

IN THE SUPREME COURT OF NEW ZEALAND

SC 9/2013  
[2014] NZSC 134

BETWEEN JOHN ANTHONY OSBORNE AND  
HELEN OSBORNE  
Appellants

AND AUCKLAND COUNCIL  
First Respondent

THE WEATHERTIGHT HOMES  
TRIBUNAL  
Second Respondent

Court: Elias CJ, McGrath, William Young, Glazebrook and Tipping JJ

Counsel: T J Rainey and J P Wood for Appellants  
K L Clark QC and C R Goode for First Respondent  
K M Muller for Second Respondent  
M J Andrews and P Ieong for Attorney-General as Intervener

Judgment: 29 September 2014

---

**JUDGMENT OF THE COURT AS TO FURTHER RELIEF**

---

**A Application for further relief declined.**

**B No order for costs.**

---

**REASONS**

(Given by William Young J)

[1] In the principal judgment delivered on 10 June 2014, the Court reserved leave to apply for further relief. Mr Rainey has now applied for further relief which is related not to the circumstances of the Osbornes but rather to those of other claimants. In particular he drew our attention to two instances where homeowners have sought reconsideration in light of our principal judgment of decisions that their claims were ineligible made either by the chief executive or, on review, by the chair

of the Tribunal. Sections 13 and 16 of the Interpretation Act 1999 arguably provide for such reconsideration but to date both the chief executive and the chair of the Tribunal have declined to review the earlier decisions. On the basis of their stance, it will be necessary for affected homeowners to seek separately, in the High Court, judicial review of the earlier eligibility decisions.

[2] With the consent of the parties, we may have been prepared to address the question whether ss 13 and 16 of the Interpretation Act 1999 permit reconsideration of the kind proposed by Mr Rainey. It is a discrete legal issue, the determination of which is not affected by the facts of particular cases. That consent, however, has not been forthcoming. And in the absence of such consent it would not be appropriate, even if it were jurisdictionally possible, for this Court to address, for the benefit of parties other than the appellants, decisions which were not in issue in the High Court and Court of Appeal and in fact post-date our principal judgment.

Solicitors:

Rainey Law, Auckland for Appellants

Heaney & Partners, Auckland for First Respondent

Crown Law Office, Wellington for Second Respondent and Intervener