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PROPERTY BULLETIN:

NUISANCE AND PROPERTY OWNERS

In the 2004 case of *Valherie v Strata Corporation No 1841* [2004] SASC 170 (Full Court) the South Australian Supreme Court considered the situation where the roots of a large tree on a property were damaging a neighbouring house.

The purchaser of the property upon which the tree stood was held liable for damage caused to the neighbouring property by the tree roots from the time she purchased the property by way of “continued nuisance”.

The principle of the case is that an owner of property “continues a nuisance” once they become aware, or ought to have been aware, of the existence of a nuisance and then fails to take reasonable steps to remedy that nuisance.

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