**Ernest**

**Christchurch flat land red zone**

**Area 6: Avondale, Aranui, Bexley, New Brighton, Wainoni**

**Red zoned in June 2011**

**Living on the red zone/green zone border**

**Ernest’s story**

My name is Ernest. I am an immigrant from Taiwan and I have been here since the mid-90s. I went to high school here, went to uni in the US and then I came back to Christchurch and started my own business. I run a natural food store, which sells natural foods and products. It’s a niche market with a very niche customer base, but we have a very loyal and diverse customer base. A number of my customers are aware of my personal struggles with the red zone problem and they have been more than supportive.

I live with my sister. We share a house that used to be my parents’. We had very elaborate plans to expand the business − my sister is sort of my business partner as well − and make our respective lives better. The business is a big part of it, and the house we share is also a big part of it, because it holds substantial value. Well, it *held* substantial value, and the equity in the house was going to be used as part of the business plan.

As you can imagine, all the red zone BS completely derailed everything, not to mention the problems associated with what the earthquake damage brought to the business itself. Everything got set back and destroyed, derailed. Not to mention the time and hassle I have to put in − all the countless hours of going to meetings, going to discussions with lawyers, preparing paperwork, and hours of worrying and being stressed and not being able to focus on the work I needed to do. All these − and complications that naturally came with dealing with government − took a financial and emotional toll.

So the business was put on the backburner. We went from doing quite well to struggling after the earthquake, but then we bounced back really quickly. We had a lot of support from the customers that we have attracted over the years, which was quite amazing. And then all of a sudden the red zone problem appeared, and that took a very big financial toll on me and the business, because I am ploughing every cent the business makes into it, and that makes the business a struggle. At times money can become a bit tight, so I had to watch the cash flow very carefully and try to balance the needs of the business with the needs of paying the lawyers.

I consider myself to be a shy person, someone who is politically indifferent, a bit passive. I probably wouldn’t even bother going to the voting booth if it weren’t for the experiences I have had over the last four-and-a-half years. I could never have imagined I would be involved in activities like meeting a lot of different people, meeting with politicians and learning various skills such as public speaking, or being interviewed by reporters. Things like that never interested me, and I had no intention of going into anything like that. I just kept my head down and I was doing my own thing, working on my own business and not bothering anybody, and just trying to make a good life for myself.

**Reasons for agreeing to interview**

I think it is important that people know my story, and hopefully some government bureaucrats will read my personal story, and if they have an ounce of humanity they will see my side of the story as opposed to treating me and others like a “figure to be managed”, to quote some of the bureaucrats I have dealt with. They kept repeating the word ‘managed’. They were very businesslike and they talked down to us, and they repeatedly used terms that came straight out of business school. I went to business school, I have an MBA [Master of Business Administration] degree, so I recognise business speak when I hear it. I can tell people that the bureaucrats were in a management mind set and they were treating people as numbers to be managed.

**Ernest’s property after the February 2011 earthquake**

Post-earthquake February 2011 everything was a mess. I was struggling to get the shop back up and running and everything was focused on that. My house was not badly damaged, which was very surprising. I guess it was because it was very well built thanks to the original owners, who did the planning and building. They did a very good job with the foundations and quality of workmanship, so I was pleasantly surprised.

The only damage bad enough to have fixed right away was a leaky hot-water cylinder, which had a wee crack on the top where it connected to the outlet. It couldn’t be fixed, so I had it replaced as soon as I could get a plumber. Inside the house the gib board had only one visible crack, 25 cm long and slightly bigger than a hairline crack. There was a little bit of liquefaction, but nothing we couldn’t handle. So that was pretty much what the earthquake did to my house.

**Learning of the red zoning**

I’m 100 percent certain I did not receive a letter from CERA [Canterbury Earthquake Recovery Authority] advising of the red zoning. I learned about it through a friend about a week after they announced it. A friend of mine came and said, “Did you hear the news? The government is imposing a red zone and I heard it is mainly around the river. What about your house?” I said I hadn’t heard anything like that, I had been pretty busy, I hadn’t been watching the news. I had no idea. What’s that all about? I found out that the government had announced on the 22nd or 23rd of June the red zone, and my house was just inside the boundary. My next-door neighbour was in the green zone.

