

## Glenn

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**From:** Glenn [glennt@cvcoupling.com]  
**Sent:** Friday, 11 November 2005 4:27 PM  
**To:** 'neil.adams@bigpond.com'  
**Cc:** 'jmidlet@aicken.com.au'; 'jmiddlet@aickin.com.au'  
**Subject:** FW: Thompson V Macedon Notes. - With attachment this time  
**Attachments:** Attention John Middleton.doc

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**From:** Glenn [mailto:glennt@cvcoupling.com]  
**Sent:** Friday, 11 November 2005 4:26 PM  
**To:** 'neil.adams@bigpond.com'  
**Cc:** 'jmidlet@aicken.com.au'; 'jmiddlet@aickin.com.au'  
**Subject:** Thompson V Macedon Notes.

Hello John and Neil

Hopefully this is clear enough. Fact is the book of pleadings helps us as does the Black folder. The folder continues the deception first set out in the Magistrates Court.

Regards  
Glenn

Regards,  
Glenn Thompson  
Thompson Couplings Limited



L2, 68 Summer Street,  
ORANGE. N.S.W. 2800  
Tel: (02) 6369 1940  
Fax: (02) 6362 0015  
website: <http://www.cvcoupling.com>

Attention John Middleton & Neil Adams.

I am writing to make 3 prime points.

- A/ There is nothing mysterious or magic about the black folder, it merely contains discovered documents and does not even contain documents as discovered nor all documents discovered. For them to say that the giving of it to me was open and disclosing is simply opportunistic hogwash.
- B/ My handwritten notes in the book of pleadings disclose no knowledge of anything actionable over and above that which was claimed in the 1988 County Court Statement of Claim at the time.
- C/ My handwritten notes in the book of pleadings positively help us because they clearly disclose at a number of places that at that time I believed (and Mr. Justice Kaye believed), from the representations of the Council and the Water Board that the s569E Notices were issued lawfully and that the s569E Notices had subsequently been lawfully withdrawn and it was this withdrawal that let Buchanan off the hook. (to quote my handwritten notes)

I now make the following points.

- 1) Whether or not the plans were sealed illegally is, in isolation, of no consequence and the illegal sealing did not and could not of itself cause the loss and damage suffered by myself.
- 2) The thing which caused the loss and damage, as now known, is:-
  - a) The section 569E Notices of Requirement were unlawful; **AND**;
  - b) The Council sealed the plans in full knowledge of the fact that services were not present and that there was no lawful means of compelling anyone to provide those services; **AND**;
  - c) The Council sealed the plans in breach of its statutory duty to refuse to do so.
- 3) It is clear (and the LGA intends at s 569(10)) that the unlawful sealing of a plan is, of itself, of no consequence because once sealed s569(10) operates (and rightfully so) to make the sealing lawful, and once approved by the Registrar of Titles any allotments created, in the absence of any further deficiency, are indistinguishable from all other allotments
- 4) I knew the detail about Buchanan's avoidance of S9 of the sale of land act as early as about 1985 but could not and still cannot show that the Council had any knowledge of the effect of the series of plans and in any event the fact is that even if the Council did know it was not the sealing of the plans which caused my loss and damage.
- 5) By the time of my writing the notes in the book of pleadings I also knew that each of the plans was in breach of s569A(1)(a) because the plans did not show all allotments, roads etc however this knowledge was of no consequence and the sealing of these plans did not cause me the loss and damage and in any event s569(10) validated the sealing.

**The thing which caused the loss and damage is:-** The s569E Notices of requirement which purportedly issued had no authority of law. **AND** the Council sealed the plans in full knowledge of this fact **AND** the Council sealed the plans in breach of their statutory duty to refuse to seal them.

**The three things in the last paragraph were first realised by me in August 2000. This fact is deposed to at paragraphs 53(h) and 53(i) of my first affidavit. – These are the only things which I say I FIRST REALISED in August 2000.**

The contents of the black folder, did not and could not lead anyone to conclude these three things. In fact the opposite is true.

In the Magistrates Court Graeme Wilson gave evidence that:-

- 1/ Buchanan filed the plans with the Council on 12<sup>th</sup> February 1980.
- 2/ On the 20<sup>th</sup> February the Council Considered the 18 lot residential plan and resolved to issue a s569E Notice of Requirement.
- 3/ On or about 20<sup>th</sup> February 1980, pursuant to the resolution of 20<sup>th</sup> February 1980, the Council served a notice of requirement dated 20<sup>th</sup> Feb 1980.
- 4/ The 18 Lot residential plan was then processed in several parts and each of the several parts were sealed in May 1980.

In the 1988 County Court proceeding:-

- 1/ My Statement of claim was based on the evidence given in the Magistrates Court.
- 2/ Initial discovery included the clipped plans.
- 3/ After forcing further discovery the Council discovered the five 30<sup>th</sup> Schedule Notices, 4 of which were dated 4<sup>th</sup> April. Three of these had the “complete” industrial plans attached while the 4<sup>th</sup> Had the 18 Lot plan attached. The Notice with the 18 Lot plan attached had the handwritten note “Note Plan submitted in 5 sections, 30<sup>th</sup> Schedule Notices all identical to this”

The handwritten note on the 30<sup>th</sup> Schedule Notice discovered confirmed the evidence given in the magistrates court that the 18 lot plan was processed in several parts.

### **The Learning Process:-**

When the 1988 County Court proceeding was settled I thought that the matter was over and I also thought that I had discovered all the discoverable wrongdoings and these are set out in the handwritten notes in the Book of Pleadings however I had not yet discovered anything actionable in relation to Woodleigh Heights so all of my efforts went into Woodleigh Heights.

Sometime in about 1992 or 1993 I obtained an original copy of the Shire of Kyneton Interim Development Order and this document along with further documents obtained by me in 1995 became key to the 1995 Supreme Court proceedings related to Woodleigh Heights.

In August 2000 when reviewing the Tylden Road material I had the knowledge of the IDO and I did not have that knowledge in 1988 or at the time of settling the 1988 County Court proceedings or at the time of writing the notes in the Book of Pleadings.

Upon reviewing firstly the material in evidence in the Magistrates Court followed immediately by the material in the black folder (which is only important because it contained everything in ordered fashion) I concluded:-

- 1/ Each of plans comprising the series of plans was in fact a separate, discrete, subdivision and they were not as represented by the Council in both the Magistrates Court and County Court.
- 2/ because of my knowledge of the IDO I knew that in order to be lawful each of the plans needed a separate planning permit. (this knowledge was not available to me at the time of the 1988 proceedings)
- 4/ I knew that there was no planning permit permitting any one of the separate subdivisions.

- 5/ I knew that the Council had not considered each plan separately and therefore also knew that there never had been a resolution to issue a s569E Notice in respect to any one of the plans.
- 6/ Consequently each and every purported s569E Notice of requirement was unlawful and had no authority whatsoever.
- 7/ Consequently it became apparent that the Council had sealed the plans in full knowledge that there was no services and in full knowledge that there was no lawful means of compelling the provision of those services.
- 8/ Being separate and discrete subdivisions without a planning permit each and every plan was sealed in breach of the Council's statutory duty to refuse to do so.

The evidence of the Council in the Magistrates Court and as noted on the discovered documents in the 1988 County Court proceeding that the series plans was the 18 lot plan processed in several parts was false and misleading. -- This false and misleading evidence is still contained in the black folder and there is nothing whatsoever to lead a person to conclude otherwise. The IDO was not discovered.