

PERSONALISED LEGAL ASSISTANCE

Professional legal and property consulting

SONNENBERG & ASSOCIATES PROPERTY AND LEGAL ADVICE NEWSLETTER #107

1. Legal Quotes

"It is the trade of lawyers to question everything, yield nothing, and talk by the hour." [Thomas Jefferson]

"I decided law was the exact opposite of sex; even when it was good, it was lousy." [Mortimer Zuckerman]

"Whenever you wish to do anything against the law, always consult a good solicitor first." [George Bernard Shaw]

2. Legal short

The following are actual statements placed on insurance forms where the car's driver attempted to summarize the details of their accident in the fewest words possible.

- "Coming home I drove into the wrong house and collided with a tree I don't have."
- "The other car collided with mine without giving any warning of its intentions."
- "The guy was all over the road. I had to swerve a number of times before I hit him."
- "I pulled away from the side of the road, glaced at my mother-in-law, and headed over an embankment."
- "The indirect cause of the accident was a little guy in a small car with a big mouth."

3. Inspiring quotes

"It takes a long time to become young." [Pablo Picasso]

"A life spent making mistakes is not only more honorable, but more useful than a life spent doing nothing." [George Bernard Shaw]

"Success is the result of perfection, hard work, learning from failure, loyalty and persistence." [Colin Powell]

4. The effect of liquidation on leases

- A lease is not automatically terminated as a consequence of liquidation proceedings.
- A provision in a lease agreement that the lease is terminated on the liquidation of the tenant is unenforceable and void.
- The liquidator (of any liquidated tenant) has the right to make an election – to continue with the lease or cancel it. This decision is determined by what is most beneficial to the creditors.
- Should the liquidator elect to cancel the lease, the landlord will have a concurrent claim for damages (and is not a preferent creditor).
- Should the liquidator elect to continue with the lease, the liquidator steps into the shoes of the tenant (and has no greater rights in respect of the lease than the tenant had).
- After liquidation, the liquidator is obliged to pay rental, including arrear rental, to the landlord as a cost of liquidation.
- Where the tenant was in breach of its lease obligations before any liquidation proceedings (and has been placed in breach by the landlord –with the liquidation proceedings being brought before the expiry of the breach notice period - and the liquidator fails to remedy its breach), the landlord retains the right to cancel the lease and re-let the premises (*Ellerine Brothers (Pty) Limited (Ellerine) v McCarthy Limited, SCA, 2009*).

I am available on 083 2515451 or fritz@sonnenberg.co.za.

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FRITZ SONNENBERG | Legal Consultant

Mobile: 083 251 5451 | Email: Fritz@sonnenberg.co.za | Skype: fritzsonnenberg



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