So it was, OK, what does that mean? And I looked into it, and pretty much the government was saying, “You folks have to leave. We’re going to buy you out using a specific formula with a couple of options.” And as I dug deeper people, like me who did not have homeowners’ insurance at that time were left out. They specifically said people who had homeowners’ insurance would be offered the option, but they left out everyone else. So I rang CERA and asked them, and they said there’s no plans for you guys yet, there’s no policy. So at that time I was a little bit worried. OK, maybe they just haven’t thought of what to do with us yet. Maybe there is additional assistance because we did not have homeowners’ insurance.

It sounded to me like the Government was trying to assist people in the worst-hit areas, so I thought, given my experience and what I know from overseas and common sense, that any government would try to provide additional assistance to people who had less means: the uninsured and people who were worse hit. But then as time went on and nothing came out from CERA, I just kept ringing them and writing to them and asking for clarification, and all I heard back was a standard script from people who answered the phone on the toll-free numbers.

So I pushed more, and they would reluctantly pass me on to people higher up in management to answer my call, and they would just say, “You know, people are going to move out, it’s going to be a very deserted area, people are going to abandon their homes, why would you want to live there?” I was shocked. I thought, “What the heck are you talking about? I live here. Why would I not want to live here? You haven’t provided me with any options or anything to assist me. You are getting rid of my neighbours and turning my neighbourhood into a deserted place, and you are asking me why do I want to stay behind? It’s like I have a choice?”

So I immediately thought something was wrong. There was at least a communications disconnect, if not something more sinister going on. So I looked at talking to other people similarly affected. I had a hard time finding more than just one or two others, because people like me are pretty few and far between. I made friends that I met through community meetings organised by CERA, and a lot of them were not in the same situation, but they were pretty pissed about the limited options that were being offered. Mind you, those folks had homeowners’ insurance and they felt they were bullied into accepting option one or option two to sell to the Crown, and they had to do it on short notice and were given limited time.

The way the CERA people − the bureaucrats − were answering questions during those community meetings was quite limited and constrained. At times they had unanswered questions, and at times they said they needed to refer back to government to be able to tell us the answers. I decided later on something was fishy. We need to talk to a lawyer. It was by chance that I met my lawyer, because I was helping a friend I made through one of the meetings. So that’s pretty much how I learned about the red zoning and what the effects might be.

**Other uninsured red zoners**

I had no idea how many people would be in the same situation, but I guessed there wouldn’t be many because of the way the mortgage system is structured in New Zealand. All the banks want to have their pie and eat it too. They want their houses as security, and they also want it secured with insurance policy, whereas in America people just have to sign over the mortgage, the lien for the house. I knew that difference, so I guessed there would be a lot of people that are insured, because it’s required by their banks.

I thought, how many people would be well off enough to own their houses outright with no mortgage? Then they would have the option of not having to be forced by their banks to insure their properties. So I actually rang a couple of MPs. [One of them] was kind enough to return my call right away, and I spoke to her about my situation and asked what could be done about it or if she knew what was going to happen. She was courteous but wasn’t very helpful. She wasn’t in a position to make a decision or influence a decision, I gathered [...].

I remember quite a number of elderly ladies who were living alone at the time. I personally met a few of them and I went to their homes. They were in a very vulnerable situation because they did not know their rights or what they were doing or what was happening. They weren’t in the loop at all. They just couldn’t understand the complicated offers and deals and options and what it meant for them. I had a hard time trying to explain to them that we were being left out and the government hadn’t told us what they had decided to do with us yet and what was happening to their neighbourhood and their neighbours, why they were moving out.

A few people just had no cash flow. Elderly ladies on a pension: they can barely scrape by. How can they fork up $2,000 each for a lawyer? So I lent some people money to get the ball rolling, as I was in a position to do so and was happy to do it.

**Framing the issue as an insurance issue**

As time moved on, and we had more and more evidence in terms of Cabinet papers or what the politicians and Ministers say in public in interviews − things that slipped their tongue here and there, and things they did and things they didn’t do − it all pointed to a picture that they weren’t really singling out the uninsured folks. The reason they left us out − the uninsured folks, the vacant section owners and, most importantly, the commercial property owners – was that we were all in a category they didn’t want to pay out at all. All three groups had the same common denominator: they are not clients of EQC [Earthquake Commission] because the land components weren’t EQC insured.

