



HIGH COURT OF AUSTRALIA

10 June 2015

ISBESTER v KNOX CITY COUNCIL

[2015] HCA 20

Today the High Court unanimously allowed an appeal from a decision of the Court of Appeal of the Supreme Court of Victoria. The High Court held that the decision-making process used by the respondent's delegate in exercising power under s 84P(e) of the *Domestic Animals Act 1994* (Vic) ("the Act") was contrary to natural justice because a fair-minded observer might reasonably apprehend that a person who took part in the decision-making might not have brought an impartial mind to the decision.

The appellant had been convicted in the Ringwood Magistrates' Court of an offence under s 29(4) of the Act, on a charge that her Staffordshire terrier had attacked a person and caused serious injury. Following a hearing before a panel, a delegate of the respondent who had been a member of that panel made a decision under s 84P(e) of the Act that the appellant's dog be destroyed. Another member of the panel, who had participated fully in the panel's decision-making process following the hearing and drafted the reasons for the decision, was an employee of the respondent whose duties involved the regulation of domestic animals under the Act. She had been substantially involved in the prosecution of the charge in the Magistrates' Court.

The appellant, unsuccessfully, sought judicial review of the respondent's decision in the Supreme Court of Victoria. The appellant's appeal to the Court of Appeal of the Supreme Court of Victoria was limited to the ground of apprehended bias. The Court of Appeal found that the ground was not made out and dismissed the appeal. By grant of special leave, the appellant appealed to the High Court.

The High Court unanimously allowed the appeal. The Court found that a fair-minded observer might reasonably apprehend that the respondent's employee might not have brought an impartial mind to the decision to destroy the appellant's dog, because her role in the Magistrates' Court proceedings gave her an interest that was incompatible with her involvement in the decision-making process of the panel. The Court found that, although another member of the panel was responsible for making the decision to order the destruction of the dog, there was still an apprehension that the involvement of the respondent's employee in the Magistrates' Court prosecution might affect not only her own decision-making, but also that of the other members of the panel. The Court found that natural justice required that she not participate in making the decision, and that the decision of the respondent's delegate must therefore be quashed.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*

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