

Legal Aid ACT

Neighbourhood Disputes

Neighbourhood disputes can arise over many issues including noise pollution, fence repairs and pets. It is essential to address any problems as soon as they arise by negotiating or mediating with your neighbour or seeking advice. In this way, you can prevent the matter from becoming more complicated and avoid the stress, money, time and energy that will be required if you go to court.

NEGOTIATE – you should try talking to your neighbour about a way to resolve the dispute:

- organise a time and place where you and your neighbour feel comfortable
- make sure that you express your concerns clearly and allow your neighbour to do the same
- decide on a solution and be sure that you are both clear about what you have agreed to

MEDIATE – if you are unable to resolve the dispute by talking to your neighbour, you could organise mediation with an impartial third party. Involving someone who is not part of the dispute may help you to see the issues more clearly and work out a lasting solution.

Conflict Resolution Service provide free mediation and advice. They can be contacted on (02) 6162 4050.

ADVICE – If you are unaware of your rights or confused about the law, you can contact Legal Aid ACT for advice.

Free Legal Aid Helpline 1300 654 314

Free appointments at our office 6243 3411

For advice you could also contact ACT Planning and Land Authority on 6207 1923 (about fences and construction) or Environment ACT on 13 22 81 (about noise and trees).

What can I do about noise pollution?

The *Environment Protection Act 1997* sets out the law regarding residential and commercial noise limits in the ACT. There are certain limits on noise such as loud music, air conditioning units and power tools. Excessive noise is not allowed before 7am and after 8pm or 10pm (depending on the area and what kind of noise it is).

If you are unable to resolve a dispute by talking to your neighbour or participating in mediation, you can lodge a complaint with the Environment Protection Authority (EPA) on 13 22 81. The EPA is the ACT

government statutory authority which is responsible for implementing the *Environment Protection Act*.

If you are concerned about noise from:

- vehicles on public roads, contact Road User Services on 13 22 81
- people, contact the Australian Federal Police on 02 6256 7777
- aircrafts (including hot air balloons) contact Air Services Australia on 1300 802 584.

Who pays for fence repairs or building a new fence?

You and your neighbour will usually have to share the costs for building a dividing fence or fence repairs. The first step is to get a quote for the cost of the building/repairs and discuss this with your neighbour. If your neighbour does not agree, write them a letter setting out the cost and other details. If you still cannot agree, try mediation and then apply to the Small Claims Court for an order (there will be a fee). The Small Claims Court is part of the ACT Civil and Administrative Tribunal which is located at Level 4, 1 Moore Street, Civic.

For further information contact the ACT Planning and Land Authority on 6207 1923.

What can I do about overhanging branches?

Both you and your neighbour are entitled to trim any branches that overhang onto your property but you should check with each other before doing so.

You may also remove trees from your property however certain trees in the ACT are protected under the *Tree Protection Act 2005*. If the tree is large or old, you should check with the ACT Environment Protection Authority on 13 22 81 before any action is taken. It is an offence to remove, prune or damage a protected tree.

Can my neighbour come onto my land?

Your neighbour is not allowed on your land unless you give them permission, or if they have a right of way over your land. A right of way will be written in your land title documents and cannot be altered unless both you and your neighbour agree.

If you do not give permission and/or you withdraw permission for your neighbour to be on your land, they must leave immediately. If they refuse to do so, they are trespassing and can be removed by the police. You should not attempt to remove an unwanted neighbour by yourself. If any damage is caused by your neighbour, you may be able to sue for trespass. If the problem continues, you may need to apply for a Personal Protection Order in the ACT Magistrates Court.

Can I stop my neighbour's pets from coming into my garden?

Neighbourhood pets are not allowed onto your property unless you give permission. If you do not give permission, the animal is trespassing and you should call your neighbour to come and remove it. If this



does not work, call the ACT Domestic Animal Service on 6207 2424 or 132 281 (after hours). If the animal is causing damage or is dangerous, you may bring an action in nuisance in the Small Claims Court.

My neighbour is burning off – is this legal?

The *Environment Protection Act 1997* prohibits the lighting of a fire in open air as well as the burning of garden or other waste in backyard incinerators. Barbeques are allowed providing that seasoned wood, heat beads or gas is used. It is illegal to light any fire, including a barbeque, when there is a total fire ban.

My neighbour is spying on me – do I have a right to privacy?

There is no legal right to privacy which prevents your neighbour from looking over the fence or listening to conversations. Apart from asking them to stop, you could plant trees along the boundary or build a higher fence. If the behaviour becomes more serious and you feel harassed or threatened, speak to the Legal Aid lawyer at the Magistrates Court about a Personal Protection order.

