

■ Judge overturns commission decision

Church takes on banks at own game

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THE High Court has overturned a Charities Commission decision to de-register a Whakatane church trust that makes interest-free housing loans.

Liberty Trust was registered as charitable under the Charities Act on October 8, 2007. It teaches and practises Biblical financial principles, including a mortgage lending scheme funded by donations. The interest-free loans are awarded to donors and a limited number of others in need.

On April 15, 2010, the commission advised the trust it did not qualify as a charity and deregistered it.

In her 45-page ruling, released on June 2, Justice Jillian Mallon set aside the commission's determination, reinstating charitable status.

The de-registration was prompted by a complaint made about the Liberty Trust to the Securities Commission in October 2008. The complaint was passed to the Charities Commission, which passed it on to the Crown Law Office. Crown Law's concern was whether making loans to donors was a charitable activity. A Charities Commission investigator was concerned at the time that the loans were part of an illegal pyramid scheme.

The trust was established in July 1989 by pastor Bruce McDonald, who prayed about the plight of mortgaged families in the church. Convinced that debt and interest were not in accordance with God's word, he and elders from the Whakatane Christian Fellowship

and Whakatane Baptist Church established a fund to which contributions could be made – the pooled contributions to be available for interest-free housing loans.

Contributors are offered an interest-free mortgage of five times the total they have contributed after about 10 years. They are asked to pay off the loan over terms ranging from seven to 15 years.

The contributions made to Liberty Trust are lent to Ark Resources, a company controlled by the trust, which lends the money to the borrower and takes a security over the property.

Anyone can join the scheme operated by Liberty Trust and making contributions is voluntary.

Since its inception, \$21 million of lending has been transacted across 280 households and churches by way of interest-free mortgages.

The trust believes its scheme teaches the Bible's financial principles through action and a brochure sets out Bible references to the effect that debt is a curse and a borrower a servant to the lender.

The commission's view was that teaching financial principles derived from the Bible was at best "conducive" to religion but did not "advance" it, an important difference. It also considered the main purpose of the trust, through its lending scheme, was to provide private benefits for its members.

"As such, the Charities Commission considered that Liberty Trust was not exclusively for charitable purposes," Justice Mallon says.

She says the issues she needed to determine through the appeal were whether the trust advanced religion, as opposed to merely being conducive to it, and whether it met the public benefit test.

"The overwhelming message promoted by Liberty Trust is a religious one," Justice Mallon says in concluding the trust does advance religion.

"Participants in the scheme would struggle not to notice the constant religious message Liberty Trust promotes," the judge says.

"There is no evidence that in practice the promoters of the scheme are using this message to promote an activity for personal advantage, or some other ulterior and secular purpose."

She says the evidence she saw convinced her the mortgage scheme was a public example of what is intended to be a "Christian approach to money and part of propagating the Christian faith".

She says she considers the scheme does not "displace" the assumption of public benefit and instructed the commission to reinstate the trust to the charities register.

Charities Commission spokeswoman Sandra Bennett said the commission would not appeal Justice Mallon's finding.

There is no evidence that in practice the promoters of the scheme are using this message to promote an activity for personal advantage, or some other ulterior and secular purpose.

— Jillian Mallon