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## NEIGHBOURS AND TREES

Disputes over trees are a common cause of bad feeling between neighbours - especially when they block sun or when roots choke drains or when leaves from overhanging branches litter well kept property. Such differences can usually be settled with tact and compromise but if this does not work, legal action may be your only remedy. This can be expensive and will almost certainly destroy any goodwill between neighbours.

The Property Law Act 2007 sets out your remedies when neighbours' trees are causing damage or nuisance but it is worth trying to find a solution to the problem in a tactful way first so as to minimise the risk of souring the good relationship you have with your neighbour. You also need to decide whether the problem outweighs the benefits the trees provide for both of you – beauty, privacy, shelter and shade.

Let your neighbour know how you feel about the problem and give them time to think about any suggestions you may have. Your neighbour may be happy to help with any work caused by their trees and this could save you both money. If the situation remains unresolved you may need to take legal action. You should tell your neighbour that you are considering this avenue so that there are no “surprises” awaiting them in the mail. You may find that your neighbour may co-operate if there is a legal obligation for them to do so.

There are a number of common situations which you may find yourself in when it comes to neighbours and trees. Some of those may include the following:

**Problem: A tree's roots on a neighbouring property continually block your drains.**

Twice in recent times you have needed to employ a plumber to clear them. The plumber warns you to expect ongoing blocking of the drains and therefore further expense unless the cause of the problem is removed. Your neighbour is not interested and points out that the tree was growing on his property long before you purchased your property. Do you have a comeback? Absolutely! The law does not accept that a tree planted 30 years ago cannot be a nuisance today. If all facts were presented to the court your neighbour would probably be ordered to remove the tree.

**Problem: Some roots of your neighbour's tree start pushing up your carefully manicured lawn.**

Your neighbour tells you there is nothing she can do and she is not prepared to remove the tree. You decide to take matters into your own hands by poisoning the roots on your side of the fence resulting in the whole tree dying. Can your neighbour take you to court for this? Yes she can. You are allowed to remove any part of a neighbour's property that is on your property but your right of action stops at the boundary. Poisoning the roots would have an effect beyond your side of the boundary.

**Problem: Having “amputated” a large branch from a neighbour's tree growing over onto your property, your neighbour's tree dies.**

Can your neighbour demand compensation? No, you were within your rights to cut off the branch on your side of the boundary.

**Problem: Leaves from a neighbour's tree continually drop into the guttering of your house resulting in you having to remove them every so often.**

You are sick of this and wonder if there is some way you can stop this from happening. Yes, you are allowed to prune branches which are growing over your side of the fence back to the fence. Or you can ask your neighbour to cut back the trees or remove them altogether. If your neighbour refuses you could obtain a court order to solve the problem.

**Problem: The new section you have bought has a large tree growing on the property next door with branches growing over onto your side of the fence.**

As mentioned before, you may cut off the branches on your side but they are long and thick and it could be quite a big job. Is your neighbour obliged to cut them back himself or pay for it to be done? No, provided they are causing no nuisance, the branches are your responsibility if they are growing on your side of the fence.

**Problem: The sunlight onto your property is being blocked by trees on a neighbour's property.**

Can you insist the trees be cut back? Yes. If your neighbour refuses you can take legal action. You will have to convince the court that the trees are having an adverse effect on your property and your enjoyment of it. If the court agrees, your neighbour will have to cut the trees back.

**Problem: You bought a home the years ago and had great views from the lounge. This view is now blocked by a line of high trees.**

These trees are on a property further down the street. Can you do anything about having these trees cut back? You will need to make a complaint to your local council. A bylaw or provision in its district scheme may mean they accept your complaint and order the trees to be cut back.

**Problem: A large old conifer is growing on the other side of your fence. The tree is obviously dying. Can you have the tree chopped down?**

You are concerned the tree or part of it may fall and damage your house. Your neighbour doesn't accept the tree is doing any harm, is not likely to fall and tells you to mind your own business. Your lawyer could apply for a court order to have the tree removed and if the court agrees that it could cause damage then your neighbour will have no option but to remove it.

**Problem: A fruit tree on your property spreads its branches onto your neighbour's property. The neighbour picks the fruit growing on his side of the fence. Can you do anything about it?**

Yes, a neighbour may not take your property and even if the branches are hanging on his property, the fruit belongs to you. The neighbour could, however, exercise his right to cut off the branches which are intruding onto his property.

These are a sample of the various problems that trees can cause between neighbours. Most of these situations can be sorted out with a little neighbourly discussion and common sense. If a solution can't be achieved between you then your next step is to see your lawyer to ascertain your rights.



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