



August 21st 2016

**Breach Notice**

**SC ##### – failure of duties under Strata Titles Act**

Dear Mr #####,

We represent Ms Ann #####, an owner at unit 1, 32 #####, Port Adelaide.

We understand that your firm, ##### are the appointed strata managers for this group of 4 units.

We further understand that Mr ##### is the body corporate manager directly responsible for supplying services.

Ms ##### has been an owner at this group for 23 years.

She has advised us that in her dealings with your firm the following has occurred:

1. Owner Register: On request in July 2016 Mr ##### failed to supply the register of owners. Section 39a (1) A strata corporation must maintain a register of the names of the unit holders and Section 41(1e). make available for inspection the register maintained under section 39A. He stated that the Privacy Act prevented him doing so. This is clearly in breach of the 2013 amendments to the Strata Titles Act and as such is a breach. The state legislation makes it explicit that it should be kept and provided upon request by an owner.

2. Rising Damp: We understand that the strata corporation has undertaken to have Mr Salt Damp install a membrane early in 2016. Mr ##### sent correspondence to all owners dated August 18th 2016. The letter stated that The Corporation ... is not responsible for the rectification of the internal walls .... This is incorrect at law. The Legal Services Commission publication 'Strata Titles A Legal Guide' states that on page 32 .. The building foundations are common property and the corporation is therefore responsible for maintaining the damp course that protects the walls. The corporation has an obligation to make good damage caused by rising damp that can be shown to come from the soil through the foundations... (see attached extract). Mr ##### is wrong at law. The failure of the Corporation's common property gives rise to a common law claim for the resultant damages. Mr Salt Damp has quoted for the remedial works being an amount of \$1,892 for unit 1. See attached quote.

3. Meetings: Our client advises us that her request on August 14th 2016 to hold a meeting on August 29th to discuss management and building maintenance. We understand that Mr ##### stated that the request was invalid, despite our client proposing a date time and place. This is in breach of Section 33.. Such a meeting may be convened by (c) the unit holders of one-fifth or more of the total number of units. Our client represents a quarter of the units thus qualifying to call a meeting. Mr ##### is wrong at law and in breach of the Act. We understand that your firm has failed to send meeting notices to our client whilst she was overseas. Your firm however does email Ms ##### her contribution notices. If true, this is a breach of Section 33(3) A meeting is convened by giving written notice of the day, time and place of the meeting to all unit holders at least 14 days before the date of the meeting.

On behalf of our client we are seeking the following remedies:

1. Supply of owner register with all contact details by close of business Monday August 29th. Supply to be by email to #####@yahoo.co.uk
2. Advise all owners by close of business on Wednesday August 31st that the Corporation is in fact responsible for rising damp remedial works.
3. Advise Ms ##### in writing/email by close of business Monday August 29th that your firm will ensure that she is emailed all meeting notices and minutes of meetings in the future and supply back copies of meeting minutes for the last 2 years.

We would greatly appreciate your prompt attention to these requests.

We have advised Ms ##### to take the matters to Court under Section 41a should your firm fail to meet any and all of the above requests.

**BREACH NOTICE TO MANAGER**

In September this year a unit owner approached our office looking for help with her body corporate manager.

The manager was refusing to hand over the list of her fellow owners and their contact details.

She reported, and I confirmed, that the manager stated ' her fellow owners do not want their details provided'. The manager provided no evidence of this. In fact the other owners and manager's wishes are subordinate to the legislation.

On the left is my redacted letter to the manager.

The manager finally supplied the owner with the requested list. Unfortunately it was for another group. This was corrected. The manager rang our office most upset that we, a competitor, were assisting 'his client'. He admitted that they were in error on the salt damp matter.

The manager seemed to believe that compliance with the Parliament's legislation is optional.

I say, do your job properly by following the law and showing respect for our clients who trust us with their money and property.

Cheers

Gordon Russell

ps: Do you have any friends who need to read our newsletter? Ring and we will post one out or they can download it from our website ☐

**emergency numbers**

Plumbing , Gas, Roof Leaks	8356 2750
Electrical	1300 130 229
Breakins & Glazing	0411 848 398
Police to attend - noise/robbery etc.	131 444
State Emergency Service storm/flood	132 500

**GLENELG WOMAN WINS SUPREME COURT BATTLE TO KEEP POT PLANTS IN CARPORT**

The following was reported by Kurtis Eichler of The Advertiser on August 22, 2016.

