

MEDIA RELEASE

## LAND TAX HIGH COURT STOUSH

*Sydney 16 June 2009* – The Federal High Court is to hear legal challenge to the vexed issue of states-levied Land Taxes which could terminate their existence throughout Australia overnight.

The Community Law Association will lodge application tomorrow based on a number of legal interpretations and opinions of the multi-billion dollar per annum Land Taxes as infringing the Australian Constitution.

Honorary Secretary / Treasurer Hugh O'Connor of the Glebe-based CLA explained that the legal status of land ownership in Australia is based on the premise that the Crown owns all land 'at root', and that even outright purchase in fee simple – the most basic land ownership transaction – does not alienate the Crown's ownership of that land; it simply gives the 'buyer' certain rights and responsibilities regarding the land.

The relevance of this concept to Land Tax is simple, but it has a very radical implication: Section 114 of the Constitution clearly states that all property of the Crown is exempt from any State taxation. This means that all Australian land must be exempt from State Land Tax.

“The situation is clear, and both in fact and in law permits no alternative interpretation. Land tax is, and always has been, an illegal impost – it's theft by State Government,” Mr O'Connor said.

“The NSW Government this year will harvest \$2.4 billion from Land Tax – that's more than 10% of its entire taxation revenue, or about 2% of its total revenue. And it's illegal – it's outright theft!”

According to Mr O'Connor, Land Tax is not simply a wealth tax on property owners – it is paid for by everybody other than residential owner-occupiers, especially people in rental accommodation.

“Consider me an investor who buys a block of six units for \$4 million; let's say that the 'unimproved land valuation' involved – the basis for assessment of Land Tax liability - is \$2 million.

“Not only have I to bear the risks of mortgage rate jumps and empty units, and the costs of bad tenants defaulting or causing damage, of essential repairs and maintenance, I also have to pay annual Land Tax of some \$32,000 (at current NSW rates). In the above case, with six units in the block involved, each has therefore to contribute \$5300 to the tax, through their rents.

“That's about 25% - one quarter - of each of their annual rental payments, gone to land tax”, Mr O'Connor said. “That's no rich man's tax; that's a direct tax slug on the average renter paying \$450 per week for his two-bed palace, and no doubt finding it hard enough to make ends meet.”

The Land Tax application to the High Court is in the form of a request for a 'feigned procedure'. This is an old-established process by which the underlying truth in legal situations could be explored and affirmed or denied, not much used today.

The Applicant maintains that he has a wager – it used to be of five pounds in the old days – that such-and-such a situation was legally so, and asks the Court to determine whether he or his opponent is in the right. The Applicant further prays the Court to offer its advice on how to proceed with the development of the case.

If the Court officers – the presiding Judges – have enough interest in the underlying law involved in the case, they will arrange to present and hear the matter – usually at the Court's own expense. Being 'feigned', the process is not adversarial, and is therefore exempt from normal rules of media comment on matters *sub judice*.

It is expected - if the High Court does not simply dismiss the application, as it has done with a number of other cases 'inconvenient' to the Establishment – that the finding will be that Land Tax is illegal because it contravenes the Constitution, and must therefore be discontinued throughout Australia.

“The whole idea of what Australian States are, and do, must be questioned”, Mr O'Connor said.

“Australia is a sovereign nation, yet the States behave as if they are also sovereign – which they cannot be, according to the Constitution. We cannot have one sovereign state within another, the whole idea is ridiculous. You can have sovereign states within an empire, but we know that this is not the structure which the authors of the Constitution were aiming to create.

“Our States, as such, appear to have evolved into what they are today – writing enabling 'laws' as they went, again contrary to specific Commonwealth legislation - simply to enable certain individuals and groups to keep their Colonial-era privileges, their 'snouts in the trough'.

“They exist apparently only to collect revenue; which they do in a way that would have made the Rum Corps proud of them. If they want more money from Land Tax, they simply tell the land-holder that his unimproved land valuation has increased, and therefore his tax bill.

“The NSW Government has just decided that it wanted an extra \$300 million per year, so they increased the royalty on coal to yield that amount. But what happens now? The coal-burning power generators – who have to pay most of this extra – increase their Kilowatt rate to yield \$900 million more revenues to them; the increased royalty cost is a valid justification, and the amount of their increase in charge is concealed from scrutiny enough to enable a handsome profit boost.

“Sadly, most of the rate hike is paid by the householder, since big business is able to negotiate the rates they pay, as major customers of the utilities. It's just another tax demand ultimately paid, with additional multiplier and accelerator costs, by the working man.”

Mr O'Connor invites all persons interested in uniting in a front to defeat the practice of Land Taxation throughout Australia to visit the CLA website at [www.communitylawass.org](http://www.communitylawass.org) and to organise and attend activist meetings in their own localities. The CLA is asking persons interested in abolishing Land Tax to become members of the CLA in order to support its legal challenge, and to investigate the alternative options for defeating Land Tax presented on the CLA website.

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