

IN THE SUPREME COURT OF NEW ZEALAND

**SC 46/2009
[2009] NZSC 81**

BETWEEN CASHMERE CAPITAL LIMITED
Appellant

AND CROSSDALE PROPERTIES LIMITED
AND ORS
Respondents

Court: Blanchard, McGrath and Wilson JJ

Counsel: G A Hair for Appellant
 N A Till QC for 2nd to 8th Respondents

Judgment: 24 July 2009

JUDGMENT OF THE COURT

- A Leave to appeal is granted.**
- B The approved ground of appeal is whether s 22(1) of the Retirement Villages Act 2003 applies to the exercise by Cashmere of its rights under its mortgage.**
- C The second to eighth respondents support the judgment below on the following additional grounds:**
- (i) That Cashmere consented to leases in favour of them in terms of the exception to s 119 of the Land Transfer Act 1952 or in terms of section 138(1) of the Property Law Act 2007;**
- (ii) That Cashmere became an “operator” of a retirement village under the Retirement Villages Act with the consequence that it was obliged to register the retirement home and that the respondents are entitled to the benefit of s 22 of the Act.**

Solicitors:
Malley & Co, Christchurch for Applicant
Steel & Co, Christchurch for Respondents