

Neighbours who pay together, stay together

Fence splitters



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GOOD fences, we're told, make good neighbours. They can also turn good neighbours against each other. Disputes over boundary fences replacing or repairing them — are one of the most common fractures between neighbours.

The Dispute Settlement Centre of Victoria has processed 17,000 disputes in the past year. About 6500 of those were related to fences. Cost sharing, property boundaries and the look and design of a fence are common areas of disagreement.

"Fences require neighbours to co-operate and often they don't know each other well," centre manager Tina Ralston said. "They also relate very much to our personal space."

Clear communication

Clear communication and willingness to be flexible can often avoid a messy dispute with your neighbour. Issues to talk over include if you will replace or repair a damaged fence, the look of a new fence, its height, what it will be made of, colour, time frame for the work, who will arrange the work, who gets the "flat" side and any landscaping that needs to be undertaken. Last, but



FENCING TIPS

- Get your neighbour's opinion about repairing or replacing a fence rather than simply serving them with a Notice to Fence.
- **Be flexible in terms of materials to be used and when you want the work completed.**
- Be clear about what you propose and get several quotes.
- **Put your agreement in writing.**
- Know your legal rights but work hard to avoid legal action.

USEFUL WEBSITES

- Dispute Settlement Centre of Victoria
www.disputes.vic.gov.au
- Fitzroy Legal Service law handbook
www.lawhandbook.org.au
- Fencing Online
www.fencingonline.com.au
- Victorian Magistrates' Court fencing guide
www.magistratescourt.vic.gov.au

not least, is cost — who pays for what?

A little diplomacy from the outset can avoid getting on the wrong side of your neighbour. Instead of telling them you are going to replace the fence, you may broach the subject by asking them what they think of its condition. Timing is also important.

"Dropping around at tea time when the kids are grizzling is probably not the best approach," Ralston said.

Cost sharing

NEIGHBOURS are required to split the bill for a standard fence. Council guidelines can be followed

to determine what is standard. If you want something a little different, you may be required to take on a higher proportion of the costs.

"Again, being flexible can be key," Ralston said. "If your neighbour has difficulty paying their share then you might agree to pay in full and negotiate a payment plan or hold off on the work."

Boundaries

FENCES don't always follow title boundaries. If there is any doubt, compare titles and measure boundaries together. If there is still doubt, agree to cover the costs of a surveyor.

If your fence has been on

your neighbour's land for 15 years you can make an application to legally claim the land. While possible, Fitzroy Legal Service solicitor Peter Cotter warns it may be more trouble than it is worth.

"It can be very expensive to make an adverse possession claim," he said. "The application generally requires the assistance of a surveyor and a lawyer. The costs increase considerably if the matter is contested."

Legal alternatives

IF YOU can't reach an agreement with your neighbour serve them with a Notice to Fence — a formal letter outlining your intention to replace or repair the

fence, its location, length, height, construction materials and what you expect them to pay. Include a quote. It is also best to serve it via registered post. Your neighbour has a month to respond. If they don't, you can apply to the Magistrates' Court for a ruling.

Ralston and Cotter say legal action should be considered only after all other avenues have failed. The DSCV offers mediation through the Fitzroy Legal Service provides dispute resolution tips on its website.

"Going to court is an option, but it is something I would advise only as a last resort," Cotter said.

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