I concluded it had something to do with EQC. The question became, “Why do they want to buy these people out, and why not use the compulsory acquisition rules in the legislation they could have used?” Instead they had to go through this charade of a voluntary offer. Later I learned it wasn’t possible for the Government to use compulsory acquisition because there was no *purpose*. You need a public work purpose to compulsorily acquire, and even if they could compulsorily acquire people’s properties − all these 8,000 homes in the red zone − they could not legally ask people to surrender their insurance policies, either the EQC insurance policy for the land or the insurance from their private insurers.

There is no legal basis for any government to ask the homeowner to surrender their insurance policy under a compulsory acquisition. That would be ludicrous. People would cry foul that they were being ripped off, because any accountant or anyone that knows basic accounting will know insurance policies are treated as an asset. In bankruptcy situations, if you have an insurance policy, it is treated as an asset. In any accounting situation they are treated as assets. An insurance policy is an asset separate from the property itself. The Government needs to determine the price and buy the property, but the owner retains the insurance policy and deals with their insurer on compensation issues separate from government acquisition. If the Government did that it would cost them a lot more money and the people would be a lot better off, and I think that is one of the major reasons that route wasn’t pursued. It just wouldn’t fly.

Continuing the hypothetical scenario of a compulsory acquisition rather than the red zoning: the other issue would be what price the Government needs to purchase these homes at. Under the legislation − both the Public Works Act and CERA legislation − the price would have to be the price at the market value before the point of red zoning, or before the point of earthquake. The Government would not have the benefit of the red zoning then because people would say, “Oh you want to buy us? That’s why you made this red zoning and are trying to artificially depress the price!” So they could not do the red zoning and the Government would have to say, “OK, the price will need to be market value prior to the earthquake,” and you could imagine that would be a lot more than what they have paid people now. So I think that’s a very shrewd business-like charade this government came up with, and the uninsured homeowners, the vacant section owners and the commercial property owners were the collateral damage caught in the middle.

The Government honestly did not have a clue how to deal with these people at that time, and perhaps even now. The target was 8,000 other people − not us, that’s my opinion. That’s why they are so resistant about giving us what we are asking, which is at least on the same terms as all those 8,000 other folks. They could not justify that because all these 8,000 other people would turn around and say, hang on a minute, these people got full 2007 RV [rateable value] and we got full 2007 RV as well, but we had to give up our insurance policies as well but those folks did not have insurance policies to give up.

**Pursuing legal action: The Quake Outcasts**

Legal action was always a possibility from the outset. We got together as a group after quite a lot of work by myself and a few others − it must have been late 2011 − after a few months had passed but nothing was forthcoming. At that time a Cabinet paper may have been released, and a sentence in the Cabinet paper made the Government’s attitudes towards the uninsured homeowners clear: they intended to screw us over. They had no positive feelings about us, and they held a really skewed and false belief that somehow if you did not have homeowners’ insurance, the Government could kick you out in the event of an earthquake.

It wasn’t one big thing. There were a lot of little signs coming from Government and CERA that led to the conclusion by our lawyers that it did seem as if they did not have good intentions and things might, just might, get to the point where a lawsuit was likely. That was discussed from the beginning, but I thought, given they are lawyers they would say that. That would mean more work for them.

We did try to resolve this outside of court in the beginning. There were attempts to communicate and then negotiate with CERA and the Government, but we were met with a lot of fobbing off. By ‘we’ I mean ourselves and the lawyers. They were fobbed off numerous times. So it was not until after 2012 or 2013 − very close to the time we actually decided to sue − that the government people may have had a meeting or two with our lawyers. I think it was a week or a few days before we actually filed that the lawyer had the first meeting with Roger Sutton and the key people. That was the first meaningful meeting with CERA personnel of any consequence. Any other communication prior to that would have been telephone calls or low-level meetings with people who weren’t in a position to discuss the Government’s position or decisions.

