

# FAMILY Flyer



THIS ISSUE -

No. 231

- 'Close-up' Edition
- Public seminar – “7 Secrets” – book now!
- Short distance relocations
- Child support departure for school fees

## 'CLOSE-UP' EDITION

Not only is 'honesty the best policy' when it comes to giving evidence in the Family Court, but so is transparency.

From time to time separated spouses that come to court have not been honest in some of their previous behaviour, such as what their living arrangements have been when dealing with Centrelink.

For those who want to change their story (and get the benefit of it) beware what the Court may do in “Beware what you declare is true”.

## PUBLIC SEMINAR – “7 SECRETS” – BOOK NOW!

For the first time this year, Michael Lynch will be presenting a special 1 hour seminar – **“7 Secrets to Surviving Property Settlement”**. This seminar is a must for anyone that is going through a separation and wants to know the best way to navigate a property settlement, and reduce financial pressure.

For **ONLY \$20**, you will receive a 1 hour information session, and have the opportunity to ask questions. Accredited Family Law Specialist, Michael Lynch, presents the seminar in an easy-to-understand way, ensuring you get the most out of the session.

### “7 Secrets to Property Settlement”

- [Brisbane City](#): 1-2pm – Tuesday, 28 October, The

Sebel Suites, Cnr Charlotte & Albert St, Brisbane City

- [Sunnybank](#): 6-7pm – Wednesday, 29 October, Sunnybank Community & Sports Club – 470 McCullough St, Sunnybank

To register, call (07) 3221 4300 or email [law@mlynch.com.au](mailto:law@mlynch.com.au). **Book now**, seating is limited! See [comments](#) from others that have attended.

## SHORT DISTANCE RELOCATIONS

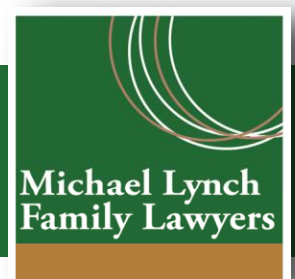
The term 'relocation' in family law refers to one parent seeking to relocate their home, with the children, some distance away from the other parent. Relocation matters are difficult and often a decision is not made until final hearing.


So, how far is too far? And what should the court do?

Let's consider (2) recent cases where a move of 1 hour was proposed.

In the first case, the court was asked to decide whether to permit the mother to relocate with the child to a place that was 1 hours' drive from her present residence. It was in essence a “change in suburb”, however enough of a move to disrupt the current care arrangements in place for the child. The court was asked to make a decision about which parent the child should primarily 'live with' and a possible change in schools.

The court found that: at 6 years of age the child 'knew her





father well', the mother was pregnant and was moving to be with her new partner, the mother had been the primary carer and the distance was not insurmountable for the father.

The Judge permitted the mother to move and to change the school. The father received 4 nights per fortnight and half holidays.

In another recent relocation case, the parents had been born and raised and commenced their relationship in a regional town. During the relationship the mother commenced work at another town 1 hours drive away. Following separation, the parents conducted a 'week about' arrangement from when the child was 1 ½ years until 3 years. The mother then sought an order that the child live primarily with her as the child's primary schooling was starting soon. The parents agreed that the week about arrangement couldn't continue.

The court found that although the child was 5 years old he expressed a wish to the report writer to be with the father. The child also had a close relationship with his paternal cousins and the fathers extended family, who all lived in the same town as the father.

The Judge ordered the child not relocate and that he 'live with' the father and 'spend time with' the mother 4 nights per fortnight and half holidays.

## CHILD SUPPORT DEPARTURE FOR SCHOOL FEES

The child support formula does not take into account private school fees. A recent case considered a departure application from a CSA assessment for payment of private school fees.

### The Facts:

- The husband sought the child support departure and wanted the court to order that the wife's 'income' be fixed at \$92,000 per annum and then increased each

year with the child support inflation rate and that the wife pay 50% of the private school fees (for the (2) children, aged 17 and 14)

- The husband ran a farming business and his taxable income was nil. At the trial he conceded that he had drawings from the business in the sum of \$60,000 per annum. The wife had tax credits so she would effectively pay no tax on her gross earnings for the foreseeable future. Therefore both parties' taxable incomes' did not represent their 'real income'.
- The wife opposed the husband's application and sought that the CSA assessment (upon her) remain, in the sum of \$1,251 per month. She said she could not meet her child support obligations and half of the private school fees.

### Court Held:

- The court was satisfied that during the parties' relationship they agreed for the children to attend private school and the fees were met through the farming partnership.
- The court decided that to leave the assessment process to the Agency could result in an injustice simply by the husband having a nil taxable income, where in fact he was withdrawing funds from the farming business.

### Court Order:

That each party meet one half of the children's private school fees and associated expenses for the children. There would otherwise be no assessment of periodic child support payable by either parent to the other. The wife's obligation (for half of the school fees) was now \$18,000 per annum, whilst under the previous CSA assessment it had been \$14,500 per annum.

Copyright 2011

This document contains general comments and should not be relied upon as specific legal advice. Readers should contact this Office for advice on any topic in this document. Changes to the law occur regularly, no responsibility for any loss or damage caused to anyone acting in reliance on this document shall be accepted by this Office. No part of this document may be reproduced without our written approval.

**Principal: Michael Lynch\***  
\*Queensland Law Society  
Accredited Family Law Specialist



**CONTACT:**  
**Telephone:** 07 3221 4300  
**Address:** Level 6, 193 North Quay  
Brisbane QLD 4000  
**Website:** [www.mlfl.com.au](http://www.mlfl.com.au)

