



Lifting the Lid off the Law

Darebin Community Legal Centre Newsletter

Spring 2009

Darebin Community Legal Centre is pleased to invite you to our

Annual General Meeting

Guest speaker:

Karen Jackson

Victorian Equal Opportunity & Human Rights Commission Member

Karen will speak about Indigenous access to legal assistance within a human rights framework.

Karen Jackson is a Yorta Yorta, Barap Barap woman who is strongly committed to Indigenous issues. She is a firm believer in the ideals of self-determination and self-management for Aboriginal and Torres Strait Islander people.

Thursday, 8 October 2009

6.30 pm

Rooftop meeting room, Northcote Town Hall
189 High St, Northcote

NIBBLES AND DRINKS PROVIDED

RSVP 9484 7783 by 5 October 2009



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Some farewells....

In the past few months, we have said goodbye to two of our staff members at DCLC, **Jenny Anderson** and **Gayathri Paramasivam**.

Jenny commenced at DCLC in 2008 as one of our Darebin Intervention Order Support Service (**DIOSS**) Duty Solicitors in the Family Violence Division of the Heidelberg Magistrates' Court. She has taken up a position as a Criminal Solicitor with Victoria Legal Aid.

According to Jenny, the best thing about DCLC is "its lovely people and the community atmosphere." Jenny would like to thank all of the staff and volunteers at DCLC for their support and encouragement and says she will miss all of us heaps.

Gayathri commenced at DCLC in September 2006 as one of our DIOSS Duty Solicitors. She took up the Principal Solicitor position in August 2007.

Gayathri has accepted a new position as a Family Law Solicitor as well as Duty Solicitor in the Family Violence Division at Broadmeadows Magistrates' Court, also with Victoria Legal Aid. For Gayathri, the best thing about working at DCLC was working with all of the volunteers, who were "FANTASTIC", and "working at Heidelberg Magistrates' Court". Gayathri sends her "best wishes to all paid and volunteer staff at DCLC."

From all of us at DCLC, we want to take this opportunity to congratulate Jenny and Gayathri on their new roles and wish them all the very best for the future. We will miss their presence at DCLC immensely! They leave big shoes to fill!

... and welcomes!

We are very pleased to welcome on board **Grant Webster** and **Angela Zhou**.

Grant has taken over from Gayathri as our **Principal Solicitor** on a locum basis. He brings

with him many years of solid experience as a solicitor and financial counsellor in the community sector and in private practice. We are all very thankful that he has been able to take on this role. He also has impeccable taste in music!

Angela is taking over Maria Georgiou's role as our new **Coordinator of Volunteers**. Angela has previously had experience coordinating the large volunteer program at Fitzroy Legal Service. Maria will remain at DCLC in her other role as the centre's Administrator. ■

Theresa Manago
DCLC Staff

HELP!!!

DCLC is looking for a new home

DCLC is looking for new premises. Our current location is great for clients because it is close to public transport, community services and government agencies. However the premises are otherwise less than ideal due to outside toilets, lack of disability access, inadequate interview rooms, inadequate filing and storage space and the fact that the building is too hot in summer and very cold in winter...

So we are asking if you see a building for lease that you think may be suitable, or you are able to help in any other way, please contact Maria on 9484 7783 or at Administrator_Darebin@clc.net.au.

Private car parks – can they hand out “fines”?

From time to time, DCLC receives queries from people who have received “fines” from the operators of private car parks, wanting to know whether private operators can validly issue fines and what the consequences of non-payment might be.

Typically, the car parks in question are attached to a supermarket or shopping centre which has contracted out the management of the car park to the private operator. For instance, the car park at Safeway in Preston is managed by a company called Australian National Car Parks Pty Ltd (ANCP). These car parks often operate on a so-called “pay and display” basis. Usually, this means that parking is free for about two hours



provided that you obtain and display a ticket on your car. Often you can also pay for extra time at a rate of around \$3 per hour.

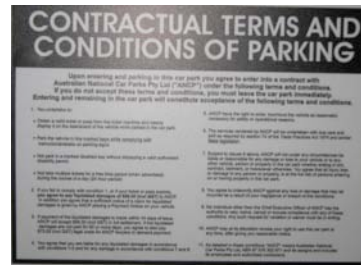
Private car park operators have for some years been issuing “fines” to people

who fail to display a ticket on their car. The “fines” people complain of are usually termed “liquidated damages” in typical parking terms and conditions. These “fines” usually amount to about \$66 if you pay within 14 days and \$88 thereafter. If you don’t pay, the car park operator may eventually demand further amounts for legal costs if it retains solicitors or debt collectors and, potentially, threaten court action.

So ... can private car park operators really issue fines?

The short answer is “no” ... private car park operators have no legal authority to hand out fines. Legally, what is really happening when a car park operator issues a “fine” is that they are making a demand for payment for an alleged breach of contract. The purported basis for this is

that when you park in the car park, you enter into a contract agreeing to display a ticket on your car. The “fine” is actually a demand to be



compensated for the “damage” allegedly suffered by the car park operator if you fail to do this.

The terms of the alleged contract are usually displayed in fairly small type as you enter the car park.

According to the [Consumer Action Law Centre \(CALC\)](#), a specialist community legal centre which focuses on consumer law, there may or may not be a binding contract of this nature between you and the car park operator. However, even if there is, CALC considers that the terms of the contract are unfair and may not be enforceable.

Okay ... so should I pay the “fine”?

