

BETWEEN PETER HARDIE MCNAMARA AND  
PATRICK STURGEON MCNAMARA  
AS TRUSTEES OF THE P H  
MCNAMARA FAMILY TRUST  
Appellants

AND AUCKLAND CITY COUNCIL  
Respondent

Court: Blanchard, McGrath and Young JJ  
Counsel: B O'Callahan and G S G Erskine for Appellants  
D J Goddard QC for Respondent  
Judgment: 30 November 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:**

**Whether a local authority:**

- (i) owes a duty of care to purchasers of units in a residential development for which a code compliance certificate was issued by a private certifier which was acting outside of its authority to issue such certificates; and/or**
- (ii) was immunised by s 50(3) of the Building Act 1991 against liability in relation to its actions in reliance on such a certificate.**

Solicitors:  
Carter and Partners, Auckland for Appellants  
Heaney and Co, Auckland for Respondent