My own efforts and other people’s efforts to communicate with CERA were met with referrals to a branch of CERA called “Community Wellbeing” or something, which sounded like a psycho-babble, touchy-feely kind of organisation that were treating people like mental patients. Like we were mentally damaged and we needed a head shrinker or something. So I immediately thought that wasn’t helpful, those people weren’t given the power to decide the important issues, that was a dead end. But a lot of folks weren’t sharp enough or calm enough at that time to realise that, so there was a lot time wasting and a lot of frustration because they were met with what they perceived as ineptitude from the bureaucrats, when in fact the people they were talking to weren’t the right people to start with.

We filed in the High Court for judicial review. It’s a special type of law suit that only the High Court can do to review the policy decisions made by government ministers. We filed for a judicial review with the Christchurch High Court and asked the Court to review the red zoning policy and the policy to offer us 50 percent land-only RV announced in September 2012. The High Court came back and said, yes we hear you and we agree with all of your arguments, and it declared that the offer of 50 percent land-only RV was not made lawfully. So it was unlawful, it was an unlawful policy made by the Government minister. The decision to red zone and the whole zoning process was also made outside the law.

Interestingly, there appeared to be some communication mishap between our lawyers and the court. As a result, the High Court judgment did not explicitly decree that the red zoning was unlawful, which I thought was a convenient coincidence. Otherwise it would have made very big headlines and it would be a big uproar from people who weren’t happy about how they were treated. The other 8,000 people that were insured and weren’t happy with how they were treated would have had something to say about that whole zoning process, because they were caught by surprise.

Nonetheless, we pushed ahead after the Government failed, yet again, to come back with a fresh decision that was favourable, or at least what we asked for. The Government actually appealed at that stage to the Court of Appeal. The Court of Appeal ruled that the red zoning policy was legal, but they upheld the High Court decision that the offer to us was illegal, so that was good for us in part. Then, after months and months, the Government still did not make a decision we were hoping for, and the time limit was running out for appeal, so we had to appeal to the Supreme Court.

The Supreme Court decided that the red zoning was unlawfully made, but again they said they would not make a declaration about that because they saw no point, which was an interesting and unfortunate coincidence yet again. I was very disappointed that the Supreme Court did not see the value of declaring the zoning decision unlawful. That puts a big question mark over how independent or trustworthy the judicial system, especially at the very top, might be. What were they thinking when they made that decision not to spell out and make a declaration? If you read the whole judgment, essentially the court did say that all the decisions the Government made, all the reasons the Government presented for the zoning, were rejected. So essentially it was unlawful, but the Court just declined to make a legal declaration. I still wonder what sort of side-effect that will have down the road. I don’t know. I know it can’t be good for the country.

At least we got the declaration that the offer was unlawful and that the Government must remake the decision, so after a few months the Government made a decision that is in front of us now: 100 percent of the land-only RV and nothing for the house. I think a lot of people were fooled into believing that, “Oh yeah, they got 100 percent, which is what they were asking for.” The 100 percent is only for the land, not for the house.

**Broader implications of the uninsured red zoners’ situation: property rights**

This issue is not just about Christchurch or Canterbury or the earthquakes. It’s about private property rights. Private property is so important and human dignity is based on the respect for each other’s things. Otherwise you cannot have that harmony in society, in a country, and there will be no trust. Business wouldn’t work, relationships wouldn’t work, because there is no guarantee that your things or my things will remain yours or mine. So the way I see it, the Government is undermining that system of trust that people place on everything. It’s the foundation. Our whole civilisation is based on that, and you can’t just remove that level of trust. It would become anarchy and nothing would work.

Some people just don’t see that and don’t see it as important enough. I guess I’m probably sounding like a fundamentalist right-wing or ultra-conservative libertarian now, but I think having an immigrant’s perspective − I came from a country that was once very authoritarian and we didn’t have all the rights that New Zealanders have enjoyed for ages since the founding of the country − gives me a unique perspective on how important these rights are that the average Kiwi might take for granted and not think twice about. And when their Government did something that did not immediately affect them, they turned a blind eye, and that really concerns me.

This issue motivates me because I’m committed to this country. I chose to come to this country and make a life for myself here. I see my future here in New Zealand, and I want to make it better. I want to make my future better. Why wouldn’t I want to make it better if I want to be a part of it?

