

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 33/2010  
[2010] NZSC 82**

BETWEEN                      MARLBOROUGH DISTRICT COUNCIL  
   Appellant

AND                              ALTIMARLOCH JOINT VENTURE  
   LIMITED  
   First Respondent

AND                              D S & J W MOORHOUSE  
   Second Respondents

AND                              VINING REALTY GROUP LTD  
   Third Respondent

AND                              GASCOIGNE WICKS  
   Fourth Respondent

Court:                      Blanchard, Tipping and McGrath JJ

Counsel:                      D J Goddard QC for Appellant  
   M E Casey QC and R M Dunningham for First Respondent  
   M R Ring Q C and A B Darroch for Third Respondent

Judgment:                      14 July 2010

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**JUDGMENT OF THE COURT**

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- A            The application for leave to appeal is granted.**
- B            The approved grounds are:**
- (i)           Whether a duty of care is owed by a local authority to the recipient of a Land Information Memorandum (LIM) issued under s 44A of the Local Government Official Information and Meetings Act 1987.**
  - (ii)          If so, whether Altimarloch Joint Venture Ltd suffered any loss recoverable from the Council by reason of breach of that duty of care.**

## **REASONS**

[1] The Court declines leave in respect of the proposed grounds stated at paragraphs 11.1, 11.2 and 11.3 of the appellant's submissions, namely those concerned with whether the information given by the Council in its LIM concerning the Moorhouses' water rights was given in terms of s 44A of the Local Government Official Information and Meetings Act 1987, and whether s 41 of that Act applied to that information. The reasons given by the Court of Appeal for rejecting the Council's arguments on these issues are entirely persuasive and we are satisfied that the proposed appeal on these grounds has no prospect of success.

Solicitors:  
Heaney & Co, Auckland for Appellant  
Buddle Findlay, Christchurch for First Respondent  
Duncan Cotterill, Nelson for Third Respondent