

09/82

## SUPREME COURT OF VICTORIA

***McCARTNEY v HEDLEY***

Gray J

31 July 1981

**TOWN & COUNTRY PLANNING – REGULATIONS FOR PLACING CONTROLS UPON DEVELOPMENT OF LAND RATHER THAN ITS USE: TOWN & COUNTRY PLANNING ACT, S49; UNIFORM BUILDING REGULATIONS; MELBOURNE METROPOLITAN PLANNING SCHEME ORDINANCE.**

The defendants were charged with offences pursuant to s47 of *Town & Country Planning Act* in that being occupiers of land and premises used for display of an animated sign contrary to provisions of the Act. The defendants had a nursery and erected an animated sign displaying the name of nursery.

**HELD:** There is nothing in *Clare's case* which suggests that the proprietor should be confined to any number or type of advertisements. It may be that in a particular case it might be said that the premises are so plastered in advertisements that the display goes beyond what is a necessary adjunct to the defendant's business. This is a question of fact to be decided in the particular case.

*Clare v Jeff's Bulk Appliances Pty Ltd* [1981] VicRp 72; [1981] VR 758; 36 LGRA 35, followed.

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