I haven’t really decided yet [what I want to do], but we will do whatever we can to fight this. For me, personally, there were times that my resolve was tested, especially when some public opinion seemed quite hostile towards people like me. That made me think, “Why do I give a shit about property rights in this country when native people don’t give a shit?” I could just cut my losses and pack up and leave, go somewhere else where I feel I’ve had better protection of property rights and where I could make a better life for myself and my future family. But that’s not an easy decision to make, and I would get the feeling that I’m giving up on these people as well. I kind of made commitments to a number of friends I made through the whole saga. I feel like I would be abandoning them, so that kept me going.

Later I learned that a lot of the negative opinions were not genuine − especially the very hostile comments. Opinions that were published in the comments sections online on newspaper websites were the result of PR work by “certain elements” − let’s just say it that way, “certain elements” − and I have evidence of that. So I was very pleased, especially after CERA’s own consultation process this year, that all the social media commentary was overwhelmingly supportive of us. That was very nice and validated my suspicion that most people are supportive, and that the very loud, negative, hostile voices are probably not that genuine.

**Media**

The media as a whole did a lousy job. The quality of reporting is terrible in this country [...]Mind you, it’s not everybody. There are some exceptions, some really good journalists that I really respect and like. I can’t remember names in particular, but he did outstanding investigative journalism perhaps eight, seven years ago. After that generation of reporters was gone, the younger generations … it may have something to do with their training. Everything needs to be fast, fast, so very little fact checking, very little digging and reading source material. It is evident to me, reading a story about myself where I was interviewed, and still see factual errors or misquotes. I tell people nowadays, “You can’t believe everything you read in the newspaper”.

**Living in the red zone**

I have some likes and dislikes about living in the illegal red zone. It is difficult to live in at times, because you get the undesirable elements of society that come around and dump rubbish, nick things, make graffiti, do car burn outs, boy racing, that type of thing. Minor property crimes and also some arson, but thankfully not near where I live. But all these problems were created by the Government when they made the illegal red zone. I think it might be a good idea to make a reality TV series and say, live in the red zone for x number of days. Call it “Survivor Illegal Red Zone Christchurch”, and we’ll see how that goes.

There are numerous inconveniences. The post doesn’t come that often for me. I was lucky enough to negotiate with NZ Post to still deliver because of my proximity to the green zone, but for everybody else NZ Post stopped delivering to their door. You can’t get pizza, you can’t get a lot of the delivery services, you can’t get any courier services. You can’t get telecommunications companies to do repairs that are unrelated to the earthquake, because they say the red zone is abandoned so they’re not going to spend any money to repair anything, even though it’s just natural wear and tear and it’s their contractual responsibility to repair it when something breaks down. That’s what happened to me. I had to switch to wireless communications for a time.

I had some really expensive railway sleepers lining my driveway stolen. As a result, because they were for retaining, a lot of soil and trees just came out onto the driveway after the rain. So that’s very difficult. I’ve got to clean up every time after rain. The Police weren’t able to do anything. I mean, where do they even start? I just came home one day and everything was gone. It must have taken those thieves two or three hours to remove those giant railway sleepers. There were 45 in all and they each weigh about 20 kg. They would have needed a truck and a trailer, but nobody saw anything.

And recently, a couple of months ago, there was a car burnt out just in front of my house. So the fire service came and put it out and left a burned-out car there for a few days until I hounded the City Council to get rid of it. Things like that. People doing donuts and wheelies on the street. And there will be strange people lurking around, and you will think, what are they doing here, they’re not living here, why do they park their car here and sit inside, or why do they have to walk in this area, are they going to their house or from their house?

In some places the road is quite damaged. There are giant holes, like a permanent pond. Every time it is high tide the water just back flows in from a storm drain. They should have fixed the valves lining the river and stopped the problem, but all these years on they still haven’t fixed them.

There were problems with noise as well, with lots of trucks coming and going doing all kinds of work. At first it was demolition, and then there were other rebuilds and different kinds of works going on, and they were coming and going at all hours, and the contractors would set up depots across the road from my house and they would park equipment − diggers, rollers and bulldozers and trucks and machines − and people would be talking, shouting, laughing, smoking, blasting radios and warming their engines day and night, any time they feel like, coming and going. Trailers, especially the big trucks, make quite a bit of noise, and when those heavy vehicles damage the road they just keep going and keep making the potholes bigger until all the potholes connect into a giant crater.

