

# Warning to Homes Owners

Recently in the Courier Mail we read this article with interest — it appears home owners are on notice in regards to safety – please read on.....

Home Owners need to make themselves aware of hazards on their property and warn visitors, including handymen, of the dangers, a Court of Appeal decision has emphasised.

Two solicitors have to pay a widow almost \$500,000.00 after her husband was fatally injured while gardening on their Brisbane suburban property.

Vicki Jenner of Shine Lawyers said Cawood Hancock, 61 fell about 2m down a drainage pipe, injuring his knee. He died 17 days later, on October 24 last year, after developing a pulmonary embolism.

Ms Jenner said District Court of Appeal decisions both found that careful residential property owners had to familiarise themselves with their own properties and any hazards of risks.

She said the case was a lesson to anyone who owned a residential property of how easily accidents could happen.

A judge ordered Indooroopilly couple Michelle and David Johnson pay Ascot widow Annette Hancock \$445,515.00 for the loss of her husband. They appealed the decision.

Mr Hancock had been asked to trim the Johnsons' hedge but when he stepped back, with chainsaw in hand, the metal lid and grate over a drain pipe collapsed and he fell, the District Court heard.

The Court of Appeal said the trial judge was entitled to reject the Johnsons' denial of any knowledge of the metal pipe before Mr Hancock's fall.

The judge said there was an obligation for the Johnsons' to inspect the area to see if there were any hazards.

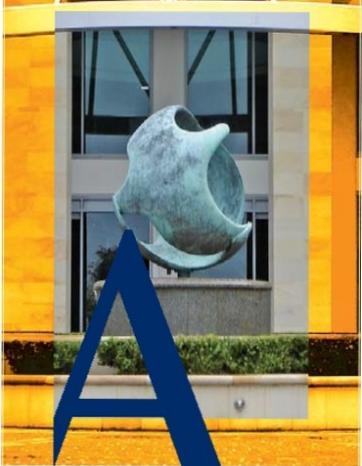
This is a really timely warning of the requirements on residential owners and the obligations they hold. Whether owners are in residential freehold or residential strata, it will not make any difference. It underlines the obligations that exist under Section 29 WHS Act 2011 for residential owners as they are 'others' at a workplace and have statutory obligations to discharge as well as Common Law Duties .

## 29 **Duties of other persons at the workplace**

*A person at a workplace, whether or not the person has another duty under this part, must*

- (a) *take reasonable care for his or her own health and safety; and*
- (b) ***take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons; and***
- (c) *comply, so far as the person is reasonably able, with any reasonable instruction that is given by the person conducting the business or undertaking to allow the person conducting the business or undertaking to comply with this Act.*

As "others" at a workplace, residents must then take reasonable care of their own and other's health and safety, must cooperate with any reasonable requirement of a contractor to enable the contractor to comply with the WHS Act **and must inform the contractor of any safety issue they are aware of that may affect the safety of contractors, workers or others.**



P 1300 309 201

F 1300 369 190

info@qiagroup.com.au

www.qiagroup.com.au

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