

From: [Grace Haden](#)
To: ["Weight, Tim"](#)
Cc: ["Wilkinson, Wendy"](#); ["Barnard, Jan"](#); ["Lacey, Margaret"](#); ["Kelly, Muriel"](#); ["StopTheBillNow@gmail.com"](#); ["mayor@aucklandcity.govt.nz"](#)
Bcc: ["Penny Bright"](#); ["Gary Osborne \(gary.osborne@xtra.co.nz\)"](#)
Subject: RE: Swimming Pool Compliance and Inspection
Date: Monday, 17 May 2010 3:12:00 p.m.

Thank you Tim

It would appear that your letter is most timely with the debate on the search and surveillance bill

As a former police sergeant and now working as a PI I am very concerned about the powers of entry and powers of search, that is why I asked what your powers of entry were because I have researched this topic and there is no ability in legislation for councils to go on Fishing trips just to see if there is "on going compliance." as you put it.

It appears, from your email to me that the inspector called because of the length of time since my last inspection and not because he suspected that my pool did not comply. (had it not complied I could not have turned him away)

You have not provided me, nor did your inspector provide me with any grounds on which you believed my pool no longer complied and all evidence points that you are routinely rechecking pools without any statutory rights to do so.

You state "Inspections are undertaken by the council on a three yearly basis to confirm ongoing compliance, at no charge for the first inspection" Please provide me by way of LGOIMA with the legislation which

1. Provides for three yearly inspections
2. The ability to charge for these repeated inspections (first one being free of course)
3. The requirement for council to continue checking up on pool owners

You state that council is to take all reasonable steps, is it therefore not reasonable that the council has signed the pool off and on an impromptu inspection found they could not enter.

You will not require a court order to access my property if you could please advise what evidence you have in your possession that my pool does not comply. If you had such evidence I would have expected a letter from you stating that it did not comply and requesting an inspection due to non compliance.

You are now threatening to get a court order to inspect my pool, what will your grounds for applying for the order be? Your honour "We have not inspected her pool for years we have no legal basis for inspecting pools every so often years but we just feel like doing it and this lady is asking us to justify our illegal action "

Please provide me with the grounds on which you believe my pool does not comply and if it does not comply why you have not advised me of it before now.

Once I receive a reply to this email and have the answers which I seek I will consider my

options.

For the record I have never refused entry I have only ever asked for your legal right to do so - there is a difference.

I have at all times said that if you provide me with the legal grounds for you inspection I will Comply with the request.

I have posted this on the blog to show how Auckland city is already using this legislation unfairly.

Regards
Grace Haden



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From: Weight, Tim [mailto:Tim.Weight@aucklandcity.govt.nz]
Sent: Monday, 17 May 2010 1:01 p.m.
To: Grace@verisure.co.nz
Cc: Wilkinson, Wendy; Barnard, Jan; Lacey, Margaret; Kelly, Muriel
Subject: Swimming Pool Compliance and Inspection

Ms Haden

Thank you for your e-mail of the 19 April 2010, it has been forwarded to me today to respond.

I have checked the swimming pool file for the property at 23 Wapiti Avenue. At your direction the council has not been able to access the property since 17 February 2002 to check the ongoing compliance of the swimming pool.

Normally a letter is sent to the property owners to confirm that an inspection of the swimming pool will be undertaken in the near future. In the letter there is a phone number to contact the council if this is not suitable.

Due to the time delay from the last pool inspection visit the inspector called on site on 19 April 2010 to see if he could inspect the pool. You have refused access to the site as per the previous visit on 24 May 2005.

Council is obliged under section 10 of the Fencing of Swimming Pools Act 1987 to take all reasonable steps to ensure this act is complied with.

Inspections are undertaken by the council on a three yearly basis to confirm ongoing compliance, at no charge for the first inspection.

If a non-compliance is recorded and further inspections are required, an inspection fee of \$210.00 is payable for each inspection. These decisions are both by council resolution.

I have included the relevant section from the act for your information.

Please contact the council on 353 9143 before Friday 11 June to arrange a time suitable to you for the council to inspect the swimming pool.

Failure to contact the council to arrange this visit will result in a request to the court to issue an order to enter the property.

Yours faithfully

Tim Weight

Tim Weight
Manager Building Inspections
Auckland City Council
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www.aucklandcity.govt.nz

FENCING OF SWIMMING POOLS ACT 1987

Section 10. Obligation of territorial authorities- Every territorial authority shall take all reasonable steps to ensure that this Act is complied with within its district.

Section 11. Power of entry for territorial authority officers- Without limiting any other powers of any territorial authority, any officer of a territorial authority who has reasonable grounds to believe-

- a. that there is on any land within the district of the territorial authority a swimming pool to which the Act applies; and
- b. that the pool is not fenced as required by this Act, or any condition imposed under section 6(2) of this Act is not being complied with,-

may at any reasonable time enter on the land and carry out an inspection to determine whether or not there is on the land such a pool that is not fenced as required by this Act, or whether or not the condition is being complied with.

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