



By Amy Haste

amy@collinsmay.co.nz
DD: 576 1405

Lloyd Collins

lloyd@collinsmay.co.nz
DD: 576 1403

Paul May

paulm@collinsmay.co.nz
DD: 576 1400

Eugene Collins

eugene@collinsmay.co.nz
DD: 576 1407

Nicola Goss

nicola@collinsmay.co.nz
DD: 576 1404

Paul Whitmarsh

paulw@collinsmay.co.nz
DD: 576 1409

Davina Rowan

davina@collinsmay.co.nz
DD: 576 1411

Michael Moohan

michael@collinsmay.co.nz
DD: 576 1417

If you would like any of our previous newsletters or any of the our free booklets on Wills, Family Trusts, Relationship Property of Business Law please email us or visit our website at www.collinsandmay.co.nz

NEIGHBOUR DISPUTES - WHAT ARE YOUR RIGHTS?

One area where neighbours may disagree is in relation to building a fence. The general rule is that if there is no adequate fence between properties, the neighbours must contribute equally to the work required to repair or build the fence.

One exception to this is if one neighbour is responsible for any damage to the fence, then they must pay for the whole cost of repair.

If the neighbour refuses to pay towards repairing or building a new fence, the other neighbour can give them a notice requiring them to pay towards the cost involved. The notice must state:

1. Where the fence is to be built.
2. How the fence will be built and the likely cost involved.
3. What will happen if they do not comply with the notice.

If the neighbour does not agree with what their neighbour has suggested, they may object to the notice. This is done by preparing a notice setting out why they do not agree with the neighbour's proposals and possibly including another solution. This must be given to the neighbour within 21 days after the first notice was received. If the neighbour does not receive a notice within 21 days, they can proceed with the work.

Bill and Ben had been neighbours for 20 years. Their sections were separated by a wire fence which was over 20 years old. The fence did not adequately divide their properties as it was bent out of place and in some parts it was no more than a few inches off the ground. Bill had mentioned to Ben several times that the fence needed replacing, however Ben refused to pay towards any of the cost involved. Bill then prepared a notice pursuant to the Fencing Act and gave a copy of this to Ben. The notice set

out exactly where the new fence was to be built. He proposed to build a brick fence specifying the exact bricks to be used, the measurements of the fence and how he planned to build the fence. He estimated the cost in building the fence would be approximately \$2,000.00. The notice set out that if Ben did not pay for half of the cost, Bill would take the matter to the Disputes Tribunal to recover the amount.

Bill waited for 21 days, but he did not receive a notice from Ben. He then began to build the fence. Once the fence was completed, Bill requested the \$1,000.00 payment from Ben, being his share of the fence. Ben refused to pay as he never wanted a brick fence in the first place. Bill then took the matter to the Disputes Tribunal and was successful in obtaining \$1,000.00 from Ben as the notice he gave to Ben met the requirements of the Fencing Act and Ben did not give Bill a notice within 21 days.

Another issue which may arise between neighbours is the removal or trimming of trees. If the branches or roots of a tree overhang or enter into someone else's property, the neighbour may cut off parts of the tree that overhang onto their section. They may also be able to take a claim against their neighbour under the law of nuisance.

The District Court can also order someone to remove or trim any of their trees if they cause or could possibly cause danger to someone's life, injure someone's health, block someone's view or affect the value of any property.

For example, Bill had a big maple tree in his front yard which he would sit underneath in the afternoons. Ben had been asking Bill to trim the tree for months as it blocked Ben's view of the lake, however, Bill refused to do so as it shaded him from the afternoon sun.



By Amy Haste

amy@collinsmay.co.nz
DD: 576 1405

Lloyd Collins

lloyd@collinsmay.co.nz
DD: 576 1403

Paul May

paulm@collinsmay.co.nz
DD: 576 1400

Eugene Collins

eugene@collinsmay.co.nz
DD: 576 1407

Nicola Goss

nicola@collinsmay.co.nz
DD: 576 1404

Paul Whitmarsh

paulw@collinsmay.co.nz
DD: 576 1409

Davina Rowan

davina@collinsmay.co.nz
DD: 576 1411

Michael Moohan

michael@collinsmay.co.nz
DD: 576 1417

NEIGHBOUR DISPUTES - WHAT ARE YOUR RIGHTS?

Ben then applied to the District Court to have the tree trimmed. Ben was successful and the District Court ordered Bill to trim the tree as it was blocking Ben's view.

If you have any queries in relation to these issues, please do not hesitate to contact the Collins & May Law team.

- The next newsletter will cover the topic of How to Get a Divorce— by Paul Whitmarsh

If you would like any of our previous newsletters or any of the our free booklets on Wills, Family Trusts, Relationship Property of Business Law please email us or visit our website at www.collinsandmay.co.nz