It covers a case decided by our Supreme Court. It is a reminder that owners need to carefully consider the merits of a fellow owner's request and the real substance of any objections before voting on the matter....

A Glenelg woman has won a complicated and lengthy Supreme Court battle against the corporation that runs her unit complex to keep potted plants in her carport.

Retired teacher Kay Bennetts went to the Supreme Court after Willotia Lodge (a company tiled group of units) ordered the removal of more than 12 pot plants and mirrors from the carport.

Mrs Bennetts, a former mayor of the amalgamated Henley and Grange Council, was also asked to remove a security camera in her backyard.

Willotia Lodge had argued Mrs Bennetts was invading the privacy of other residents and never sought permission to give her carport a mini-makeover.

Mrs Bennetts, 68, told the court Willotia Lodge, known as a company under the Corporations Act, was being "oppressive", "unfairly prejudicial" and "unfairly discriminatory".

She argued other residents were allowed to have chairs, washing and some potted plants in their carports.

" I have always had an area outside where I could have greenery and see the sky," Ms Bennetts told the court. " Knowing I wouldn't have a car ... I assumed it would be fine for me to set that up in my carport.

" It has always been important to me, to my way of life, to be able to actually sit in the fresh air and have that area."



Mrs Bennetts installed a security camera at the request of police after several potted plants were vandalised.

After 10 months of court hearings, Mrs Bennetts was last month allowed to keep the majority of her outdoor area — and her camera — after a second mediation session.

BDK Lawyers senior associate Danielle Mattiske, on behalf of Willotia Lodge, told the court Mrs Bennetts' claims were "vague" and "non-specific".

" There has been no conduct relating to the plaintiff by Willotia Lodge that is oppressive, unfairly prejudicial, discriminatory," Ms Mattiske said.

" The plaintiff is required to only use the carport of Unit 3 for the purpose for which it was designed and/or intended."

Supreme Court Judge Katrina Boehner in May ordered a second round of mediation — after a previous failed attempt to reach a compromise — to avoid the "significant cost" of a three-day trial.

Then last month, Justice Malcolm Blue ruled Willotia Lodge must hold a special general meeting allowing Mrs Bennetts to keep most of her pot plants.

She had to move some of her plants to meet his order that containers

not exceed 1000mm by 500mm, or protrude out from a carport towards a central driveway.

Other rulings included that " shareholders are to respect one another" and any conversations in carports were to be limited to the hours of 8am and 9.30pm.

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## WHY WE ARE ALL SO ANGRY

The following is an piece written by Jane Caro in the Sydney Morning Herald on July 12th 2016.

It takes courage and grit to stare unflinchingly at your own weaknesses and to then find the energy required to do something about them. But who has energy to spare anymore? Everyone you meet is exhausted.

Yet I am reading a lot of articles at the moment about anger. Pundits are pointing the finger at growing anger and resentment to explain the rise of Donald Trump, Nigel Farage, Golden Dawn, Marine le Pen, even our own Pauline Hanson. Why else is our public discourse so aggressive and the world of social media a cesspit of belligerence, they ask. Anger and disaffection are being used as a reason why voters are turning away from traditional political parties. Voting for fringe parties, or even to leave the EU, gets described as a 'protest' vote.

The trouble with this theory is that anger is a secondary emotion. It is a response. We get angry as a reaction to something, such as feeling hurt, humiliated or afraid. Men, in particular, are often much more comfortable displaying anger in the face of emotional distress than they are letting anyone see their sadness or vulnerability. The men who spew bile behind a veil of anonymity on social media, often at women, are sad bastards, unable to find the courage or energy to look their own pain in the face. After thirty years of neo-liberalism as the dominant political force we are left with an epidemic of anger, fear and bone-shattering fatigue.

A result that makes sense, when you consider neo-liberalism celebrates (unachievable) rugged individualism and no-quarter-given competition. According to its thin-lipped, hard-hearted philosophy, winners rise to the top and losers deserve their fate. Neo-liberalism's even more spoilt and indulged younger brother - libertarianism - understands even less about human frailty or weakness. Both lack any sense of compassion, gratitude or humility. They are fundamentally ungracious and self-congratulatory. As someone wise once said – those most in favour of any competition are those most likely to win it.

