

## **THE EVOLVING LAW**

**June 2009:** The law evolves, sometimes slowly. In recent times, we have seen the High Court judgment alluding in a particular case to a non-endorsement of the so-called "doctrine of efficient breach" to the leasing factual situation there (please refer to page 3 of our June 2009 Property Newsletter). There have been, in my view, recent improvements in areas such as the Franchising Code of Conduct, New South Wales strata laws and the law relating to misleading or deceptive conduct. In parliamentary laws, there are upcoming changes introduced or proposed to the Consumer Credit Code and unfair contract terms. To me, these changes are welcome. If you agree with me, it is worth keeping these beneficial changes in mind when you hear through the media about difficulties or problems that have arisen in other areas.

Perhaps another interesting legal development gradually occurring in conjunction is that there are, as far as I am concerned, some court decisions being handed down that indicate that using corporate structures, or being involved in some reasonably complex transactions that have tax advantages, may lead to unpredictable or unfortunate legal results. To me, these results highlight the corporate or individual legal responsibilities that a person may take unknowingly take on when they get involved in this type of matters.

To me, those legal responsibilities have not been well understood or explained to people before they get involved in these types of corporate structures or complex transactions.

If you are proposing to use corporate structures or be involved in a reasonably complex transactions that have a tax advantage, you should of course obtain and consider beforehand good advice about the possible legal responsibilities, advantages and disadvantages of what is being proposed.