

IN THE SUPREME COURT OF NEW ZEALAND

**SC 73/2005
[2006] NZSC 22**

BETWEEN WAITAKERE CITY COUNCIL
Appellant

AND ESTATE HOMES LIMITED
Respondent

Hearing: 3 April 2006

Court: Blanchard, Tipping and McGrath JJ

Counsel: M E Casey and R B Enright for Appellant
D J Neutze for Respondent

Judgment: 4 April 2006

JUDGMENT OF THE COURT

[1] Leave to appeal is granted.

[2] The approved grounds are:

- (1) Whether compensation should be assessed as if the land had been taken by the Council, or as an ingredient of a condition imposed on the granting of a resource consent, or otherwise; and with what consequential effect.
- (2) Whether condition 2(o)(vi) satisfied the requirements of the *Newbury* test.
- (3) Whether the formation and vesting of Marinich Drive constituted “services or works” under s 108(2)(c) of the Resource Management Act 1991.

(4) Whether the High Court was empowered under Rule 718A to determine the nature of the road which, but for the designation, would have been appropriate; or whether it should have referred that matter back to the Environment Court.

Solicitors:
Kensington Swan, Auckland for Appellant
Brookfields, Auckland for Respondent