The truth is that no human being is a 'winner' or a 'loser'. We all have our moments, but most of us more often feel inadequate than in charge. That's why the ramping up of neo-liberal concepts like accountability (at its core about apportioning blame) have made so many of us to feel so vulnerable. We are working longer and longer hours for fear of losing our jobs. 'Loser' we call ourselves when a business project goes pear-shaped. We are turning parenting into a PHD subject for fear of screwing up our kids (though we lack the necessary energy to say no to them or to stand by, controlling our own anxiety, to let them experience a little difficulty). 'Loser' we berate ourselves when our child behaves badly or fails an exam. We obsessively record every mouthful we eat or drink and every hour we spend exercising in the pursuit of physical perfection. 'Loser' we label ourselves whenever the scales go up or a button pops.

Even if we look like we are doing fine on the outside, in a world of judgment and competitive comparisons, we can never be good enough. "Continuous improvement" is the standard by which we are all supposed to live, as if anything in real life continuously improves. No matter how hard we try, we feel like failures and the only cure we are offered is to try even harder.

Technology has created 24/7 availability and the sense that not only can you never escape, but there are also no more excuses. We cheat on sleep to get a little down time, we eat too much (then punish ourselves for it), drink too much, and medicate ourselves to get by. According to some researchers we are even having less sex than ever before.



No wonder when we are asked to offer some generosity towards others we react so badly. We feel as if we have nothing left over and like the exhausted parents of a demanding newborn we resent anyone who looks like they may want something more from us.

When we get angry and blame the refugee, the migrant, the EU, feminists, Mexicans, lefties, Muslims or political correctness for our woes we can keep their demands at bay. If the best defence is attack, then righteous, resentful anger protects us from the energy required for empathy, compassion or dealing with change.

Fortunately, exhaustion is easy to fix if only our leaders can find the energy themselves to do something about it. We need to release the pressure by securing sensible safety nets in health, justice and education. It is a good thing to know there is something to catch us if we fall. We need to wind back working hours and stop thinking of our children as little performance machines to be endlessly measured, tested and compared. We need to sleep more, play more, laugh more. We need to consciously chill out and lighten up. Only then will we have the energy to stop feeling so angry and rediscover

our shared humanity.

To be generous we need to have something to give away, turns out that the most important thing we need a surplus of is not money but time.

Jane Caro has appeared on Channel Seven's Sunrise, ABC television's Q&A and as a regular panellist on The Gruen Transfer. She also undertakes regular radio work. Ms Caro has worked in the advertising industry and lectures in advertising at the School of Humanities and Communication Arts at University of Western Sydney. She is on the board of the NSW Public Education Foundation.

## NOTICE OF MEETING - HOW LONG IS 14 DAYS



Sometimes there is confusion over the meaning of 14 days notice in the strata and community titles acts. The two speed mail service has exacerbated the matter.

The Acts Interpretation Act 1915 clarifies the issue. Section 33. Service by post...

(1) Where any Act passed after the passing of this Act authorises or requires any document to be served by post (whether the expression "serve", "give", "deliver" or "send", or any other expression is used), then, unless the contrary intention appears, the Act will be taken to provide..

(a) that the service is effected by properly addressing, prepaying and posting a letter or packet containing the document; and

(b) that, unless the contrary is proved, service will be taken to have been effected at the time at which the letter or packet would be delivered in the ordinary course of post.

(2) Where any Act authorises or requires any document to be served by certified mail (whether the expression "serve", "give", "deliver" or "send", or any other expression is used) then, unless the contrary intention appears, the Act will be taken to provide that service may be effected by registered post

The 'ordinary course of post' has now extended to some 2 to 6 working days unless posted Priority Mail.

At our office we endeavour to post meeting notices at least 3 weeks before the meeting date.

## ADELAIDE FESTIVAL OF IDEAS OCT 2016

UnitCare Services is a sponsor for this years Adelaide Festival of Ideas (AFol). It will be the centre piece of the Open State October showcase that focuses on collaboration, innovation, ideas and enterprise to address the complex challenges facing our state. Some 10,000 people will come together over 10 days. The events are free and we hope you can join us. The following is their announcement...

AFol is delighted to announce that Erin Brockovich will make an Australian public appearance at the 2016 Adelaide Festival of Ideas (21-23 October). A legal clerk turned environmental activist, Brockovich gained international recognition for her courageous efforts to expose the contamination of community drinking water by Pacific Gas and Electric Company.

