

ALL ABOUT SIDEWALKS, TREES AND FENCES

By Broderick Perkins



The soft housing market has remanded you to your current home a little longer than you planned. Perhaps it's a good time to get to know some neighborhood issues you are more and more likely to encounter the longer you remain.

Sidewalks, fences and trees, for instance.

Why?

Rules vary from jurisdiction to jurisdiction, and with so many variations, it behooves you to learn what rules apply to you. Here's what you should know about sidewalks, fences and trees.

Sidewalks

Sidewalk maintenance responsibility typically is spelled out in local ordinances. Most laws say if you are a property owner, you must make sure passersby enjoy safe passage across walkways adjacent to your property line.

The local public works or building department typically will respond to your call for an inspection of a deteriorating sidewalk, pathway or other public easement, but you could have to foot the bill. That includes labor, materials and the cost of any permit to do the work.

Often, in the course of its regular, periodic infrastructure inspections, your jurisdiction will inform you when you need to repair a walkway and give you a deadline. If you miss the deadline, you could be cited, leaving the jurisdiction free to do the work but send you the bill.

If a public works official must remove a tree that's damaging the sidewalk, however, you'll likely have to finish the job and level the sidewalk.

Trees

Speaking of those leafy green plants, it's illegal in a growing number of "green-conscious" cities to cut down trees – in some cases, even on your own property – without prior approval. Fines can be a lot stiffer than the cost of pruning out-of-control tree growth.

A tree typically becomes community property shared by adjacent neighbors if the trunk stands on the borderline between the two properties. Then, both or all owners are responsible.

If your neighbor has a tree that has grown branches hanging heavy over your property, those branches could pose a threat to your property, members of your household or others. If so, your neighbor could be liable if limbs snap, fall and damage property or injure someone. The condition also gives you the right to trim your neighbor's tree branches back to the property line.

But here's the Catch-22 – you can't work from the neighbor's yard without his or her permission and you'd better not injure or kill the tree, because then you'll be liable. The same applies to damaging tree roots.

Even though you aren't legally required to do so, you should discuss the matter with your neighbor before you cut overhanging branches or troublesome tree roots.

The experts also say it's a good idea to contact an arborist or experienced tree surgeon before attempting to prune tree limbs or roots – or simply let the experts do the job. Then liability for the tree's well-being falls on them.

If there appears to be no way to exorcise the offending branches or roots without harming the tree or the neighbor's feelings, you may have to seek mediation or a legal solution.

You also may have to resort to a little psychology to get your neighbor off the fence about a tree trim. Suggest he or she call their insurance company. The insurer may consider the policy owner negligent – and not cover the incident – if there's a mishap. Or the policy may have a large deductible for such claims.

Fences

The responsibility for fences is somewhat more clear-cut because fences have no branches to spread.

When you build a fence on your property, it's your responsibility should it begin to deteriorate and pose a hazard. Fences on a property line shared by two or more neighbors belong to all those who share the property line and all owners share an equal responsibility for keeping the fence in good repair. Likewise, neither can remove the fence without the others' permission.

Local fence ordinances regulate the height and location of your fence. Typically only a special zoning variance will get you a higher fence, perhaps to shield your property from commercial operations or other disturbing activity.

There's little you can do about legal fences that don't meet your personal standards for aesthetics as long as the fence doesn't pose a hazard and it's not on your property.

For more information, consider legal self-help publisher Nolo's "Neighbor Law: Fences, Trees, Boundaries & Noise" (Nolo.com \$26.99), available in paperback and as an e-book. Likewise available from Nolo, "Your Little Legal Companion: Helpful Advice for Life's Big Events" (Nolo \$9.95) contains some related information.

For a Web site that can help you zero in on your jurisdiction's rules, try Findlaw.com's "Neighbors" section.

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