

This newsletter has been designed to keep you updated on what is happening within the industry and our real estate office

[www.RealEstateWorks.com.au](http://www.RealEstateWorks.com.au)

### Check Out Our New Website!

To celebrate the launch of our brand new website, Real Estate Works is offering a slew of promotions for new and existing clients. Jump on the internet and check them out or give us a call to find out more.

### Christmas Bonus Offer

As an extra special promotion for Christmas, if you refer 3 or more friends and they sign up with us before December 25th we'll send you out a case of **12 bottles of your favourite wine** to the value of \$300 on top of the **9 months free management** you'll already be receiving.

### Inspirational Tip ...

I've failed over and over and over again in my life and that is why I succeed.

*Michael Jordan*

**IMPORTANT:** This is not advice. Clients should not act solely on the basis of the material contained in this newsletter. Items herein are general comments only and do not constitute or convey advice per se. Every effort is made to ensure the contents are accurate at the time of publication. Clients should seek their own independent professional advice before making any decision or taking action. We take no responsibility for any subsequent action that may arise from the use of this newsletter. Published by THE PPM GROUP - [www.ppmssystem.com](http://www.ppmssystem.com)

## Court Ruling Makes it Clear Owners have a 'Duty of Care' to the tenant

A recent NSW court decision makes it clear that all owners throughout Australia have a 'duty of care' to tenants to provide a safe and habitable property, after more than \$840,000 was awarded to a tenant injured by broken glass.

The case was Hunt v Roads and Traffic Authority of NSW, and the ruling cuts right to the heart of the issue of what 'duty of care' an owner and their agent owes a tenant, their awareness about potential problem areas in rental properties, and the importance of complying with building codes when conducting even routine maintenance.

The facts of the case, according to the NSW District Court:

In April 2005, a tenant of a rental property in Ashfield was seriously injured after his hand struck and shattered the large glass panel that formed part of the front door.

The tenant sued the owner of the property, the Roads and Traffic Authority, and the managing rental agent, alleging negligence because the door had not been fitted with safety glass contrary to building codes.

The court found in favour of the tenant, awarding him \$843,146 in damages plus costs.

Liability for paying the total bill was split into a 25 per cent share for the owner and 75 per cent share for the managing agent.\*



The case hasn't rated a mention outside of the property and insurance industries, but it should be on the radar of property investors, particularly those who own older buildings.

Here's why:

While the use of safety glass was not mandatory at the time the rental premises were built, the judge found that the owner/managing agent was responsible for the tenant's injuries because they failed to install safety glass when conducting repairs on the premises after it became mandatory.

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In October 1998, a glass panel in the front door to the property was broken during a burglary. The agent employed a 'handyman' – rather than a professional contractor or glazier – to fix the damage, who did not install safety glass for that panel or anywhere else on the premises where non-safety glass was still in use that could pose a reasonable risk of injury.

In March 2005, which was one month before the injury was sustained by the tenant, a glass panel in the door to the bedroom was broken during a failed burglary attempt. The judge found that yet again no measures were taken to install safety glass in the property.

This was important because what happened or didn't happen as far back as 1998 had a direct impact on the tenant's injury seven years later and, ultimately, the outcome of the case and the ruling.

In practical terms, this ruling means that owners and managing agents will have to closely examine the present condition of their properties and review maintenance records to ensure that even work done in the past meets building codes.

Importantly to note, the court rejected arguments that the tenant 'accepted' the premises as it was at the time the tenancy agreement was signed. The judge said that the owner must still take reasonable care 'in respect of dangers not readily apparent on inspection'.

#### OUR ADVICE

As property owners it is important that you have the property inspected annually by professionals to ensure that the property is safe and fit for the tenant to live in. This should include:

- A building/glazier inspection
- An electrical inspection
- A pest inspection

- A pool inspection (if applicable)

As your managing agent we are not professionally trained or qualified to undertake these inspections. The inspections that our property managers conduct are visual inspections only to provide feedback on the presentation of the property.

Equally important, if we recommend repairs are required, prompt action must be taken by engaging qualified and insured tradespeople appropriate for the works to protect you and your investment.

*\* The decision is currently being appealed by the insurance group RealCover, who provided the professional indemnity insurance policy held by the managing agent.*

## How to Save up to \$75,000 on your Home Loan



*Research has shown that property owners with bank loans can save more than \$75,000 over the life of their home loan simply by asking for a better deal, but two-thirds of people are too afraid to ask.*

A one per cent decrease on a \$400,000 mortgage will save you more than \$75,000 over 25 years, so it really does pay to pick up the phone and ask.

The banking industry is becoming more and more competitive to secure new business and loans – just like any other business.

The big banks are more likely to do deals on everything from loan interest rates to transaction account fees, in comparison to the smaller banks and credit unions

who generally won't reduce fees, but will have lower upfront costs.

With interest rates on the rise it is important for property owners to look at ways of reducing their monthly repayment costs. Invest a couple of hours into contacting other banks and lending institutions to find out what their best rates and deals are, and then see if your bank will match them. There is no harm in asking.

More bank employees are now being empowered to cut a deal to keep someone's business, but it is important that you speak with the right person. ■



## Are you wanting to inspect your investment property?

### A FRIENDLY REMINDER

If you are wanting to inspect your 'tenanted' investment property it is important that you contact our office to organise an inspection time, rather than visit the property unannounced.

There are legislative requirements that must be followed when an agent, owner or tradesperson wishes to access the property.

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