Talking Law Article – August 2010
Guarantees

A guarantee is a security often used by Banks.

A common scenario is for a guarantee to be sought from a parent to better secure a Bank loan to a son or daughter. This is a third party guarantee where the parent is the third party guarantor.

Third party guarantees carry considerable risk – perhaps, in the worst case, the loss of the parent's home - and the best advice to a third party guarantor is "Don't do it!"

A third party guarantor needs to be proactive in protecting their own interests – perhaps start by negotiating (prior to signing the guarantee) with the Bank an "exit strategy" so that upon the attainment of a goal (such as the borrower reducing the loan balance to an agreed amount) the guarantee is released.

A third party guarantor should also ensure that there is access (such as by the internet) to the loan account so that they can easily monitor loan balance.

This article is for general information and is not to be taken as specific legal advice. If you require advice on any matters relating to Guarantees please contact Dawes & Vary Pty Ltd.