Unfortunately, there is no simple answer to this. If you decide not to pay the amount demanded, there is a chance that the car park operator may take court action against you for breach of contract. In the event that the car park operator is successful, you may also be liable for its legal costs. An adverse court judgment would also be likely to have an effect on your credit rating.

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IMPORTANT NOTE:

The articles in this newsletter do not constitute legal advice. It contains general information only. Every situation is different, and changes to the law occur quickly. You should not act on any of the content of this newsletter without obtaining advice from a lawyer about your particular situation.

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Of course, if you choose not to respond to the “fine”, the car park operator will not have your contact details to follow up on its demand. However, it is possible for the operator to apply to the Magistrates’ Court to compel VicRoads to release your details. Although the cost and effort involved in this no doubt constitutes a disincentive to the car park operator enforcing the “fine”, according to the good folks at CALC some operators have been known to take this route.

Some of the other possible options you might wish to consider are set out in CALC’s useful fact sheet on private car park fines, which is available on its [website](#). ■

The bulk of the information in this article has been adapted from information sheets developed by the Consumer Action Law Centre.

Resources

Consumer Action Law Centre website:

- www.consumeraction.org.au



Respect the Workers! Sustain the Services!

Over the last ten years, funding increases to Community Legal Centres have been minimal. This has meant that salaries have barely increased over this period, services have remained limited and there is a strong reliance on volunteers.

It is important that the State and Federal Government provide an increase in ongoing base-funding so that Community Legal Centres are able to retain experienced workers, offer safer workplaces and, in particular, for DCLC to be able to afford better premises.

Salaries in the not-for-profit community sector have remained low and the difference between similar roles in the public sector is often a difference of \$10,000 to \$40,000. Workers at Darebin CLC and the Committee of Management are advocating for ‘Fair Value for Work Done!’ and for workers to be remunerated at rates

comparable to Victoria Legal Aid salaries for equivalent roles.

We feel this is an important issue and hope that you can support us in our actions towards sustainably improving services for the Darebin community. ■

DCLC opening hours:

- **Mon to Thurs – 9.30 am to 4.30 pm (closed for lunch 1 pm to 2 pm)**
- **Tuesday Night Drop-in Service from 7 pm**
- **Wednesday Night By-Appointment Service from 7 pm**

Council Creates “Alcohol Restricted Zones” in Darebin

Darebin Council resolved on 3 August of this year to create two Alcohol Restricted Zones (**ARZ**) in Darebin. The ARZs will be located around Edwardes St in Reservoir and Cramer St in Preston. Both ARZs will be established initially as 12-month trials which will come into effect on 2 November 2009. The scheme will prohibit public consumption of alcohol in each ARZ, though licensed venues will be able to continue to trade as normal.

We are not convinced that public drinking bans are needed in Darebin. Further, although only very limited details of how the ARZ scheme will be implemented are available at the moment, DCLC is concerned that any steps to unnecessarily criminalise the public activities of already marginalised groups in Darebin would be counterproductive. In particular, we do not believe that giving police extra powers to move on or fine public drinkers would ultimately enhance community safety.

Darebin Council’s media releases on the scheme claim that the health and safety of public drinkers has been a central consideration in establishing the bans, and that intensified policing and criminalisation of public drinkers will be accompanied by increased access to drug and alcohol and related services. We hope that by 1 November it will be clear which services are involved and how Council proposes to assist public drinkers. We would oppose a response to the concerns of traders and desires expressed by

local police for increased powers which consisted only of a policing response and ignored the rights, needs, interests and wishes of marginalised groups who use public space in Darebin.

A policing response which contents itself with moving the “problem” out-of-sight out-of-mind will do nothing for the safety of the community generally or of public drinkers themselves. A scheme relying on imposing fines or other penalties on disadvantaged people because of the way they use public space, which would have the potential to funnel them either into debt or into the criminal justice system, would be similarly short-sighted. At this stage it is unclear what powers police will have and what protocols will be in place to ensure that human rights, public health objectives, community safety and the interests of public space users are protected. It is of concern that the bans come at a time when police powers to impose on-the-spot fines for a range of minor offences have been increased.

Given that the ban is being billed as a “trial”, we hope that there will be a comprehensive and transparent ongoing monitoring and review process and that the views and experiences of public drinkers and others impacted by the ban will receive more than cursory attention. Any such review process should also pay close attention to the potential for discriminatory use of increased enforcement powers. ■

Lifting the Lid off the Law, Darebin Community Legal Centre’s newsletter, is now available for download online at www.communitylaw.org.au/darebin. Go to “About Us” and then “Newsletters”. You can also sign up there to receive future newsletters by email.

**Interested in joining our
Committee of Management?**

We are currently seeking members
to be part of CoM.

We invite interested members to
attend the AGM on 8 October 2009
and nominate.

Please contact Maria Georgiou for
further information and a
nomination form.



Have we got your contact details wrong?

Please tear off and mail this slip to **Darebin Community Legal Centre Inc, 265 High Street Preston VIC 3072.**
Alternatively, you can email your corrected details to Darebin_VIC@clc.net.au.

Name:

House number and street name:

Suburb:

Postcode:

- I wish to continue receiving the DCLC newsletter
 - I prefer email. My email address is:
 - I prefer to receive a hard-copy – please mail to the above address.

Please remove my name from your mailing list.*

* You can also contact us by email or telephone (9484 7783) if you no longer wish to receive this newsletter.