

"Success Together"

Our office will close 1pm Friday 24 December 2010 and reopen 8.30am on Tuesday 4 January 2011.  
Please leave non-urgent messages on our answering machine. In an emergency please phone 0413 456 485.

## COMPLIMENTS OF THE SEASON AND A HAPPY AND PROSPEROUS NEW YEAR TO ALL!

It is our pleasure to thank all of our valued clients, colleagues and business referrers for their support during the past year as you are the ones who make us successful.

Very special thanks also to all of the staff for their ongoing efforts to deliver our goal of a high level of service and client satisfaction.

### Office Update

#### A Mixed Year

Like many it was a mixed year in a multispeed economy. The first half was extremely busy with a 30%+ increase in work. The second half has seen a significant slowing of activity. More recently we have seen some increased activity especially in the residential property market. We expect further pick up in 2011. We trust you are successfully riding out the ups and downs.

#### Staff

We are sad to say that Sandy, one of our secretaries, is soon moving with her family to the beautiful Sunshine Coast. We thank Sandy for her past efforts and wish her well in the future.

#### Office Open Days 2010

The demand was so high, we ran two, providing free advice on a range of legal issues. The 2011 Open Day will be held on a date to be advised.

#### Community Support

O'Neills is pleased to have again undertaken some pro bono work and supported organisations including Variety's Special Children's Christmas Party, Make a Wish, MS and many others. Over \$10,000 was donated or fundraised from various activities by the firm and staff.

#### Emails over the holidays

Please remember that your emails will not necessarily be read over the break so **if urgent, please ring 0413 456 485**. Help us to stay in touch effectively by kindly advising your current email address/es or any other contact changes.

#### Office email storms create workplace stress

A recent survey by IBM found 45% of managers agree that having too many irrelevant emails in their inbox makes for a stressful workplace and significantly reduces their effectiveness. It seems there is only one solution to this growing problem, be more selective about the use of emails.

#### What Do O'Neills Business Lawyers Do?

The firm provides services in a number of areas of the law and not just business law e.g. estate law, civil and commercial litigation and conveyancing. If you are unsure if we can help you with your issue, please [view our practice areas](#) or simply call us.

#### Why choose O'Neills?

Lawyers, of course, do many things and each lawyer can do those things differently. At O'Neills, it is not just our legal and ethical obligation but our desire to inform and educate our clients as much as practical so they get the best outcome with legal matters. We don't decide what our clients should do, but rather inform you of all the legal, commercial and practical choices open to you, and then guide you to your goal.

At O'Neills we take an holistic approach to every matter so that decisions aren't made in isolation and which may later be regretted because the impact of a particular decision upon business or personal affairs hasn't been considered fully. It is both professionally and personally rewarding to see a client achieve their goals, and our philosophy is to work with the client and other advisors to do this. **"Success Together"** is not a hollow catch phrase to us.

#### Staying up to date!

This is critical to us and, of course, you. At O'Neills we make sure we are up to date with the law by literally spending hundreds of hours each year reading new legislation, court decisions, articles, attending seminars and conferences and doing research. We also ensure non-professional staff are kept up to date by attending seminars and reading articles from time to time.

### Case Update

#### When is an Agent entitled to commission?

The recent case of Stillwater Aust Pty Ltd t/as Century 21 on *Duporth v. Andersen and another* defines the circumstances when a real estate Agent is entitled to claim commission as being the "effective cause of the sale".

The District Court found the Agent was entitled to commission even though the deal ultimately was done directly between the Seller and the Buyer.

[Read the full article](#)



## Lost money due to negligent financial advice?

We have acted for a number of clients with claims of this nature, this year. In August of this year, the Supreme Court found a financial advisor was liable to a client for giving negligent advice. The Plaintiff recovered some \$321,000 plus costs. Brisbane hairdresser Stefan is suing UBS for more than \$4 million.

[Read the full article](#)

## Legislation Update

### Australian Consumer Law Act 2009

The Trade Practices Amendment commenced on 1 July 2010. It applies to consumer contracts – those for the supply of goods or services (or a sale or grant of interest in land) to an individual who acquired wholly or predominantly for personal, domestic or household use or consumption with some exemptions.

[Read the full article](#)

### Competition and Consumer Act 2010

The Act will come into force from 1 January 2011. It will supersede all of the state and territory Fair Trading Acts, and also the fair trading provisions of the Commonwealth Trade Practices Act 1974. It will mean that businesses, Australia wide, will only have to comply with one fair trading law.

For more information visit [www.fairtrading.qld.gov.au](http://www.fairtrading.qld.gov.au)

### Land Valuation Act 2010

The Act commenced on 20 September 2010 repealing and replacing the Valuation of Land Act 1944 (Qld) and introduces a new concept of "site valuation" as the methodology of valuing non-rural land in Queensland replacing what is known as the "unimproved value". The valuation helps determine the taxes and levies that affect us all from rates on our homes through to commercial and industrial properties and leases and land tax.

### Property Agents and Motor Dealers Act

Changes became law on 1 October 2010. The long overdue reforms come after repeated criticism by the Courts in recent times with comments such as "a confused mess", "unnecessary complexity and technicality" and "vague, confusing and overly technical requirements".

[Read the full article](#)

## Quotable quotes

*Our company is built on people – those who work for us, and those we do business with.*

**Harvey S. Firestone**

*Difficulties mastered are opportunities won.*

**Winston Churchill**

*Imagination is more important than knowledge.*

**Albert Einstein**

*I am not afraid of death, I just don't want to be there when it happens.*

**Woody Allen**

## Building and Construction Industry Payments Act 2004

Are you involved in a commercial building project, and having difficulty being paid by the other party? You may be able to use the Act to be paid more quickly.

[Read the full article](#)

### Electronic delivery of bills commences

Until the Amendments to the Legal Profession Act 2007 commenced on 14 October 2010, solicitors had to post a hard copy of the tax invoice, but now may deliver their tax invoices in an electronic form if the client agrees to it.

### Retail Shop Leases Act 1994

A new form for the Lessor's disclosure under the Retail Shop Leases Act 1994 has been approved for use from 1 January 2011. The change will align requirements with NSW and Victoria's, 'prescribed particulars'. Non compliance of Disclosure by a landlord can be very expensive.

## Want to be an Organ Donor?

[View the register and related forms](#)

## Wills and the Disadvantaged

While many legally competent adults do not have a Will or have not updated their Will for many years, there is a group of people who suffer physical and intellectual disabilities which prevent them from making a Will. Now an application may be made to the Court by representatives for a statutory Will.

[Read the full article](#)

### CPI September 2010 Quarter

Brisbane's CPI rose 1% in the quarter. The annual increase was 2.9%, still within the Reserve's target. Lease rents are often increased by the CPI.

### Need Advice?

Please contact us on 07 3849 6263 if you need advice on any legal matter. We also appreciate any referrals you make to us.

## Testamentary Trust – What Is It?

Simplistically, a testamentary trust is a trust created by a Will. Generally it is a discretionary trust.

[Read the full article](#)

## Industry Market Wrap

Lending finance data released by the Australian Bureau of Statistics this week showed a lift across all lending categories except personal finance during October.

[Read the full article](#)

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