

R E P O R T	TO	HEARINGS COMMITTEE
	FROM	REGULATORY SERVICES MANAGER
	FILE REF	P05386 - RE272896.RTF
	DATE	23 MARCH 2007
	SUBJECT	FENCING OF SWIMMING POOLS- WAIVER - 5002/889.00

Mr and Mrs Treanor have an in ground pool on their property at 9 Claremont Avenue, Paeroa, which is presently full of water. The immediate pool has a complying fence in every respect except that a stone retaining wall running parallel to the eastern fence potentially provides a step. Clause 1 of the Schedule to the Fencing of Swimming Pools Act 1978 requires that "the top of the pool fence must be at least 1.2 meters above any permanent object that is within 1.2 meters of the outside of the fence". The distance as measured from the top of the stone wall to the top of the fence is 1.1 meters. An application has been received from the Treanor's seeking a waiver for the 100mm. Photographs will be presented at the hearing.

Section 6 of the Act states that:

*"A territorial authority may by resolution, grant an exemption from some or all of the requirements of the Act in the case of any particular pool where the territorial authority is satisfied having regard to the particular characteristics of the property and the pool, any other relevant circumstances, and any conditions it imposes under subsection(2) of this section that such an exemption would not **significantly** increase danger to young children".*

"The territorial authority may delegate its powers and functions under section 6 of this Act and Clause 11 of the Schedule to this Act to any committee of the territorial authority appointed under Section 104 of the Local Government Act 1974 that comprises only members of the territorial authority; but may not delegate those powers to any committee that has any members who are not members of the territorial authority or to any officer of the territorial authority under section 715 of the Local Government Act 1974 or otherwise."

Mr and Mrs Treanor seek from the Committee, a waiver under Section 6 of the Act for the requirement for the distance from the top of the retaining wall to the top of the fence to be at least 1.2meters on the grounds that this would be impossible or unreasonable. The alternative is to relocate the entire eastern fence. It is my opinion from an inspection of the pool that it would be difficult but not impossible for a child of six(6) years or less to step from the wall to the top of the fence. They would be more likely to lose their balance and fall between the wall and the fence.

RECOMMENDATION

THAT the request from Mr & Mrs Treanor seeking a waiver to reduce the distance from 1.2m to 1.1m as required by Clause 1 of the Schedule to the Act be granted on the grounds that it would be unreasonable for the fence to be moved. Allowing the exemption would not significantly increase danger to young children.

The waiver is subject to the following conditions:

- a) That the decision of Council be entered on the title of the land by the owners for the information of a future owner.
- b) That in every other respect the pool and fencing complies with the Fencing of Swimming Pools Act 1987.

Russell Bierre
Regulatory Services Manager