

NT COMMERCIAL LAWYERS COMMITTEE UPDATE

By Kevin Stephens, Commercial Lawyers Committee

REINT Contract of sale

With the introduction of the Land Title Act and Law of Property Act from 1 December 2000 the intention is to replace the standard form Law Society contract of sale.

In this respect the REINT (who have engaged Clayton Utz) in association with the Australian Institute of Conveyancers has prepared a proposed new contract of sale for general use. Members of the Committee have reviewed the contract of sale and are in the process of providing comments to the REINT on issues it believes needs to be addressed. Some of the fundamental features of the proposed new contract of sale include the replacement of requisitions with warranties, the insertion of specific rights relating to the withholding of part of the purchase price, the insertion of a clause dealing specifically with swimming pools and spas and a revised methodology of dealing with the issue of finance.

Commercial tenancies legislation

Most of the old Tenancy Act has been transferred to the Residential Tenancies Act with the small balance of the Tenancy Act being renamed the Commercial Tenancies Act. There is a proposal to introduce new commercial tenancies legislation in line with retail tenancy legislation of southern jurisdictions.

At this early stage two of the contentious issues that have arisen are the proposed coverage of the new commercial tenancies legislation to all commercial tenancies (not limited by size) and the complete abolition of ratchet clauses. The proposal also contains reasonably detailed and comprehensive disclosure obligations not previously a part of Territory commercial tenancy legislation. The committee is continuing to monitor the progress of this proposal.

Unit Titles Amendment Act

The Attorney-Generals Department and the Land Titles Office have recently made a presentation on the proposed Unit Titles Amendment Act which for the first time in the Territory will allow two or more units plan developments within a single building to facilitate "multi-layered" ownership within a building development. In effect, a building will be capable of a form of subdivision by the creation of building lots, with an overarching body corporate (Building Management Corporation) owning the common property.

The Bill was passed by the Legislative Assembly in June 2001. Copies of the Bill and associated Unit Titles (Consequential Amendments - Building Development) Bill 2001 are available on the NT Government website.

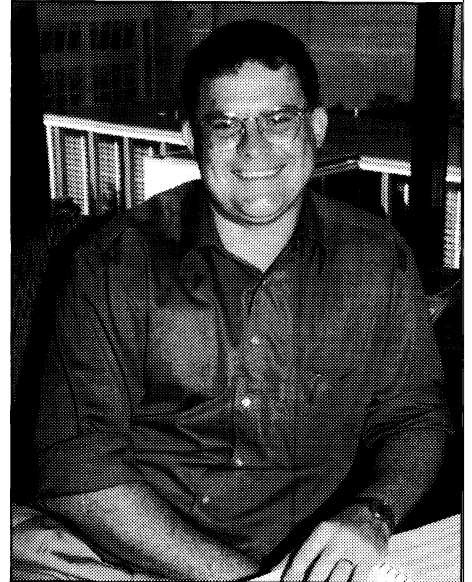
Practitioners involved in advising on building developments are encouraged to examine the Act which was notified in the *NT Government Gazette* in June 2001. It is possible that within the next few years there will be a reasonably comprehensive overhaul of the Unit Titles Act.

Land Title Act Review of Forms

There has been a range of issues raised by commercial lawyers with respect to the new panel forms issued in respect of the Land Title Act. A review of the Land Title Act, Law of Property Act and associated forms is due to commence in May or June and practitioners are encouraged to provide constructive comments to the Land Titles Office.

Estates and Banks

Queensland practitioners are encountering banks imposing requirements upon executors to meet the 100 points rule before withdrawing funds or closing bank accounts of deceased estates. To date the committee is not aware of similar requirements being imposed by banks in the Northern



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Territory, however this issue is being investigated further. The general view of the committee is that the current regime of probate, letters of administration or evidence required by banks for executors still with bank accounts is sufficient however further investigation is underway.

Composition of the Commercial Lawyers Committee

The commercial lawyers committee is currently comprised of Mr Peer Schroeter (Povey Stirk Alice Springs), Ms Tracy Reeves (Cridlands Darwin), Mr David Winter (Hunt & Hunt, Darwin), Mr Bill Parish (Ward Keller, Darwin), Mr Alastair Shields (Solicitor for the NT) and Kevin Stephens (Ward Keller, Darwin).

The Law Society Council member responsible for the Commercial Committee is Tim Jacobs (Ward Keller Darwin).

If you have any issues that you wish to raise with the commercial lawyers committee or matters you wish to place before it please contact any of the above practitioners.