Ms Brockovich's successful lawsuit won a settlement of US \$333m - at the time the largest settlement ever paid in a direct-action lawsuit in US history.

In the year 2000, her story became the Hollywood film, Erin Brockovich. This Oscar winning production catapulted the activist to media stardom. She then hosted the TV series Challenge America with Erin Brockovich on ABC and Final Justice on Zone Reality. "Erin Brockovich is a role model for informed, activist citizens everywhere" says AFol founder and board Chairman, Greg Mackie. "We are thrilled to be bringing her to Adelaide for our festival".

The complete 2016 AFol program will be released in mid-September. In the meantime, interested citizens can head to the AFol website (<http://adelaidefestivalofideas.com.au/>) and register their interest by joining the free AFol e-news. The 2016 Adelaide Festival of Ideas is proud to be a partner with Open State - a 10 day series of conferences and public events (<https://openstate.com.au/>).

Background

Established in 1999, the Adelaide Festival of Ideas was Australia's original biennial ideas festival. Following its defunding by Arts SA in early 2015, AFol founder, Greg Mackie and a group of concerned citizens rallied together to rescue the much-loved Adelaide event. Forming a not-for-profit incorporated association, partners and sponsors old and new have backed the 2016 event. The association aspires to see the AFol now become an annual flagship of national thought leadership. <https://openstate.com.au/> and <http://adelaidefestivalofideas.com.au/>

## GOOD MORTGAGE ADVICE UPFRONT AND REGULAR REVIEWS: A WINNING COMBINATION FOR FINANCIAL SUCCESS

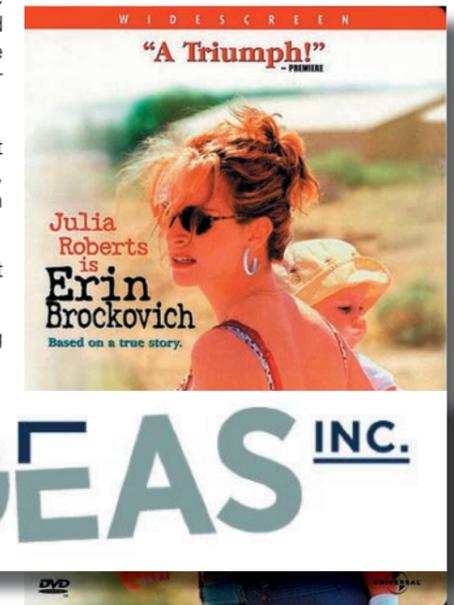
As a property investor, you obviously want to maximise your return on investment. This involves optimising your cash flow and income, and increasing your equity so that you can build your portfolio.

Since property investment is such a long term transaction, it's critical to your success that you receive the right loan advice upfront. Unfortunately, we see many people spending too much on loan repayments, or being unable to purchase the property they want, because they only sought advice from their bank. The banks all offer different products and apply different lending criteria; this makes it worth looking around but choosing the right loan for your individual situation can be complicated. This is where a mortgage adviser can help, by offering objective advice on the various options available.

Regular loan reviews are also crucial when it comes to property investment. We find that people often seek advice upfront when purchasing a property, however once the loan is in place, things get left as they are. There are many things that can change over the period of the loan – either in the marketplace or in terms of your personal circumstances – so it is good to review the situation regularly when it comes to the loan you have.

Some reasons you should review your loan:

- Interest rates may have changed
- A fixed rate, variable rate or a combination of the two, may be better than what you have
- You may need to pay for renovations
- Your personal situation may have changed (e.g. is your family growing or have children left the family home?)
- There may be a better way to maximise the equity in your property in order to build your portfolio



Having someone who can review your position and provide advice on your individual circumstances is extremely valuable and could save you significant dollars.

A loan review with me is at no cost and will provide you with the peace of mind that you are on the right path or alternatives to put you in a better financial position.

Martin Roach Ph 8363 3959

Smartline Personal Mortgage Advisers

Australian Credit Licence Number 385325



Editor's note:

I met Martin whilst helping my partner invest in a unit out at Ingle Farm.

We found his prompt, personal and professional approach most valuable. My partner secured a loan through Bank SA at a reasonable rate in a short time.

It may be worthwhile your giving him a call if you are looking to buy, invest or refinance.