



Friday 29 January 2010

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WIN FOR THE PROPERTY INDUSTRY IN THE PACIFIC FAIR CASE

The Queensland Court of Appeal gave its decision just before Christmas in the [Pacific Fair Case](#) and dismissed the appeal by the (former) Department of Natural Resources and Mines against a decision of the Land Appeal Court to almost halve the land valuation assessed in October 2002 for Pacific Fair Shopping Centre on the Gold Coast (see [Shop Talk 30/1/09](#) and [8/8/08](#)). In a vital industry test case, the Court of Appeal specifically rejected the argument that the value of leases should be taken into account in assessing land value. The main judgment said: "It may be accepted that the existing leases add significant value to the developed shopping centre. However, there are considerations which in my view lead to the conclusion that the statute did not require that their effect on value be taken into account in determining the unimproved value of the Pacific Fair site." The Court also rejected the Department's interpretation of the 2008 amendments to the *Valuation of Land Act* that leases and other elements of entrepreneurial effort should be taken into account in determining unimproved land value. The decision is the culmination of seven years of legal battles by AMP Capital, Centro Properties Group, Colonial First State Global Asset Management, Eureka Funds Management, QIC, Westfield and the Shopping Centre Council of Australia and has undoubtedly saved the shopping centre industry – and the wider commercial property industry – hundreds of millions of dollars in unjustified land taxes and local government rates.

POLITICAL CAMPAIGNING IN CENTRES A MATTER FOR OWNERS

The issue of political campaigning in shopping centres was 'beaten up' in the media this week. In a [submission](#) to the [Joint Standing Committee on Electoral Matters](#) **eighteen months ago**, after politicians had called for regulation of their access, the Shopping Centre Council argued this must remain a matter for owners and managers to decide. The primary obligation of an owner is to the centre's retailers and this requires the manager to provide and maintain an environment in which people can shop comfortably, conveniently and safely, without interference or harassment, so that shoppers will return regularly to the shopping centre. Our submission pointed out there is no uniform practice in the industry. Many owners permit access or treat requests on a case-by-case basis. Where bans and limitations have been imposed by managers it is usually because such activity has been found to be too disruptive for retailers and customers and too difficult to administer even-handedly. The Joint Committee made no recommendations for changes and, contrary to media reports, there have no calls by the Shopping Centre Council, this week or at any other time, for changes to existing industry practice.

REGISTER NOW FOR PCA RETAIL OUTLOOK NSW AND VICTORIA

The PCA's annual Retail Outlook will be held in Melbourne (12 February) and Sydney (17 February). These provide an insight on retail trends for 2010, as well as a focus on sustainability, a key emerging issue for the retail sector. For information on each event, click here for [Melbourne](#) and here for [Sydney](#).

SHOPPING CENTRE MANAGEMENT AND RETAIL LEASE COURSES

In March the PCA will be holding several courses in Sydney, including a one-day [Retail Leases Act Course](#) (4 March), a two-day [Introduction to Shopping Centre Management and Marketing Course](#) (9-10 March), and a three-day [Shopping Centre Management and Marketing Advanced Skills Course](#) (23-25 March). For further information, contact Peter Still on 02 9033 1949 or: pstill@propertyoz.com.au.