

138N Proceedings may be transferred to different hearing authorities

- (1) If a disputant commences a challenge in the High Court,—
 - (a) The Commissioner may apply to the High Court to have the challenge transferred to a Taxation Review Authority; or
 - (b) The High Court may, of its own motion, transfer the challenge to a Taxation Review Authority.
- (2) If a disputant commences a challenge in a Taxation Review Authority, the Commissioner may apply to the High Court to have the challenge transferred to the High Court.

...

[2] Kensington Development Ltd's grounds for opposing the transfer application were fully considered by both Allan J and the Court of Appeal. The most meritorious of these (in terms of likely prejudice to Kensington associated with transfer) related to costs. Kensington is a company controlled by Mr J G Russell. He is not a lawyer and would be able to appear for Kensington before the Taxation Review Authority but not the High Court. As well, if the challenge was determined by the Taxation Review Authority, Kensington, if unsuccessful, would not be liable for costs. These considerations, however, were recognised and allowed for by both Allan J³ and the Court of Appeal.⁴

[3] The point at issue is in substance of an interlocutory character⁵ and the case has now been fully considered twice. The proposed appeal does not raise a point of general or public importance such as to warrant a grant of leave to appeal and we see no appearance of a miscarriage of justice.

Solicitors:
Ladbrook Law Limited, Auckland for Applicant
Crown Law Office, Wellington for Respondent

³ High Court judgment, above n 2, at [53]–[58].

⁴ Court of Appeal judgment, above n 1, at [10] and [33].

⁵ We note that the applicant has indicated that the challenge will be abandoned if the proceedings are transferred from the Taxation Review Authority to the High Court. The underlying issue, however, remains interlocutory in character.