

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
VALUATION, COMPENSATION AND PLANNING LIST

No. S CI 2017 00226

BETWEEN

GLEN ORA ESTATE PTY LTD (ACN 004 118 674)

First Plaintiff

- and -

EUGENIA APOSTOLOFF

Second Plaintiff

- and -

BRIMBANK CITY COUNCIL

Defendant



JUDGMENT

JUDGE: The Honourable Justice Cavanough
DATE GIVEN: 19 November 2018
ORIGINATING PROCESS: Writ filed 25 January 2017
HOW OBTAINED: On oral application by the plaintiffs, on the proceeding coming on for trial
ATTENDANCE: Mr I Percy and Mr C Dawlings of counsel for the plaintiffs
No appearance for the defendant

OTHER MATTERS: A. This proceeding concerns the land described as roads on the map attached to the third further amended statement of claim dated 1 December 2017 being the land more particularly described in certificates of title:

- (a) Volume 11598 Folio 596;
- (b) Volume 11822 Folio 532;
- (c) Volume 11686 Folio 172; and
- (d) Volume 11832 Folio 445.

(‘disputed roads’)

B. Upon the admissions which the defendant is taken to have made, consequent upon withdrawal of its amended defence dated 13 August 2018 by notice dated 14 August 2018, and the Court being satisfied that it is appropriate to do so, the Court gives the following judgment.

THE JUDGMENT OF THE COURT IS THAT:

1. There be judgment for the plaintiffs.
2. The Court declares that the disputed roads:
 - (a) are not “public highways” within the meaning of the *Local Government Act 1989* (Vic);
 - (b) are not “public roads” within the meaning of the *Road Management Act 2004* (Vic);
 - (c) are not “public highways” within the meaning of the common law;
 - (d) have not vested in the defendant by operation of law.
3. The costs of and incidental to the proceeding are reserved.

DATE AUTHENTICATED: 19 November 2018



THE HON. JUSTICE CAVANOUGH