



SUMMARY

Case: Aitken & Anor v Laudermilk & Ors – FINAL DECISION

File No: TRI 2008-101-000098/ DBH 04231

Court: WHT

Adjudicator: R Pitchforth

Date of Decision: 22 July 2009

Background

The Tribunal's interim determination dealt with all matters except the allocation of liability for \$25,362.35 incl. GST between the first, third and fourth respondents.

The Laudermilks – First respondents

The Tribunal held that it was reasonable for the Laudermilks to assume that the building would be code compliant, the changes to the plans that were implemented were authorised and allowed, and that the Council would not issue a Code Compliance Certificate if the works were clearly not code compliant. The Tribunal therefore found that Mr Rule should indemnify the Laudermilks for their contribution.

Marlborough District Council – Fourth respondents

The Tribunal accepted that the Council's submission as to apportionment of liability was a suitable distribution in all the circumstances based on the following:

- Mr Rule 60%
- Laudermilks 20%
- Council 20%

Result

The Tribunal ordered:

- The Council to pay the claimants \$25,362.35 and is entitled to a 20% contribution of \$5,072.47 from the Laudermilks and 60% (ie \$15,217.41) from Mr Rule
- The Laudermilks to pay the claimants \$25,362.35 and are entitled to a 20% contribution of \$5,072.47 from the Council and 60% (ie \$15,217.41) from Mr Rule
- Mr Rule to pay the claimants \$25,362.35 and is entitled to a 20% contribution of \$5,072.47 from the Council

If all respondents meet their obligations under this determination, this will result in the following payments being made by the respondents to the claimants:

- Laudermilks \$ 5,072.47
 - Mr Rule \$15,217.41
 - Marlborough District Council \$ 5,072.47
- \$25,362.35