

FREE SEMINAR

Topic **MOST COMMONLY ASKED QUESTIONS RELATING TO FAMILY LAW & HOW IT AFFECTS THE PARTIES, PARENTS & CHILDREN**

When **6.30 pm on Tuesday 30 March 2010 @ Hazelhurst Art Gallery, Kingsway, Gymea**

Speaker **RICCARDA STOCK (Law Society Accredited Specialist in Family Law)**

RSVP Wednesday 24 March 2010

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Seats are strictly limited - finger food and refreshments will be provided after the Seminar

Solari & Stock extend an open invitation to you, your family and friends to the above Free Seminar.

The topic has been selected based on questions that are continually asked by our clients not only in the context of providing family law advice, but also in relation to Wills, family businesses and general enquiries.

Our family law partner, Riccarda Stock, will go through these frequently asked questions such as:

- How will a divorce affect my child's inheritance ?
- How do I find out if my partner is hiding money or assets ?
- Do I have to share my business ?
- Pre-nuptial agreements – do they really work ?
- What happens if there is a divorce in the family ?

AND MORE

Riccarda will also answer questions from the floor at the end of the formal presentation.

As a thank you to those who attend they will receive a gift certificate (fully transferable) for a **FREE CONSULTATION**

of up to 30 minutes with any of our lawyers on any legal issues.

GOINGS ON AT SOLARI & STOCK

We have all come back fresh after the Christmas break with renewed energy and enthusiasm. We look forward to a busy year ahead and to being of assistance to you if you need the services of a lawyer.

We are pleased to announce the appointment of Linda Gabel as a solicitor in our Commercial & Property Division working closely with Michael Solari.

Linda brings to the firm significant experience in these fields and has worked in the Sutherland Shire in the past for several years. We welcome Linda aboard.

MARKET RENT REVIEW CLAUSES IN COMMERCIAL LEASES

It has come to our attention, in a number of recent matters, that some solicitors have given little thought in relation to the consequences of using standard format forms of Leases and in particular the consequences that flow in

relation to market rent reviews (usually at the time of exercise of an option).

The Retail Leases Act in NSW only applies to what are classified under that Act as retail shops. The Law Society of NSW prepared a standard form of Lease which complies with the Retail Leases Act. Some lawyers use this form of Lease for Leases of commercial or industrial premises regardless of whether it is in fact a Retail Lease or not.

The Retail Leases Act was legislation introduced in NSW primarily to provide certain protections to the tenant.

One of the protections of the Retail Leases Act is to prohibit what are commonly known as "ratchet clauses". A "ratchet clause" is a clause which provides that upon a rent review the rent can only go one way (up).

For example where the lease provides that upon exercise of an option the rent is to be reviewed to the current market rent, but if the review results in a rent being less than the rent being paid prior to the review date, the rent remains the same as it was prior to the review date and is not reduced. As these types of

These articles are for the benefit of our clients and business associates. The document is not intended to be a definitive analysis of legislation or professional advice. You should take advice before any course of action is pursued.

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clauses are prohibited under the Retail Leases Act, the Law Society Standard Form Retail Leases Act Lease provides that upon a market rent review being conducted that the rental can go up or down.

Most commercial landlords would not be happy for the rent to be reduced as a result of a rent review at the time of exercise of an option. However, unwittingly, in the event that their solicitor has used the Retail Leases Act Law Society Standard Form of Lease, this will be the result at the time of exercise of an option. It is possible for such form of Lease to be used and to be amended (where the Retail Leases Act does not apply).

However, in the event that you have had the Lease prepared by anyone other than ourselves, although there may not be anything you can do about it we would recommend that you review the market rent review provisions in your Lease to make sure that they do not achieve the unwanted result of a possible rental reduction at the time of exercise of option.

Further, if anyone suggests to you that you should use a standard form of Lease such as the Law Society of NSW Retail Lease, then you should consider carefully the consequences that may flow.

Please contact our office and feel free to discuss with us any questions or concerns you may have in relation to any current Leases of premises you have.

INCORRECT LICENCE DISQUALIFICATION

Have you, or someone you know, been charged with two major driving offences in the last five years and been sentenced to a disqualification period of two years?

The NSW Court of Criminal Appeal was recently called upon to confirm whether such a disqualification period was correct as the law and previous Court decisions were conflicting.

The team at **SOLARI & STOCK**:

Lawyers: Michael Solari
Riccarda Stock
Johnathan Neofytou
Tina Stivactas
Amy Jenkins
Linda Gabel

Secretaries: Robyn Rostron
Anne Mougios
Melinda Jesney
Zoey Elshab
Kayla Peoples
Kate Frankland

Administration Manager: Saskia McCann
Risk Management: Jennifer Foley
Reception: Kerry Timms

The Court decided that unless you have committed a "first" major offence in a five year period of driving whilst disqualified, driving whilst suspended or driving whilst cancelled then your next subsequent offence should be treated as your first offence and you should receive a twelve month disqualification period, not a two year disqualification which should only occur if you have committed one of the major offences listed above.

Due to the decision of the Court in the case of *DPP v Partridge* we are able to apply to the Court for your matter to be relisted and your two year penalty to be reduced to twelve months and with any luck have you back on the road.

Please contact our office to discuss the above if you find yourself in this situation.

FIRST HOME OWNERS GRANT & STAMP DUTY CONCESSIONS

The sometimes confusing First Home Owners Grant boost from the NSW & Federal Governments and the NSW Government Stamp Duty Concessions have already begun to be wound back. Here we set out the current position.

First Home Owners Grant (FHOG)

For established homes the FHOG was scaled back by the Federal Government to \$10,500.00 from 1 October 2009. This was further scaled back on 1 January 2010 to \$7,000.00 as it was prior to the Global Financial Crisis.

For new homes the FHOG was scaled back by the Federal Government to \$14,000.00 from 1 October 2009. This was further scaled back on 1 January 2010 to \$7,000.00 as it was prior to the Global Financial Crisis. Additionally the NSW Government provides a further \$3,000.00 to purchases of new homes and this will remain in force until 30 June 2010.

Stamp Duty Concessions

On 1 July 2009 the NSW Government introduced a concession to stamp duty for purchases of new homes for people not covered by the FHOG. It means that

a reduction of stamp duty of 50% will be given to anyone in this category purchasing a newly built home up to the value of \$600,000.00 on or before 30 June 2010.

Please contact our office if you wish to obtain further information in relation to the applicability of any of these schemes to you.

NEW LAWS FOR BACKYARD POOLS

The maximum fine for a breach of safety regulations for backyard swimming pools has been increased from \$1,100.00 to \$5,500.00 in NSW. The State Government proposes to substantially increase the \$550.00 on-the-spot "penalty notice" which can be issued by Council Rangers.

It is an offence if pool gates are not properly latched at all times and the rules apply regardless of whether there are small children in the household.

Amendments to the Swimming Pools Act are designed to ensure a child-proof, four-sided barrier is around all new pools and that they are separated by a complying barrier from the house, adjoining properties and public spaces at all times.

They remove the exemptions on providing four-sided pool barriers on properties under 230 square metres and more than 2 hectares and on waterfront properties, and give Councils the power to enter properties to repair fences when the owner has failed to comply with a direction to do so.

Under the changes Councils must begin to investigate written complaints about pool safety within 72 hours.

Other recent changes to pool regulations include new requirements for non-climbable zones, mesh sizes for fences, retaining walls that form part of a barrier, and balconies that project into the pool area.

Please fee free to contact us if you have any concerns about these changes.