

MEDIA STATEMENT

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For immediate release

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TOWER Limited – Red zone case settled

Rob Flannagan, TOWER's Group Managing Director, said today the company was pleased to have reached a settlement with Mr and Mrs O'Loughlin whose earthquake-damaged house was in Christchurch's red zone.

"We are pleased that this matter has been settled. The Court decision issued earlier this month confirmed all the points of principle that TOWER had sought a ruling on, while also granting the O'Loughlins a re-calculation of their pay-out.

"We welcomed the clarity that the decision provided, and now look forward to all concerned with this case being able to move on," he said.

The terms of the settlement were confidential.

Background to the case

What the case was about

Because their house was in the red zone Mr and Mrs O'Loughlin argued for a full replacement pay-out irrespective of actual physical damage to the house.

TOWER defended the action because it believed its pay-out honoured the policy, there were important principles at stake and the amount initially sought of \$1.3 million was too high.

The two key issues were:

- Whether a house in the red zone is a total loss, which would require insurers to pay to replace the house, regardless of the physical damage sustained.
- Whether the pay-out offered to the O'Loughlins on the basis of a proposed repair was calculated correctly by TOWER.

There was never any question of the owners continuing to live in the red zone. They had already sold the site to the government, and TOWER was prepared to settle their claim with cash.

What the judgement found

Justice Asher gave an interim judgment on the case in the Christchurch High Court on 5 April.

- The Court confirmed that the creation of the red zone did not render all houses within it a total loss.
- The Court agreed that it was TOWER's choice as to whether it repaired, replaced or rebuilt the house.
- It determined that on the facts of this case TOWER's proposed methodology to repair the O'Loughlins home was not reasonably proven. The Judge was not persuaded that the proposed low mobility grouting (LMG) repair for the house would get a building consent.
- Given that the Court was not persuaded that the repair methodology met TOWER's obligations, it determined TOWER was entitled to choose to pay either:
 - the cost of building a comparable new house on good ground outside the red zone; or
 - the cost of buying a comparable existing house (excluding land value) outside the red zone.
- The Court confirmed that the O'Loughlins were not entitled to the higher costs of rebuilding on their red zoned land as those costs would not in fact be incurred.

Resolution

The judgment had provided a good process for resolving this case and clarity on how to calculate insurance pay-outs in the red zone.

"TOWER's intention is to settle every claim quickly and fairly with our policyholders and we are pleased that this matter has now been resolved," Mr Flannagan said.

Ends

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