



newsletter

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We've freshened things a little with a new logo and design for everything from signage to newsletter. It's not the first change we've made in sixteen years of operating but it is the most significant in this regard. We felt it appropriate that our clients should be the first to hear of this change and hence the first showing is via this newsletter.

I am heartened that some ground has been given by the Government just as it introduced its new residential tenancy laws into parliament this month. Many of the changes make sense and are to be commended. I particularly like the fact that owners will no longer be at risk of paying back rent because of a slight mistake made in a rent increase notice issued years before; and I like the effort to speed up the process for serving of notices, in some instances this will involve weeks and hence substantial savings for the owner. However I am still anxious about the easing of terms relating to tenants sub-letting or transferring part of their tenancy, despite the last minute change to limit the number of tenants to that originally permitted; and I am not convinced by the Government's arguments for removing the need for tenants to provide any notice that they are vacating, once an owner has given notice terminating the lease.

I was reminded again recently that behind many of the daily 'matters' we deal with, are very human issues. Behind tribunal cases, there are often sad, even tragic circumstances and not always is it the doing of the person involved. What we term 'arrear's' can result from a loss of job for a tenant; owners may put the property 'on the market' urgently because their relationship has broken down. In the last few months, we have had three tenancies terminated because of death. In two instances suicide was involved and in one of those cases a young family devastated. In the third (and unfortunately none of this could be called rare), only a couple of weeks after happily taking a flat, a young man suffered a seizure and his body discovered a few days later. Sorting the property is one thing but dealing with a distraught parent about having their son's 'goods' removed, is another matter entirely. In actual fact the law is such that his 'estate' is still bound by the lease but that's perhaps a subject for another issue. Even after more than twenty years of being confronted with similar stories, I am deeply saddened and humbled. We can never be reminded too often that while property is the catalyst for our wealth creation, people are still the main ingredient in the equation.

Regards,
Leah

New Tenancy Laws Passed By Parliament

Early this month, the Government's Residential Tenancy Bill 2010 passed through state parliament. In our December 2009 newsletter, we highlighted some of the provisions likely to create concern amongst owners.

In addition to making a major submission to the Government's Committee during the four year process, we made a final effort to sway them towards amendments we felt would better protect your interests. With time constrained, we had to rely on email contact with owners to invite comments, which could form part of our final submission. Thank you to the thirty plus owners who provided input.

In the end there were some important changes made before the bill went to parliament, which appear to have addressed some of the concerns expressed on behalf of 'landlords' but in the main they were cosmetic alterations to the draft presented in November. You can download a copy of the Bill from our website; www.leahjay.com.au

You may also be interested in reading the speech given by the Minister, Virginia Judge, when she introduced the bill into parliament. The Minister provides rationale for a number of the key changes and claims that in the end, "the bill strikes a fair and equitable balance between the often competing interests of landlords and tenants." The Minister's speech is also available from our website.

Here's a very brief summary of the final outcome of some of the key provisions we highlighted previously:

- Landlords will be required to give 90 days (increased from 60) notice to tenants who are not in the fixed term of their lease. However the Tribunal will no longer have discretion to hear tenants' objections to the notice and prevent termination. This is designed to create certainty for landlords.
- Once a landlord has given notice, a tenant can vacate at any time without giving any notice (now 21 days). The Government argues this is a good thing because landlords will get their property back sooner.
- It was proposed that tenants would be able to break a lease at any time and be subject to a 'break fee'. After strong opposition this will become an option together with the current approach.
- Tenants will be able to terminate a lease early if accepting a place in aged care or public housing. We found support for the first but not the second circumstance. One of you wrote to us "a lease is a lease is a lease." Except when the Government is involved it seems.
- Landlords will not be able to unreasonably refuse requests from tenants to sub-let or transfer part of a tenancy. This was one of the provisions that caused greatest concern, judging by your reactions. In our December letter to the Committee we wrote "the following should be unequivocal: tenants should not be able to increase the number of people from that originally permitted by the owner." Thankfully words to this effect have been added but the Minister "does not believe that landlords have an absolute and unchallengeable right to decide who their tenants can live with."
- Landlords will no longer be able to unreasonably refuse requests from tenants to add fixtures or make alterations of a minor nature, at their own expense. The Government attempted to add clarity to what is "unreasonable" by including "structural work or if the work involves external or internal painting" as an example of what constitutes reasonable grounds for refusing such a request.
- Air-conditioning is now included with items deemed necessities and therefore subject to 'urgent repairs'. We opposed this one also but to no avail.



