

Homeowner's FAQs

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Can I trim the branches of the neighbour's tree that hang over my yard? You have the legal right to trim tree branches up to the property line. But you may not go onto the neighbour's property or destroy the tree itself. A person who intentionally injures someone else's tree is liable to the owner for monetary loss. Most of a big oak tree hangs over my yard, but the trunk is on the neighbour's property. Who owns the tree? Your neighbour. It is accepted law that a tree whose trunk stands wholly on the land of one person belongs to that person. If the trunk stands partly on the land of two or more people, it is called a boundary tree, and in most cases it belongs to all the property owners. All the owners are responsible for caring for the tree, and one co-owner may not remove a healthy tree without the other owners' permission. My neighbour dug up his yard, and in the process killed a tree that's just on my side of the property line. Am I entitled to compensation for the tree? Yes. The basic rule is that someone who cuts down, removes, or hurts a tree without permission owes the tree's owner money to compensate for the harm done. You can sue to enforce that right -- but you probably won't have to, once you tell your neighbour what the law is. My neighbour's tree looks like it's going to fall on my house any day now. What should I do? You can trim back branches to your property line, but that may not solve the problem if you're worried about the whole tree coming down. City governments often step in to take care of, or make the owner take care of, dangerous trees. Some cities have ordinances that prohibit maintaining any dangerous condition -- including a hazardous tree -- on private property. To enforce such an ordinance, the city can demand that the owner remove the tree or pay a fine. Some cities will even remove such a tree for the owner. You might also get help from a utility company, if the tree threatens its equipment. For example, a phone company will trim a tree that hangs menacingly over its lines. If you don't get help from these sources, and the neighbour refuses to take action, you can sue. The legal theory is that the dangerous tree is a "nuisance" because it is unreasonable for the owner to keep it and it interferes with your use and enjoyment of your property. You can ask the court to order the owner to prune or remove the tree. You'll probably have to sue in regular court (not small claims court) and have proof that the tree really does pose a danger to you. Can I force my neighbour to cut down their trees that block my view? Contrary to popular belief, most homeowners do not have a right to their view. Generally, homeowners have no right to a view (or light or air), unless it has been granted in writing by a local ordinance or subdivision rule. The exception to this general rule is that someone may not deliberately and maliciously block another's view with a structure that has no reasonable use to the owner. What should I do if my neighbour's trees block my view? Before you approach the owner of a tree that has grown to block your view, answer these questions:

- What is the least destructive action that could be taken to restore your view? Maybe the owner will agree to limited and careful pruning.
- How much will it cost to trim the tree(s)? Be ready to pay for it.
- Which part of the tree is causing view problems for you -- one limb, the top, one side of it?
- Does the tree affect the view of other neighbours? If it does, get them to approach the tree owner with you. Trimming costs may be divided among you. My neighbour's fence blocks my view. What can I do? If a fence is blocking your view, it may be in violation of a local law. Commonly, local laws limit man-made fences in back yards to six feet high and in front yards to three or four feet. Height restrictions may also apply to natural fences, such as hedges. What is a View Ordinance? A few cities that overlook the ocean or other desirable vistas have adopted view ordinances. These laws protect a property owner from having his view obstructed by growing trees. They don't cover buildings or other structures that block views. Generally the ordinances allow someone who has lost a view to sue the tree owner for a court order requiring him to restore the view. A neighbour who wants to sue must first approach the tree owner and request that the tree be cut back. The complaining person usually bears the cost of trimming or topping, unless the tree was planted after the law became effective or the owner refuses to cooperate. Some view ordinances contain extensive limitations that take most of the teeth out of them. Some examples:
- Certain species of trees may be exempt, especially if they grew naturally.
- A neighbour may be allowed to complain only if the tree is within a certain distance from his or her property.
- Trees on city property may be exempt. What should I do before I buy a Property With a View? First, ask the property owner or the city planning and zoning office if the property is protected by a view ordinance. Then check with the real estate agent to see if neighbours are subject to restrictions that would protect your view. Check local zoning laws for any property that might affect you. Could the neighbour down the hill add a second-story addition? Finally, look very closely from the property to see which trees might later obstruct your view. Then go introduce yourself to their owners and explain your concerns. A neighbour who also has a view will probably understand your concern. If someone is unfriendly and uncooperative, you stand warned. NOISY NEIGHBOUR QUESTIONS AND ANSWERS I own my own home next door to a rundown rental house. The landlord keeps renting to people who are noisy. What can I do? First things first: Try reasoning with the renters next door, and if that doesn't work, try the same approach with the landlord. As strange as it may sound, they may not realize that their noisy parties are disturbing you. However, if you get no results, you have stronger courses of action available to you. If the cars are parked on your property, they are being parked there by trespassers. A call to the local police station ought to take care of that problem. As for the noisy parties, what you have here is a nuisance, and a potentially serious one if you have reasonable grounds to fear for your safety. One way that neighbors have successfully dealt with this kind of problem is to sue the owner -- not the tenants, but the owner -- of the offending house in small claims court. This kind of lawsuit is very effective -- especially if you can get other neighbors who are annoyed by the ruckus to join in. Are noisy neighbours breaking the law? Almost every community prohibits excessive, unnecessary, and unreasonable noise, and police enforce these laws. Most local noise ordinances designate certain "quiet hours" -- for example, from 10 p.m. to 7 a.m. on weekdays and until 8 or 9 a.m. on weekends. So running a power mower may be perfectly acceptable at 10 a.m. on Saturday, but not at 7 a.m. Some universally disturbing sounds

