

In the High Court of New Zealand
Auckland Registry

I Te Kōti Matua O Aotearoa
Tāmaki Makaurau Rohe

CIV-2019-404-2682

under the **Judicial Review Procedure Act 2016**

between

Averil Rosemary Norman and Warwick Bruce Norman

Applicants

and

Tūpuna Maunga o Tāmaki Makaurau Authority

First Respondent

and

Auckland Council

Second Respondent

REPLY AFFIDAVIT OF MARY ELAINE TALLON

13 February 2020

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REPLY AFFIDAVIT OF MARY ELAINE TALLON

I, **Mary Elaine Tallon** (née Turner), retired, of Auckland, swear:

1. My family has lived on the slopes of Owairaka/Mt Albert for six generations. My great-grandfather came to Mt Albert area and his son, my grandfather Harvey Turner, built his family home at number 40 Summit Drive. This is on the upper slopes of the mountain, very close to the entrance of what is now the reserve. He brought up his family there.
2. My father John Penman Turner (Jack) was born and lived with his family in that house from 1915 until his death in 2005. I was born and lived on the mountain until my marriage. My brothers, their families and their grandchildren still live on the mountain in the home my grandfather built.
3. In 1917, my grandfather Harvey, in concern for the mountain, drove to Wellington to object to the destructive mining of the crater. He persuaded Prime Minister William Massey to put a stop to this. In 1920 he established the produce co-operative, Turners and Growers. Harvey was later appointed by Bernard Freyberg to run the New Zealand Forces Club in Cairo in 1940 and as such was host to the Maori Battalion. After the war, he was Chairman of the Auckland Harbour Board and took the Board to visit Northland to see Tane Mahuta. This was to encourage protection of the Waitakeres and the planting of indigenous trees there. One outcome of the visit was the establishment of Scenic Drive. He was appointed CBE in 1953 and knighted in 1967.
4. In 1939, my father Jack Turner volunteered to go to WWII. This was in response to the death of his mother Ethel Turner's 18-year-old brother (Edgar Penman) at Gallipoli. Ethel planted a cherry walk on the northern slope of the crater in memory of her young brother. That cherry grove is still there on Mt Albert today.
5. Jack eventually went to Egypt with the First Echelon. He sent olives back to his family while on leave in Jerusalem in December 1940, but due to his capture on Crete and transport to Silesia, Poland as a prisoner of war, his family were unable to establish whether he was alive for another seven months. They planted the olive seeds on the northern slope of the mountain in memory of him and lived in hope.
6. Jack did eventually return home, having survived the 1000km forced death march across Europe in the dead of winter which reduced him to 6 stone. The olive trees also remain on the mountain to this day.

305.1813

7. I have attached a typed transcript of a letter that Jack sent home to his family during the war. It is labelled Exhibit "A". Near the bottom of page 5, he mentions sending the olives home to New Zealand.

305.1821

8. Jack Turner loved the mountain and was an observant guardian of it throughout his lifetime. He lived a life of service to his family and community. He died in 2005. I have attached a printout of his obituary in the New Zealand Herald and have marked it as exhibit "B". It talks about his Mt Albert home as well as his internment in the war.

9. All of this means that Owairaka has held deep importance for me and my family since the beginning of the 1900s. Over a one-hundred year period, we have maintained the land carefully and respectfully, and planted trees both indigenous and exotic on the mountain. To this day, we regularly walk around the cone to marvel at the view, the sunset and sunrise, the bird life and flora.

10. I understand the Tupuna Maunga Authority intends to remove both the cherry grove and the olive trees, as part of its plan to remove all exotic trees on the mountain. I was not aware of this plan until late last year, when it was just about to go ahead. I was certainly never consulted or notified about it before the plan was made. If I had been, I would have made the authorities aware of the trees' importance to my family and to the mountain's heritage.

11. I am very opposed to the removal of the trees, as well as the other the exotic trees on the mountain.

This affidavit is **SWORN** at **AUCKLAND** this 13th day of February 2020 before me:



Barrister of the High Court of New Zealand


MARY ELAINE TALLON

Rayhan Langdana

Barrister

Auckland