The things we do...when not managing property

For Karen Tresidder (a Senior Property Manager at Hamilton), it may be rock climbing, abseiling, canoeing, hiking, flying foxes and suchlike, in her role as a Scout Leader. There's learning survival skills for bush and water; snow trips and copious camping adventures. Of course it doesn't all just happen either, there's the regular weekly meetings and much more. Why does Karen (better known as PJ to her troupe of 12-15 year olds and yes there's a story in the nickname) do it? She loves all of the challenges that go with it; absolutely beaming as she tells of the last jamboree held in Sydney. They're held every four years and over 10,000 Scouts from around the world took part and as a leader, Karen was part of the entourage of 3000. Again why? "The excitement and thrill on the faces of the kids as they relive their experiences and seeing them grow in confidence." The most challenging aspect... "not being able to do hair and makeup."



There's gotta be a way outta here!!!

There was apparently... and capturing the escape on video earned Admin Assistant Nicole Roach \$10,000 in a recent episode of Australia's Funniest Home Videos. The video caught the sneaky looking bloke on the left scampering over the wire... quite a feat and very funny. We wouldn't normally feature pups in our newsletter, even as cute as these fellows but in this case they might also bring Nic and family the \$250,000 prize money at stake in the grand final show later this year. Never thought mischievous pups would be such an amazing investment.

Please note: As at June 2010, this newsletter is intended as general news and not as advice, as each individual's situation will vary depending on specific circumstances relating to that individual. You should seek professional advice as it relates to your own circumstances.

Are You Covered?

This account is from last December and relates to an inner city apartment we manage. It was about two in the morning when the water pipe in the vanity burst. The water quickly spread from the bathroom, through the apartment and out across the hallway to the apartment opposite. Our tenant was sound asleep and therefore oblivious; it was the tenant across the hall that awoke but not before water had invaded every room in their apartment, damaging a computer and gifts under a Christmas tree. He contacted the police, who awoke our tenant and also the building supervisor to turn off the mains.

Strata took responsibility for cleanup of the hallway and common areas. The owners were responsible for their respective units, a godsend in this case for our owner. So we had blowers and dryers moved in and tenants moved out to a hotel, at the owner's expense of course. Luckily the carpet was saved but not the underfelt. Holes had to be drilled in the kickboards to allow air to dry the kitchen cupboards. After almost a week the tenants returned. In total it cost our owner close to \$5000; unfortunately out of his own pocket because he did not have contents insurance.

And from recent discussions, it appears there are still owners who are under the impression that by owning an investment property in a complex or high-rise building, they do not need insurance for their contents or that body corporate insurance will cover them. Please be aware this is not the case.

Taxing Issues

There's always plenty to consider at this time of year. According to Australian Tax Office figures, 1 in 7 Australians now own at least one investment property. All sorts of factors impact on the desire to own property, including any changes to related tax laws.

Negative gearing & CGT concessions stay

The Federal Government did not take up recommendations from the Henry tax review, to change the negative gearing and capital gains concessions available to property owners; in fact they ruled out that happening "at any stage". Dare we say a common sense move given the constant calls for more private accommodation, and therefore more investment properties. Investors look for as much certainty as possible and arguably the incentive to hold investment property can be eked away gradually; some have argued the changes to tenancy laws in NSW will do just that; but there's no doubt that removal of negative gearing would be a major blow. And on the subject of negative gearing...

Negative gearing v positive cash flow

The old chestnut has surfaced again, this time in the June issue of 'Australian Property Investor' magazine. The feature article addresses the question "Do negatively geared properties or positive cash flow assets make the best investments?" Needless to say opinions vary and for what it's worth, our view is that it depends, as is often the case, on your individual circumstances. You can download a copy of the article from our website www.leahjay.com.au

Appreciating depreciation

We raise this topic every year; because we believe it is an important part of investing. It's reasonable to suggest that as property investors, we should understand the basics of depreciation. This is because we can benefit from it, whether your property is negatively or positively geared. It is not the main reason for buying a property but is a consideration and it appears that many investors still do not claim depreciation against the income earned from their property. In the first instance you will rely on an accountant but it may be worth engaging a quantity surveyor, whose job it is to determine accurate values for write off.

Final word comes from the tax office

And on this occasion we agree entirely with the ATO. Over the years we have seen people caught by slick property investment presentations, often centred on the supposed tax benefits. The seminars are sharp and it all seems so easy because those proposing the schemes can make it all happen for the would be investors, who are often attracted by the promises of guaranteed rents and capital gains. The ATO is running advertisements along the line "things aren't always as they seem...some tax-effective investments make big promises but be careful they don't turn sour."