



- Seminars – Starting Soon!
- New Laws – ‘Family Violence’
- Changes Coming – Stopping Child Abduction
- Q & A
- Property Valuation

SEMINARS – STARTING SOON!

Don't miss the last seminars for this year!

Family Law Specialist, Michael Lynch is presenting 2 seminar topics at 4 different locations to help you understand Family Law.

“Family Law Explained” is a 2 hour seminar and \$30 and “7 Secrets to Protecting Your Property” is a 1 hour seminar and \$20. For more information visit www.mlfl.com.au.

These seminars are always very popular so don't delay – Book Now!
Ph. 3221 4300. Attendance fee payable at the door.

“Family Law Explained”: (2 hours)

- Eight Mile Plains: Tuesday, 25th October, 6-8pm – Michael's Oriental Restaurant, 223 Padstow Road;
- Redland Bay: Thursday, 27th October, 6-8pm – Redland Bay Golf Club, North Street.

“7 Secrets to Protecting Your Property”: (1 hour)

- Brisbane City: Tuesday, 8th November, 1-2pm – Sebel Hotel, Charlotte Street; or
- Redcliffe: Wednesday, 9th November, 6-7pm – Redcliffe Leagues Club, Cnr Klinger & Ashmole Road.

NEW LAWS – ‘FAMILY VIOLENCE’

The *Family Law Act* has recently had changes made to its definition of ‘family violence’ and ‘abuse’. The change is significant because if a Court finds that ‘family violence’ exists, then it is able to bypass the compulsory ‘considerations’ of the ‘shared parenting legislation’.

The definition of ‘family violence’ has been dramatically broadened, bringing it more into line with the State ‘domestic violence’ definition i.e., it now extends to actions such as “unreasonable controlling, dominating or deceiving a family member, as well as behaviour that torments, intimidates or harasses a family member”.

It is the government's hope that this change will assist in prioritising the safety of children. We will now wait and see how the Court deals with these new changes.

CHANGES COMING – STOPPING CHILD ABDUCTION

Government statistics tell us that (2) children are taken, by one parent without the other parent's consent, out of Australia every week.

Last month the government announced proposed changes to strengthen the ways in which abducted children can be brought back to Australia.

Australia is already a signatory to the Hague Convention, which means that children can be brought back from other countries that are also a party to this convention, but the government now proposes the following additional arrangements:

- Allowing the Family Court to suspend child support payments to parents who abduct their children overseas;
- Criminal offences for the wrongful retention of a child;
- Removal of potential barriers for foreign courts to order the return of children to Australia, and
- Powers for the Family Court to request information to assist in locating children overseas.

Q & A

Q: I have been married for 2 years and have a daughter aged 4 from a previous relationship. The biological father of my daughter has never pursued a relationship with her and my Husband and I are wondering whether he can adopt her as his own?

A: Step-parent adoption is available in Queensland, however, unfortunately your current circumstances do not meet the minimum requirements under Queensland law to apply for adoption. The law states that a child cannot be adopted by a step-parent until the child is at least 5 years old and has been living with the step-parent for the past 3 years. Once your daughter turns 5, your Husband can then start the adoption process. This requires 'leave' to be obtained from the Family Court to commence step-parent adoption proceedings. For information read our article on ['Step-Parent Adoption'](#).

PROPERTY VALUATION

'Market value' is the value attributed to real estate in a property settlement. Determining this value is difficult, however, if the real estate has development potential.

The Court recently had to consider such a situation, but also with the added complication that part of the real estate had been acquired by the Husband 6 years after separation.

The Facts:

- The Husband and Wife were together for 14 years.
- After they began living together, the Husband borrowed money from his Father to buy a block of land and they lived on it in a caravan. The land was sold at separation and the Husband kept \$47,000, while the Wife received \$5,000.

- Shortly after separation and with part of the proceeds the Husband had received, he bought another block of land for \$15,000 (Lot 10) and then 6 years after the separation the Husband borrowed money to buy the block of land next to it for \$8,000 (Lot 11).
- The lots were valued at \$20,000 and \$35,000 respectively, however, together the lots had development potential and were valued at \$150,000.

First Hearing:

- The Trial Judge held that Lot 11 should be excluded from the property pool as the Husband had bought it after separation.
- The Wife appealed and argued that –
 - Lot 11 would never be sold unless it was sold with Lot 10, which increased the value of Lot 11 (even if the Wife was not found to have contributed to it);
 - She had made contributions as a homemaker and parent before and after the purchase of Lot 11.

Appeal:

- The 'highest and best use' principle for valuation of property should be used and it was not in accordance with the valuer's evidence that the lots were from the Husband's efforts, as this ignored the fact that together the lots increased in size and value.

Court Order:

- The Wife's appeal was allowed and both lots were included at the estimated 'development value'.
- The Wife receive 30% of the value of the 2 lots.

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