increasing the costs of litigation.
- (b) In an appeal involving issues of general and wide importance the court may grant leave when satisfied that it would be assisted by submissions from the intervener.
- (c) The fact that the case raises issues of principles transcending the particular facts is not in itself sufficient to extend rights of hearing beyond the parties.
- (d) The Court will take into account the relevant expertise or the unique position of an intended intervener as well as the impact of the intervention on appeal.

Basis of application

[5] The application is confined to two of the five grounds of appeal. In summary those grounds alleged that the High Court erred in determining:

- (a) that Mrs Dickson's rights to freedom of expression, thought, conscience and religion affirmed in ss 13 and 14 of the New Zealand Bill of Rights Act 1990 (NZBORA) were not infringed; and
- (b) any infringement was justified.

[6] The Union contends:

- (a) Cognate jurisdictions have been willing to allow it to intervene in free speech cases and New Zealand courts should not resist allowing the Union to intervene in this case.³

² *Ngāti Whātua Ōrākei Trust v Attorney-General* [2017] NZCA 183, [2017] NZAR 627 at [11] (footnotes omitted).

³ Citing by way of example: *Higgs v Farmor's School* [2025] EWCA Civ 109, [2025] 3 All ER 641; and *Abbasi v Newcastle upon Tyne Hospitals NHS Foundation Trust* [2025] UKSC 15, [2025] 2 WLR 815.

- (b) The issues that the Union wishes to be heard on go beyond the immediate interests of the parties and have implications for others in society.
- (c) Intervention will not add unnecessary costs or lead to delays in the hearing of the appeal.

Analysis

[7] There are four reasons why we are not persuaded to allow the application.

[8] First, the principal question for this Court on appeal is primarily one of statutory interpretation. To the extent the arguments transcend the particular facts of this case, Mr Judd KC, senior counsel for Mrs Dickson, and Dr Butler KC, senior counsel for the Authority and Registrar, are more than able to assist this Court on the interaction between the facts of this case and Mrs Dickson's NZBORA rights.

[9] Secondly, the Union's summary of what it wishes to submit largely follows what Mrs Dickson submitted in the High Court and is unlikely to add anything that will not be thoroughly canvassed by the parties.

[10] Thirdly, the Union's reliance on overseas jurisprudence to support its application for intervention is misplaced. The criteria for intervention in New Zealand are well established and need not be expanded upon in this case.

[11] Fourthly, there is nothing to suggest the Union has special expertise that will enable it to assist the Court in ways that are beyond the capabilities of the parties. Counsel for the parties and this Court are sufficiently equipped to be able to analyse those matters within the confines of the submissions of the appellant.

Result

[12] The application for leave to intervene is declined.

[13] By agreement, there is no order as to costs.

Solicitors:

Franks Ogilvie, Wellington for Appellant
Crown Solicitor, Wellington for First and Second Respondents
Free Speech Union (New Zealand) Inc, Auckland for Applicant to Intervene