



AUSTRALIAN ADVOCACY INSTITUTE

PORCINE

V

ROYAL BRIDGEWATER

GOLF CLUB

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CASE STUDY



PORCINE v ROYAL BRIDGEWATER GOLF CLUB

You are sitting in your room at **2.00pm on a Friday afternoon**.

A telephone call announces the impending arrival of a client with a legal problem that requires urgent attention.

Mr Harvey Porcine, noted hotelier, arrives bearing some papers. He is slightly out of breath. You settle the client down and elicit the following information.

He instructs you to apply for an urgent injunction. You telephone the court and are told that a judge will be available for 5 or 6 minutes only. There is no time to prepare documentation.

Instructions from Mr Harvey Porcine

I live in a house at the address below and moved in two days ago. It is one of four low, single story houses which were completed six months ago. Two of the other three houses are currently unoccupied. My side fence abuts the rough next to the fairway leading to the fifth hole of Royal Bridgewater Golf Course. There are 18 holes in all. The fifth is a 200m fairway dog-legging to the right. The tee is approximately 70m from my unit, which is to the right of the fairway as you stand to tee off. The 'rough' consists of a 5m wide belt of long grass with sporadic undernourished and stunted ti-trees set at 50m intervals. None of them is more than 1.5m tall and they have very sparse foliage, so you can clearly see past them and over the top of my house to the 5th green which is on top of a slight rise. There are a series of small hillocks just beyond the houses that children use of the weekend to ride their bikes on.

I was standing in my backyard this morning at about 11.30am when I heard a whistling sound coming from overhead. This was followed by a dull 'thunk' as something hit a terracotta pot. The thing, which I saw to be a golf ball, ricocheted off the pot through a window and landed in my kitchen. I located the ball beneath my dented refrigerator door. The noise sent my prize Burmese cat, Roger, into quite a state. I was settling him down when I heard a voice saying "Can I have my ball back?"

I turned and saw a man in a yellow shirt looking over my fence. I walked out into my yard and opened the side gate to be greeted by a fellow who was wearing a yellow shirt, puce trousers and a green visor-type eye shade. He had an expensive-looking trolley with armour of golf clubs in an expensive leather bag trailing behind him. I was about to ask him about the ball when he called out "duck!" There was another whistling sound and a golf ball bounced off his golf-bag and sailed to my roof. A tile shattered. A second group of golfers had teed off on the 5th, not having seen the first group talking at my side fence. They too had been tempted to take a shot over my roof.

The man introduced himself as Louis Canze, the Secretary of the Golf Club and said "That was a close thing." I remonstrated with him about the two balls.

He said: "You were luckier than your neighbour. He was hit by a ball in his backyard about two weeks ago. He was taken to the hospital with a head injury. He gets out soon. We had a bit of

trouble with the balls leaving the fairway in the past because people try to take a short cut by driving across the crook of the dog leg to straighten it out and shorten the distance to the hole. Shortly after he was hit the club closed the fifth down and sought some advice about building a fence. I know that the Board members are still thinking about it but no decision has been made yet. I understand that there was a problem because an effective fence would disturb the habitat which is under an Environment Protection Order. Anyway, fences are expensive.”

I said: “Why was the fifth re-opened?”

He said: “We have a big amateur tournament starting tomorrow at 8.00am. It’s to raise money. I suggest you and the cat stay inside over the weekend.”

I said: “I’ve no intention of doing that. I’ll see my solicitor. You ought to close down until a fence is built. There will be kids riding on the hillocks on the weekend. They might get hit.”

He said: “We’re not going to do that. We’ve got amateurs coming from all over the country for this tournament. It’s a fund raiser to get Royal Bridgewater back on its feet. It’s a tradition that a prize be awarded for the best score on the fifth. That’s why many people come here. You could always buy the cat and yourself some hard hats.”

I said: “We’ll see about that.”

He said: “Do what you like but we’ll be playing off the fifth tomorrow”.

He then left. I kept the ball. I don’t see why I should have to leave my house or be imprisoned inside if I stay here. Anyway I’ve asked a few friends over to a Bar-B-Q. There are 17 other holes they can use. I want them stopped. I had no idea when I moved in that my neighbour had been hurt. There were no golf balls in the yard prior to the one this morning. I can’t afford to pay for any damage. I’ve just renovated at great expense. I have drawn a diagram - just a rough sketch- to make the position clear.

Harvey Porcine
4/4 Elspeth Crescent
Bridgewater

DIAGRAM BY HARVEY PORCINE

