

**UNDER** the Weathertight Homes Resolution Services Act 2006

**IN THE MATTER** of a reconsideration of the Chief Executive's decision under section 49

**CLAIM NO.      6840: GRAEME  
WOODROFFE – Unit 2,  
134 Waterfront Road,  
Mangonui**

---

**ELIGIBILITY DECISION OF THE CHAIR OF THE  
WEATHERTIGHT HOMES TRIBUNAL**

---

[1]      Graeme Woodroffe is the owner of unit 2, 134 Waterfront Road, Mangonui. Unit 2 is a one level apartment in a multi-level four unit block located on the edge of the Mangonui harbour. The complex was built in 2004/2005.

[2]      The assessor concluded that the claim was eligible because the unit leaks, and has been damaged as a result of those leaks and because the dwelling was built within ten years of the claim being filed. Section 48 of the Weathertight Homes Resolution Services Act 2006 provides that the chief executive must evaluate every assessor's report and decide whether the claim to which it relates meets the eligibility criteria. She concluded that the claim was not eligible because there was evidence that other units in the complex also leaked. In those circumstances the Department of Building and Housing was unable to accept a claim from just one of the unit owners. She noted that a multi-unit or all of complex claim could be filed.

[3]      Mr Woodroffe seeks to review the eligibility decision of the chief executive as he believes the unit leaks and notes that there have been further leaks since he filed his application.

[4] There is no dispute that Mr Woodroffe's unit is a leaky apartment or that Mr Woodroffe would have an eligible claim if it were not for the fact that his unit is part of a multi-unit complex. However section 15 of the Act provides that a claim can only be made in respect of a single dwelling house in a multi-unit complex if the penetration of water has caused damage to that unit but has not caused damage to any other part of the complex. The report obtained from Mr Pollington by the unit owners clearly points to there being defects causing leaks in other parts of the complex.

[5] Given the information currently available in relation to the complex in which Mr Woodroffe's unit is located the only claim that can be brought under the Act is a representative claim in relation to the whole complex. Therefore if Mr Woodroffe wishes to proceed with his claim he must get the consent of 75% of the other owners. Alternatively he may be able to file a claim in the court as home owners who decide to file claims with the court do not need to meet the eligibility criteria as set out in the Act.

## **Conclusion**

[6] While I accept that Mr Woodroffe's unit leaks and that the penetration of water has caused damage I conclude the claim is not eligible. This is because there is information to suggest that other units in the complex also leak. In those circumstances a multi-unit claim must be filed in order for the claim to be found eligible.

**DATED** this 30<sup>th</sup> day of March 2012

---

P A McConnell  
Tribunal Chair