And nothing is happening. It’s very frustrating to have to come home to a desolate ghetto every day. It’s not a good feeling. At the end of a long day and you have been working hard, to come home to see all this shit going on or not going on around you. It’s just a constant reminder that the Government doesn’t give a shit about you and they are happy to screw you over and there’s nothing you can do about it.

**Suffering and compensation**

The issues are long lasting. It’s not just the money. The money is the last thing we should be looking at, but it’s important. My health has deteriorated significantly since the red zoning trouble began. I never got colds or flus, never, and now I’m getting multiple flus every year. I was very sick a couple of times and my doctor couldn’t find out why. He was just saying that you’re too stressed, you just need to relax, you need to do meditation, chill out, eat well, sleep well and just relax and take a holiday. But it’s not possible. I already work very long hours in my business to keep everything together. I don’t need all this red zone trouble the Government has put on me. It’s like a low-grade fever. It’s just constantly in the back of my mind.

I have not slept well in a very long time, and always have a low level of worry and stress. It’s very, very infrequent that it is not there. You’re not actively thinking about it, but something will just remind you − you see something or you hear something − and it reminds you of the things they are doing to me. It’s a constant bombardment of pressure and stress, and there’s just no escaping it. You just want to give up and say, “Fuck it, I will cut my losses and get the hell out of here,” but it’s not that easy.

I’m physically OK now, but just barely hanging on. I’m still not old but I’m not young like when I started doing this. My face has aged quite a bit. People who haven’t seen me in years say that. When Just a few years ago, prior to the earthquake, people mistook for a student: “Oh, you go to school here?” But they don’t say that anymore, which is a good thing, I think.

It is suffering. It’s psychological torture. I think that is the best way to describe it. It’s very fitting to call this psychological torture, because of that uncertainty. Psychological research has shown that given a choice of a negative outcome and uncertainty, people choose the negative outcome because it’s preferable to the unknown.

I’m not sure if I want to stay in my house long term. I can’t make a decision because it’s been in limbo for years and years. It’s not my call. The Government could decide to kick me out if it wanted to, or it could just leave me here to rot, or pay me and buy me out, whatever they feel like. It’s their decision. It’s not mine. They aren’t telling us what they are doing, so I’m being held hostage. I can’t make any decision.

I’ve got things that I need to fix in the house. It won’t be cheap, because after years of neglect and not doing the upkeep … I have no idea whether it’s worth spending the big money to do it up and renovate and repair it. It’s not earthquake-related at all, just normal wear and tear that you need to do. If I leave it, it’s going to get worse because one leak becomes something bigger and other things might happen and exposed to the elements, and it’s not just a repaint job anymore. These things are not cheap. Do I invest the money and hope that I can get to stay and retain my value? Or maybe in a short time I will get things right and be able to move out and move on. I don’t know. I’m paralysed. I can’t make a decision.

**Recommendations**

Just look at [examples of how to manage disaster recovery] from other countries, other liberal democracies. Look at Australia or the US. I put this information out there numerous times but the politicians don’t care. Just look at Australia, their flooding and wildfires. They’ve managed pretty well. In a similar situation where there might be flooding risk, they already had some property buy-back provisions in place that were respecting people’s choices and respecting people’s private property rights and giving people genuine options, not Hobson’s choice. And it’s structured in ways that are very generous, compassionate and doesn’t cost so much money to the Government, and that make a good precedent as well, not just for legislative structure or the logistical structure.

I’m also talking about the way they communicate and present information to the population. They need to treat people like human beings and not as numbers to be managed. The decision makers need to treat their people like family, they are in this together, as opposed to, “You buggers cost me this headache so I’m going to manage you guys like numbers.” Like, in the States − just look at Hurricane Katrina. This is by no means the model example, but they are leaps and bounds better than what has been happening here in Canterbury. I would like somebody to do some desktop research and learn what other countries have done and done well, and that has been well received and got good results, and just copy them. There’s no shame in copying a good policy. Don’t reinvent the wheel.