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2017: Issue 6

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- Report Calls for Law Reform to Tackle Elder Abuse
- Bequests to Charities and Contested Wills
- Leases and Ambiguity
- How do you Challenge the Terms of a Will?



The Szabo Report: The need to tackle Elder Abuse

Good morning <<First Name>>

Welcome to our new subscribers. Our monthly newsletter focuses on some of the interesting areas of the practice including Wills and Estate planning, deceased estates, Will disputes and also property disputes.

Happy new year. Financial year that is. It hasn't taken long for 30 June to arrive.

When you start thinking about your tax returns, is as good a time as any to review your Will and Estate plan. Has anything changed with respect to your Will? Has your Executor died? Have you divorced since your last Will? Do you even have a Will, an Enduring Power of Attorney and an Appointment of Enduring Guardians? Give us a call if you wish to make an appointment to discuss these issues.

In this issue, we touch [here](#) on a topic which sadly is becoming more prevalent in our society: "Elder Abuse". As our population ages, financial and emotional abuse of the elderly is becoming more prevalent.

Contesting Wills (and defending Estates when Wills are contested) is a major area of our practice. [Here](#) we discuss a recent UK decision about where a bequest to a charity was contested. Charitable gifts in Wills are often the major source of funding for most charities, which will attempt to defend any such claims on their bequests. For more detail about challenging the terms of a Will, please see this [blog](#).

Another interesting [case](#), this time about a Lease, is discussed here. The principles involved apply to commercial, retail and industrial leases. Leases must be clear and unambiguous in their terms so as to avoid difficulties arising in interpretation. We assist both landlord and tenant clients in preparing and reviewing such documents as well as commencing proceedings where the need arises to protect or enforce rights under such leases.

Finally, if you have any questions about Family Law, give our Family Law solicitor [Monique Loveday](#) a call.

Regards,

George Szabo



Report Calls for Law How do you

Leases and Ambiguity

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The ALRC has also recommended the creation of a National Plan to combat elder abuse and conduct new empirical research into the prevalence of elder abuse.

This recommendation has been welcomed by the Law Society of NSW, which says that a national plan backed by additional funding and supported by the private sector could be an important component in strategies to address elder abuse.

It also suggests that individual state laws relating to powers of attorney and guardianship should be harmonised to reduce complexity and overlap.

[Find out more...](#)

The prospect of raising legal action to contest what someone has written in their Will can be a very daunting one. You will likely be concerned with what others think of you, and how they may react to the news that the last wishes of someone that was dear to you all, are being challenged.

This is entirely understandable, and most people would feel the same way. There are very strict rules about the circumstances where the terms of someone's will can be contested, and it is important to understand what these are before taking any concrete steps to do so.

[Find out more...](#)

Proceedings began in 2013 when the lessor sought a declaration that the lessee was required to pay all rates, taxes, assessments and outgoings in respect of the land. The original trial judge granted the declaration but subsequently the Court of Appeal set the declaration aside following an appeal by the lessee. The High Court then set aside the Court of Appeal's decision and reinstated that of the original trial judge.

The High Court had to consider not just the wording of the text but also the commercial objective of the agreement, the circumstances in which the agreement had come about and a context where the original parties were no longer involved.

[Find out more...](#)



Bequests to Charities and Contested Wills

Challenges to charitable bequests have not just become more common but also the principle of testamentary freedom, the right to leave an estate according to the deceased's wishes, has itself become more challenged. For example, a report by the Queensland University of Technology found that challenges to charitable bequests, by a deceased's family members, have become more common as indeed they have in the UK.

[Find out more...](#)

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