

**ENVIRONMENTAL PLANNING LAW 413/512**

**TUTORIAL 6 - LAND RESUMPTION AND COMPENSATION AND  
ADMINISTRATIVE LAW**

1. It has been said that the “solatium” provision in the Victorian land acquisition legislation -

“...reflects a recognition of the severely disruptive human effects of the dislocation of individuals resulting from acquisitions ...”

(Fricke, G.L. *"Compulsory Acquisition of Land in Australia"*, Law Book Co. 1982.

Is there a similar provision for solatium (whether or not described as such) in the WA legislation?

Do you think it is adequate to relieve the disruptive effects referred to?

Try to give an example from your experience or enquiries of the hardship caused by the effects referred to.

2. Do you consider the provisions of s.187 of the P&D Act allowing a responsible authority to elect to purchase land in lieu of paying compensation for injurious affection are fair and reasonable in all cases? Explain the reasons for your answer. You might wish to refer to the recent High Court decision in the *Temwood* case.

3. **ADMINISTRATIVE LAW**

(a) Give a definition for each of the following terms:

- (i) Prerogative Writ;
- (ii) Writ of Prohibition;
- (iii) Writ of Mandamus
- (iv) Writ of Certiorari;
- (v) Principles of Natural Justice;
- (vi) Ultra vires;
- (vii) Locus standi.

(b) Explain as accurately as possible but with as few words as possible in what circumstances a person might seek:

- (i) A declaratory judgment; and
- (ii) An injunction -

against the Minister acting purportedly in the exercise of his powers on appeal from a decision of either the Town Planning Board or a local authority exercising a discretion on a planning application.

4. Referring to any case decided by the Supreme Court in the last five years involving planning issues, and in which case the plaintiff sought either a prerogative writ, or alternatively, declaratory or injunctive relief, explain the circumstances in which the action arose, what action was taken by the plaintiff, the relief sought, and the reasons the Court gave for either granting or refusing the relief sought.

You might rely on either the *Carcione* decision of the Full Court, or the *CCAC* decision of McLure, J or the Full Court decision in that case.

**References:**

- Allars                    "*Australian Administrative Law Cases & Materials*" - Butterworths 1997
- Brett and Hogg       "*Cases and Materials on Administrative Law*" - Butterworths.
- Allars                    "*Introduction to Australian Administrative Law Cases & Materials*" - Butterworths 1990
- Flick, G.A.             "*Natural Justice*" - Butterworths
- Young, P.W.            "*Declaratory Orders*" - Butterworths
- Spry, I.C.F.             "*The Principles of Equitable Remedies*" - Law Book Co.
- Hotop                    "*Cases on Review of Administrative Action*" Law Book 1995.

**Note:** Each student must do either question 2 or question 4. No need to do both.

## General Administrative Law Topics

1. Province of Administrative Law.
  - Historical
  - Present.
  
2. Standing (*Locus standi*).
  
3. General Challenges
  - Ultra Vires
  - Mala Fides
  - Improper Purpose
  - Bias
  - Unreasonableness
  - Natural Justice
  
4. Venues for Challenge
  - Statutory Remedy
  - Administrative Appeal Tribunal
  - Ombudsman
  - Administrative Complaint Officer/Superior Council/Ministerial Complaint
  - Media
  
5. Remedies
  - Statutory Appeal
  
  - Equitable Relief
    - Injunction
    - Declaratory Order
    - Nature of process
  
  - Prerogative Writ
    - Certiorari
    - Mandamus
    - Prohibition
    - Nature of process.