

It's not just Latin!

A caveat operates to protect an unregistered or equitable interest in a property and is lodged against the title of the property by the caveator (the person lodging the caveat).

At Trinity Law, we can provide you with legal advice in relation to the benefits and common pitfalls of lodging caveats.

A caveat has four main purposes:

1. It **indicates** that the caveator has an unregistered or equitable interest in the land.
2. It **provides** notice to anyone searching the register affecting the land that there is a competing interest or further encumbrance on the land.
3. It **prevents** a person from selling or further encumbering without first dealing with the caveator.
4. It **maintains** the status quo

What types of rights may create an equitable interest in land?

These must be a property right. Examples include:

1. A purchaser under a contract of sale.
2. An unregistered mortgagee of the land.
3. A lessee of the land.
4. An option holder of the land
5. A partnership involving the land.

What if someone owes me money?

The fact that someone owes you money does not in itself create a caveatable interest in their land. There **must** be something more – a property interest.

For example, there could be a clause in an agreement which specifically charges the land with the obligation to pay the debt.

What are some of the other issues about caveats?

As lodging a caveat can often lead to costly legal proceedings, the ramifications are significant. The law of caveats is a technical and complex area. Some of the major pitfalls include:

1. The caveat must also only seek to restrict those dealings with the land which the equitable interest allows.
2. If a lapsing of the caveat is sought, the validity of the caveat may be tested. If the Court finds that the caveat was inappropriately lodged, then the caveator may be liable to pay damages to the land owner for the loss suffered as a result of the improper lodgement of the caveat.

Before lodging a caveat, or if you have notice of a caveat lodged on your property which you believe has been wrongfully registered, talk to us at Trinity Law.

For more information contact Maurice Falcetta or Michael James at Trinity Law on 6163 5050.