

IN THE SUPREME COURT OF NEW ZEALAND

SC 28/2010
[2010] NZSC 78

BETWEEN NORTH SHORE CITY COUNCIL
Appellant

AND BODY CORPORATE 189855
First Respondent

AND P L HOUGH & ORS
Second Respondents

Court: Elias CJ, Blanchard and McGrath JJ

Counsel: D Goddard QC for Appellant
G B Lewis for First and Second Respondents

Judgment: 13 July 2010

JUDGMENT OF THE COURT (BYRON AVENUE)

- A The application for leave to appeal is granted.**
- B The approved grounds are:**
- (i) **Whether and in what circumstances a local authority which performed regulatory functions under the Building Act 1991 in relation to construction of a multi-unit residential development owed a duty of care to purchasers of units in the building to ensure that it complied with the building code.**
- (ii) **Assuming such a duty exists, whether it extends to:**
- (a) **Such persons who did not themselves at the time of purchase intend personally to occupy their unit(s) (investor owners); and**
- (b) **Persons who subsequently acquired such units from the first purchasers after a claim for breach of duty to their predecessors had accrued; and**

- (c) **The body corporate.**
- (iii) **Whether the conclusions which would otherwise be reached are affected in circumstances where the Council declined to issue a code compliance certificate.**
- (iv) **In light of the conclusions reached on the foregoing grounds, how these issues should be determined in the particular cases.**

Solicitors:
Heaney & Co, Auckland for Appellant
Grimshaw & Co, Auckland for Respondents