

Leasehold Interests in Land

("The Lord Giveth and the Landlord taketh away" a statement allegedly confirmed in the "Dead Sea Scrolls")

Leasehold residential properties in multi-unit developments have become increasingly popular. These are residential apartment blocks where the underlying land is leased from a third party; the Viaduct, Princes Wharf, Quay Park, Scene and Albany developments to name a few.

Leasehold titles were until recently limited to the traditional 21 year perpetually renewable "Glasgow" leases granted by the St Johns, Melanesian Mission, Dilworth and Cornwall Park Trust Boards. These leases are quite standard in form and content.

More modern leases vary in length of term, renewal arrangement, the method of assessing ground rental and the associated management structures. Care needs to be taken in analysing the lessee's obligations.

Any prospective purchaser needs to understand the ramifications of the type of lease, obtain independent valuation advice, check bank lending criteria and assess the cash flow cost of ground rent, body corporate levies and other occupancy costs.

The Golden Rule applies, don't sign or pay money without contacting us, OK?

("I love leases (sic) to pieces" Puddytat reminiscing under the influence of catnip)

Staff



BEN MOLLOY EMILY GENDALL MIKE KEMPS

Congratulations

We would like to announce that we have promoted two Solicitors, Ben Molloy and Emily Gendall. Ben specializes in civil, criminal and employment litigation and Emily specializes in family and relationship law. They have both been made Associates of the firm.

Welcome to Mike Kemps

We are very happy to welcome Mike Kemps to our team. After graduating and before joining Haigh Lyon, Mike spent a year with a Global Christian organization working with University students. Mike will be working in property and litigation support.

BANKS ("A mortgage casts a shadow on the sunniest field")

We have changed our bank from the BNZ to the ASB, our new ASB Trust account number is:

12-3109-0041424-02

The ASB provides online trust account facilities in real time enabling more efficient settlement of funds and excellent client service.

Reparation Compensation for Victims of Crime

Section 32 of the Sentencing Act 2002 allows a Court to make an order for reparation where a victim of a crime has had property lost or damaged, suffered emotional harm and/or suffered loss as a result of being the victim of a crime.

Reparation orders are typically an award of money to be paid by the offender to the victim. Awards have been made to victims of theft, assault, fraud as well as other miscellaneous crimes.

In the recent Court of Appeal decision in *Davies v The New Zealand Police* the width of reparation orders was made apparent. *Davies* involved an injury which the victim received in her workplace. ACC provided for the victim to receive 80% of her income as compensation for the loss of income resulting from the injury. In addition, the employer was prosecuted by Occupation Health and Safety and was convicted. The District Court on sentencing made a reparation order requiring the victim's employer to pay the remaining 20% loss of income to the victim.

This decision was appealed to the High Court and then to the Court of Appeal on the basis that an award should not be made as any personal injury loss should be covered by ACC. This argument was rejected in the Court of Appeal and the award for the 20% shortfall in the victim's income was confirmed.

The importance of this for employers is that if an employee suffers an injury and the employer is prosecuted by Occupational Health and Safety the employer may, in addition to receiving a fine, also be required to compensate the victim for any shortfall resulting from ACC payments for lost income to the victim.

For all others it is worth ensuring that any loss is reported to the police (or other prosecuting agency) and that a reparation order is sought on their behalf. Furthermore, if a public prosecuting agency does not pursue an offence on behalf of a victim the possibility of a financial reparation award increases the desirability for the victim to consider a private prosecution.

If you wish to clarify any matter relating to reparation orders please do not hesitate to contact us.

Bridge Climb



After our Haigh Lyon annual planning meeting we climbed the Auckland Harbour Bridge, some of us more enthusiastically than others. We thoroughly recommend the experience.