

Court is often the last resort

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LEGAL MATTERS



Under the various court rules, the process of resolving disputes is focused on settling disputes by alternative dispute resolution (ADR) rather than through court litigation. ADR is now sometimes called assisted dispute resolution and it is not seen as "alternative" any more but part of the main stream. Parties are obliged to undertake alternative dispute resolution methods to resolve their dispute, with the option of court proceedings being the last resort.

Here are some common forms of alternative dispute resolution:

Arbitration
An arbitration clause is often included in commercial contracts as a way to address any problems that may arise in the future.

The parties can decide on the arbitration process, but, apart from presentation of evidence and making submissions, have no control over the outcome.

An arbitrator or panel of arbitrators makes a binding

decision.

The award made is binding on all parties and is enforceable as a judgment of the court.

The parties have to pay the arbitrator, but the advantage is usually specialised knowledge in a specific area.

Lawyers are usually involved in the process.

Arbitration may offer a more cost-effective method of resolving disputes than court litigation. Arbitrations are not open to the public so they offer the advantage of privacy.

They can also be quicker than court proceedings because of limits on available court time.

Mediation

Mediation is where an independent third party assists the parties involved in a dispute to achieve a mutually acceptable resolution.

Mediation is included in a number of legislative dispute resolution processes, for instance in the areas of Employment Law and Family Law, Residential Tenancies and Resource Management.

Parties in a mediation are free to agree on how some of the issues can be resolved.

If there are multiple issues, parties may agree to dispose of



Court should be the last port of call in resolving a dispute.

PHOTO: LIBBY WILSON/FAIRFAX NZ

"Mediations provide a faster and less expensive way to solve problems and are not open to the public."

some issues but not others, and decisions can be made as to how disputes will be handled between the parties in the future.

The Employment Mediation Service is provided free of cost. The parties still pay for their own

legal representation.

However, if a private mediator is used they will be paid by the parties.

Mediations provide a faster and less expensive way to solve problems and are not open to the public.

They can also provide more remedies for resolving a dispute as the parties may agree on remedies that are not possible from a Court-ordered outcome.

Mediations can often be arranged very quickly so they are much faster than court proceedings.

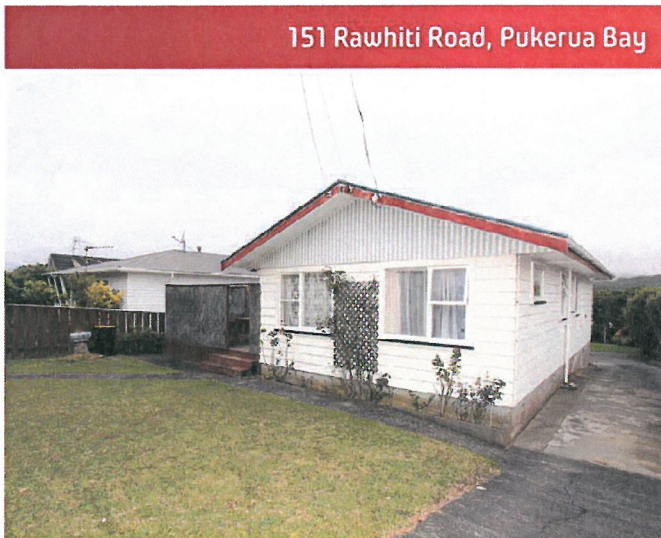
Also, mediations are confidential and offer privacy to the parties, both at the mediation and in the outcome.

In a further column I will cover negotiations, settlement conferences and tribunals.

Column courtesy of Rainey Collins Lawyers - phone 0800 733 484 or go to

www.raineycollins.co.nz.

If you have a legal inquiry you would like discussed in this column please email Alan on aknowsley@raineycollins.co.nz.

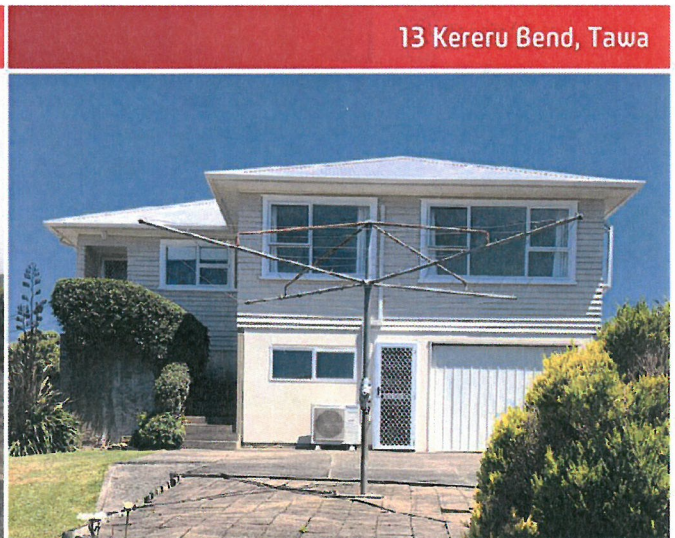


151 Rawhiti Road, Pukerua Bay

Sunny & Family Friendly in Pukerua Bay

You'll enjoy the sense of community Pukerua Bay is proud of, and a semi rural lifestyle but with most of the facilities the suburbs have to offer. This 5 bedroom, 2 living areas, split level property has plenty of storage space, a double garage with internal access, captures great sun and an awesome section for kids, pets and gardeners! Deadline: Sale closes 9/2/17 2pm at the Paremata Office (if not sold prior)

VIEW Sun 5 Feb 1.00-1.40pm
PRICE Deadline Private Treaty Thu 9 Feb 2.00pm, Paremata Office
CONTACT Marie Hook - 027 453 0521 marie@dwre.co.nz
WEBSITE dwre.co.nz/PTW10309



13 Kereru Bend, Tawa

Super Solid, Spacious & Sunny

This 1950s quality, split level property, located in a cul-de-sac should tick your boxes. The kitchen and dining room are separate, east facing with awesome views of Tawa. Its well presented and consists of 2 living areas, 4 bedrooms plus, 2 bathrooms, a single garage with internal access, a workshop and 'mancaue'. The garden is in full bloom at the moment and the manicured lawns are especially family friendly! Deadline: Sale closes 15/2/17 at 4pm at the Tawa Office. (Will not be sold prior)

VIEW Sun 5 Feb 3.00-3.40pm
PRICE Deadline Private Treaty Wed 15 Feb 4.00pm, Tawa Office
CONTACT Marie Hook - 027 453 0521 marie@dwre.co.nz
WEBSITE dwre.co.nz/PTW10310



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