

**De Nagy v Wellington City Council 16/9/02, Master Venning, HC Wellington
CP141/00**

Successful application to strike out plaintiff's amended statement of claim - in Interim Decision (CP141/00, 3/5/02) Court found pleading in the amended statement was so deficient that it was unable to determine whether plaintiff had reasonably arguable cause of action against the Council - plaintiff subsequently filed second statement and claimed \$1,906,441.44 for losses and damages allegedly sustained as a result of breaches of the duties owed by the Council - matter related to proposal to construct seven townhouses at 7 Austin Street, Mt Victoria for which Council had issued a certificate of compliance in 1993 - plaintiff director and shareholder of Orion Resources - onsold the land and the right to develop the proposal to Orion - project had been largely completed - development did not comply - resource consent refused - project failed and Orion was placed into liquidation - plaintiff claimed that the Council had been negligent in not exercising reasonable care in issuing consents and approving plans - alleged breach of duty of care by stopping the works after the project had been allowed to proceed to substantial completion.

Held, at the time the stop work notice was issued the Plaintiff had no personal interest in the project as the landowner - as a general proposition where land or interests in land are damaged, only the owner of the land has a cause of action - any duty of care was owed to Orion and not the Plaintiff - same approach applied in relation to the issue of consents - no pleading to support the special relationship that was necessary in the case of a negligent misstatement claim - plaintiff's case dismissed - costs and disbursements awarded to Council on a 2B basis.