

Providing
legal solutions
for life

Welcome to the winter edition of Legal Insight for 2014.

The 'Fine' Line between Parking Fees and Fines

Have you ever misread a parking sign, lost track of time or got caught up in a shopping centre and upon returning to your car found a hefty 'fine' on your windscreen?

What many motorists don't know is that this 'fine' may actually be illegal. Whilst many car parks, including street parking, are operated and managed by local Council, there are an increasing number of private car park owners and operators attempting to recoup money from motorists by issuing 'fines'. It is important to point out that only government bodies such as Councils (and their agencies) can issue fines. Private companies have no power to issue fines, and their doing so may be against the law.

Under the *Australian Consumer Law and Fair Trading Act 2012* (Vic), section 45, it is an offence for a person or a body corporate to engage in various prohibited debt collection practices. This includes falsely representing that the debt is a fine or other pecuniary

Words to the Wise
"A brave man acknowledges the strength of others"
 Veronica Roth, Divergent

penalty or even using a letterhead which is liable to mislead a person as to the identity, status or role of the person or company attempting to issue the 'fine'.

The owners and operators of private car parks may argue that a binding contract is entered into when a person enters the carpark and therefore any failure on behalf of the driver to comply with their terms and conditions is a breach of contract entitling them to recover their loss from the motorist. However, a 'fine' for a breach of parking conditions is in many cases grossly inflated compared to any actual loss incurred by the carpark owner and therefore unlikely to be successful if contested.

Motorists should be aware that some companies such as those that own and operate CityLink and Eastlink have the power under legislation to charge freeway tolls and toll administration fees. The failure to pay these tolls or fees may result in an infringement notice and penalty enforceable by the courts.



In this issue...

The 'Fine' Line between Parking Fees and Fines

Family Violence

ElderCare Legal Newsletter

Client FUNction

A Goodbye...
...and a New Addition

FastFACTS

Did you know...

If you work in the city, our Melbourne office is ideally positioned to meet your legal needs. For a convenient lunch time appointment or consultation, give us a call.

If you would like to receive an electronic version of Legal Insight, please:

- send an email to office@hutchinsonlegal.com.au
- call Tristan Tottenham of our office on 9870 9870
- write to us at PO Box 450, Ringwood 3134

Family Violence

Family violence is a devastating and complex issue that affects many Australian families. With an increase in public awareness and concern about the prevalence of family violence amongst Australian families and its tragic effects on those families, recent governments have attempted to combat family violence through various legislative developments.



The *Family Violence Protection Act 2008* ("the Act") created a civil protection order scheme, focussed on ensuring the safety of victims. These provisions are designed to operate in conjunction with the continued charging and prosecution of family violence related criminal acts. Under the Act a family member affected by family violence (or a police officer on behalf of such person(s)) can apply for a Family Violence Intervention Order by submitting an application to the court. Intervention Orders, amongst other things, can prohibit further family violence being committed, exclude the perpetrator of the violence from the family residence and prohibit the perpetrator from approaching or contacting the family member without being accompanied by a police officer (or other specified person).

Despite the legislative changes and the Protection Order scheme, family violence remains prevalent in Victoria. The figures continue to rise. In a recent media release from Domestic Violence Victoria (DVV), backed by many of Victoria's leading family violence bodies, DVV has called for further reforms to stop family violence "clogging up our courts, police and community services".

For more information, go to: <http://www.hutchinsonlegal.com.au/family-violence/>

ElderCare Legal Newsletter

In the face of major aged care reforms, we would like to introduce the new ElderCare Legal Newsletter. ElderCare Legal, is a division of Hutchinson Legal that helps those dealing with legal issues common to many older Australians.

Whether you need a Will drafted, powers of attorney or would like to speak with one of our lawyers regarding accommodation agreements, ElderCare Legal can provide assistance and help to give you peace of mind.

office@hutchinsonlegal.com.au call Tristan Todorovic at our office on 9870 9870 write to us at PO Box 450, Ringwood 3134.' The 'Aged Care Reform' section states: 'The distinction between levels of care will be removed. There will no longer be the classification of High Care or Low Care' - rather, care will now be defined as 'Care in the Home' or 'Care in a Facility'. 2. A Fully Supported Resident is someone whose total assets are not greater than \$45,000. The 2014 Aged Care Package will impact anyone who is classified as a Fully Supported Resident. A Fully Supported Resident will only be required to pay the Basic Daily Care Fee or 5% of the full single day Pension currently \$46.50 per day. 3. Daily care and charges will be reduced to 50% the Daily Accommodation Payment (DAP). Some of the current fees and charges have been removed or reduced. 4. DAPs will be reduced to 50% of the full pension. 5. RACs will be capped at \$50,000 unless a person has received approval from the Commonwealth Government for higher RACs. 6. How much you pay as a resident will be based on the 'Market Related Fee (MRF)' assessed upon your income and assets. The MRF will be capped at \$5,000 per year (Annual Cap) of \$50,000 per year (Single Subsidy Cap). Once each rate is reached after Annual Cap or Single Subsidy Cap, the MRF is no longer payable for that period. When the Single Subsidy Cap is reached, you will only be asked to contribute to pay the Basic Daily Care Fee and any other aged care accommodation fees. 7. The single houses will qualify except only if a spouse continues to live there, it's a spouse no longer lives there the first'."/>

A Goodbye...

In June 2006, Barb Graham joined Hutchinson Legal and has served in a number of roles, more recently with Your Lawyer. Barb and her husband Ian are moving to the Northern Territory where they will be working with aboriginal youth.



Barb Graham



Madelaine Pelsler

...and a New Addition

We would like to welcome our newest member, Madelaine Pelsler, to the Hutchinson Legal team. Madelaine was admitted to practice in 1981 and has had a wide variety of commercial litigation experience in large city firms. Madelaine now concentrates on drafting wills, powers of attorney documents, and the administration of estates and on giving general advice regarding these matters. She is also equipped to handle matters which relate to Elder Law and Family Law. **If you need assistance in any of these areas, you can set up an appointment with Madelaine by contacting our Ringwood office on 9870 9870.**

Client FUNction

We at Hutchinson Legal would like to thank all of those who attended our Client FUNction Movie Night on Monday, 26 May 2014. It was a great night catching up with clients, friends and family. We hope all those who attended had an enjoyable night and hope to see you all again next year. Those who were unable to attend this year's event, keep an eye out for our invitation to our next Client FUNction.



HUTCHINSON LEGAL

per Con Nottas & Grant Hutchinson

Tel: (61 3) 9870 9870

Fax: (61 3) 9870 5704

Email: office@hutchinsonlegal.com.au

PO Box 450, Ringwood 3134

FastFACTS

-2.2°

The coldest Melbourne temperature on record (11/6/1866)

5,756

Average number of parking fines issued last year per parking officer in the Monash Council area

\$14.7b

The amount that violence against women and children is estimated to have cost the Australian economy in 2013

\$72-144

The amount you can expect to pay for a Council issued parking fine

July 2nd

The middle day of the year (non-leap years)

Visit us at hutchinsonlegal.com.au

Clients should not act only on the basis of material contained in this newsletter because the contents are of a general nature only and may be liable to misinterpretation in particular circumstances. Changes to legislation can occur quickly. Do not act on any of the contents of this newsletter without first obtaining specific advice from a lawyer.