

Love thy neighbour . . . and their pets?

Apart from a fencing dispute, there's nothing quite like household pets to turn ordinarily good-natured people into the most undesirable of neighbours.

All pets older than six months must be registered with the local council. Failure to do so can result in a fine and most councils conduct regular random inspections of households in their areas in a bid to regulate animal registrations.

The law also requires that all dogs and cats be looked after so they do not become a *nuisance* or danger to others. A nuisance is a dog or cat that injures or endangers the health of any other person or creates noise that unreasonably interferes with the peace and comfort of neighbours.

The *Domestic (Feral And Nuisance) Animals Act* states that the occupiers of any premises where a dog or cat is kept must not allow that animal to be a nuisance.

It is an offence (which carries a penalty of a fine) to:

- allow your dog or cat to wander around unsupervised in public;

- allow your dog or cat to trespass on another person's property; or
- allow pets to litter in public places without cleaning it up.

Dog owners are also specifically liable under:

- legislation – penalties are attached for certain offences; and
- common law – people who are injured or suffer damage as a result of your dog may sue for compensation.

Excessive barking

Excessive barking by dogs is considered a nuisance. Excessive barking does not mean occasional barking. Evidence of excessive barking, such as a diary of the barking episodes over a period of two weeks or more, would be needed to establish a claim.

If you believe your neighbour's dog is barking excessively, approach your neighbour in a friendly way and discuss the problem.

Failing resolution, record the frequency of barking over a period of at least two weeks and report your findings to the council. Ultimately, the council can issue an infringement notice and fine the owner of the dog.

It is important – for the sake of maintaining good neighbourly relations and for the sake of a potentially speedier outcome – to try first to resolve the issue directly with the neighbour concerned. It may be that a particular family member is more approachable about the problem than others, so you should think about how you plan to open the dialogue with your neighbours.

More information

From the Bookshop

- *Everyday Law*, Stella Tarakson \$29.95
- *Fitzroy Legal Service Law Handbook 2005*, \$75

Useful web links

- www.rspca.org.au, RSPCA website which contains information on pet care and responsibilities.

Review of conveyancing industry announced

Victoria's conveyancing industry is under scrutiny following the announcement of a review of the regulation of the conveyancing industry by Victorian Attorney-General Rob Hulls and the Minister for Consumer Affairs John Lenders.

Conveyancing is the legal term for the transfer of real property (house and/or land) from one party to another. The transfer of real property needs to be:

- in writing (*Sale of Land Act, Instruments Act*); and
- registered with the Land Registry.

In Victoria, people have the choice of using a lawyer for conveyancing, or using a conveyancing firm. However, many consumers do not understand the difference between engaging a lawyer and engaging a conveyancer who does not need to have legal qualifications.

Buying or selling a home is one of the most important contracts anyone will enter into – and often the largest financial investment too. There are many traps for the unwary, which is why it is wise to seek legal advice. While the documentation may appear simple, it is important that a seller (vendor) provides all the information and purchasers understand what the information actually means.

The risks of not engaging a lawyer are highlighted in cases where a property transfer becomes more complex than previously anticipated (e.g. in navigating State Revenue Office obligations, such as where fractional interests require payment of stamp duty by tenants in common).

The conveyancing industry review follows recent media reports on a police investigation of claims that Grove Conveyancing Services,

Geelong has defrauded consumers of undetermined sums of money. The business has since closed.

The matter highlights the benefits of consulting a lawyer when purchasing or selling property. Lawyers are required to hold professional indemnity insurance in order to practise and are regulated by the *Legal Practice Act 1996*, both of which provide protection to consumers.

Victorian conveyancers are currently regulated under the *Legal Practice Act 1996*; however, the Act is meant to regulate lawyers.

“Conveyancers are not licensed or required to be insured or have trust accounts and do not have to be legally qualified,” Mr Hulls said.

The terms of reference for the review include:

- assessment of the current regime to determine what risks consumers face, including the administration of consumer and third party funds;
- complaints handling and public confidence in the system;
- consideration of a consistent national approach across the states; and
- review of the definition of “legal work” and “conveyancing work” in the *Legal Practice Act 1996*.

The discussion paper following the review is expected to be released for comment early in 2005.

More information

From the Bookshop

- *Buying and Selling Property in a Nutshell*, Graham J Airey \$19.95
- *Introduction to Property Law*, Joyce Tooher and Bryan Dwyer \$69

Useful web links

- www.liv.asn.au/public/legalinfo/property, LIV.
- www.reiv.com.au, Real Estate Institute of Victoria.
- www.sro.vic.gov.au, State Revenue Office.

Magistrates' Court

With the New Year the Magistrates' Court will have an increase in its civil jurisdiction and will be able to hear disputes about damages, debt or other monetary demands up to the value of \$100,000. This includes personal injury cases.

Previously it was limited to matters up to a value of \$40,000 (with some exceptions depending on the case).

For more information go to www.magistratescourt.vic.gov.au.

Website reviews

The following websites, reviewed by the LIV librarians, provide useful starting points if you are on the hunt for information online. Each edition of this newsletter will feature three new useful websites.

Essential Services Commission

www.reggen.vic.gov.au

The Essential Services Commission regulates prescribed essential utility services in Victoria such as energy, water and transport. The Newsroom on the homepage showcases hot topics and recent reports. Click on an industry icon (e.g. a light globe for electricity) to find out what's new in that area and to access information on pricing, licences and codes.

Savewater.com.au

www.savewater.com.au

With tough water restrictions continuing, it's important to keep abreast of the penalties that can apply for failing to comply with the rules. Victorian based Savewater.com.au is an informative site that focuses on water conservation. With a very clear layout, the site provides access to information on current water storage levels in regions around the state, the global water situation as well as permanent water saving

strategies. Click on Latest News and Penalties for Water Wasters to find out current maximum fines for breaching water restrictions, water theft or unauthorised water use.

Farmsafe Australia

www.farmsafe.org.au

Considering that there are more than 4500 workers' compensation claims each year from workers in the agricultural and horticultural industries, it is not surprising that occupational health and safety is such a crucial issue for Australian farmers.

Victorian Law Reform Commission

www.lawreform.vic.gov.au

The Victorian Law Reform Commission (VLRC) website contains detailed information about the VLRC itself – from its establishment and role, to particulars about what it does and how you can participate in consultations. The site also provides access to thorough information on the VLRC's inquiries since 2001, as well as annual reports and brochures.

Family Court of Australia

www.familycourt.gov.au

You can access a significant amount of information about family law disputes and the operation of the Family Court on this site. Information on practice and procedure and guidelines for child representatives are included.

New Year Resolutions

The beginning of each new year is a great time to reconsider all your personal affairs – including reviewing those that are legally related – for example, your will, family trust documents, contracts and so on. Contact your lawyer to discuss your needs.

Disclaimer: The information in this newsletter is not intended to be a complete statement of the law relating to the issues raised. Accordingly, no person should rely on this information without first obtaining specific advice from our office.