are commonly banned or restricted. For instance, most cities prohibit honking car horns unless there is danger. This means that the daily early morning tooting across the street for the carpool is a violation. Dogs and motorcycles may also be singled out. Many towns also prohibit sustained noise that exceeds a certain decibel level. The decibel limits are set according to the time of day and the neighbourhood zoning. When a neighbour complains, police place decibel level monitoring equipment on an estimated property line and take a reading. How should I approach my neighbour about a noise problem? There are two common reactions to noise coming from a neighbour. The first is resignation. You hate the noise, but you do nothing. The second is anger. You lose your temper and call the cops. There are better ways to handle the situation. Approach the neighbour. Raising a problem with a neighbour is not easy. But it should always be the first step and, if done with respect and sensitivity, may be the last. Often the neighbour is unaware of a problem -- for instance, the dog barks only when nobody is home. Assume that the neighbour doesn't know and would like to be told. Warn the neighbour. If complaining doesn't work, get a copy of your local noise ordinance as explained above. Send a copy to the neighbour with a note repeating your request to keep the noise down and explaining that you'll be forced to notify the authorities if you don't get results. Be sure to provide details on the problem, including the dates and times of the noise. Suggest mediation. If you value the neighbour relationship at all, or just want peace in the future, give mediation a try. You and the neighbour can sit down together with an impartial mediator and resolve your own problems. Call the police. Still no response from the neighbour? Stereo turned up another notch? Now is the time to bring in the police (or, if the problem is a barking dog, the Animal Control Department). If you have tried to solve the problem yourself, the police will know your complaint is serious and that you need help. Try to notify the police while the noise is continuing, so they can measure the noise or hear it for themselves. (Some people simply hold the phone out the window.) Sometimes cities won't act until the noise affects two or more persons, to prevent complaints from excessively sensitive people. Sue for nuisance. As a last resort, you can sue in small claims court. It's easy and inexpensive, and you don't need a lawyer. Can I sue a noisy neighbour? If your neighbour keeps disturbing you, you can sue, and ask the court for money damages or to order the neighbour to stop the noise ("abate the nuisance," in legal terms). For money damages alone, you can use small claims court. For a court order telling somebody to stop doing something, you'll probably have to sue in regular court. Of course, what you really want is for the nuisance to stop. But getting a small claims court to order your neighbour to pay you money can be amazingly effective. And suing in small claims court is easy, inexpensive, and doesn't require a lawyer. To win, you'll need to show:

- There is excessive and disturbing noise.
- The person you are suing is either creating the noise or is the landlord and therefore responsible.
- Your enjoyment of your home is affected.
- You have asked the person to stop the noise. To prove your case, use police reports, witnesses, your own testimony, or even a recording. My neighbour's dog barks all the time, and it's driving me crazy. What can I do? Usually, problems with barking dogs can be resolved without resorting to police or courts. If you do eventually wind up in court, however, a judge will be more sympathetic if you first made at least some effort to work things out informally. Here are the steps to take when you're losing patience (or sleep) over a neighbour's noisy dog:
 - Ask your neighbour to keep the dog quiet. Sometimes owners are blissfully unaware that there's a problem. If the dog barks for hours every day -- but only when it's left alone -- the owner may not know that you're being driven crazy. If you can establish some rapport with the neighbour, try to agree on specific actions to alleviate the problem: for example, that your neighbour will take the dog to obedience school or consult with an animal behavior specialist, or that the dog will be kept inside after 10 p.m. After you agree on a plan, set a date to talk again in a couple of weeks.
 - Try mediation. Mediators, both professional and volunteers, are trained to listen to both sides, identify problems, keep everyone focused on the real issues, and suggest compromises. A mediator won't make a decision for you, but will help you and your neighbour agree on a resolution.
 - Look up the law. In some places, barking dogs are covered by a specific state or local ordinance. If there's no law aimed specifically at dogs, a general nuisance or noise ordinance makes the owner responsible. And someone who allows a dog to bark after numerous warnings from police may be arrested for disturbing the peace.
 - Ask animal control authorities to enforce local noise laws. Be persistent. Some cities have special programs to handle dog complaints.

- Call the police, if you think a criminal law is being violated. Generally, police aren't too interested in barking dog problems. And summoning a police cruiser to a neighbour's house obviously will not improve your already-strained relations. But if nothing else works, and the relationship with your neighbour is shot anyway, give the police a try.

DEALING WITH DIFFICULT NEIGHBOURS What should I do if I have a problem with my neighbour? Your neighbours can be a blessing or a curse. One thing they will always be is right next door, so strive for cooperation rather than conflict. Here are some general tips that you can follow:

- Find out the facts. Determine whether this disturbance is a one-time problem or a constant occurrence.
- Vent your feelings before you approach your neighbour: Talk to a friend or spouse, whack your bed with a tennis racket or roll up the windows in your car and scream.
- Write it out. Get clear about what is bothering you and what you want done.
- Figure out who is responsible for the disturbance. You want to negotiate with the proper party.
- Talk to your other neighbours and find out whether they share your concern. This is simply for your information; try not to aggravate the situation by building an angry alliance.
- Arrange a time to meet with your neighbour and choose a neutral location.
- Ease into it. Start off with some good ol' style banter.
- Create a cooperative atmosphere. Rather than attacking your neighbour, ask for assistance in finding a solution.
- Find common ground and focus on what you do agree on.

- Search for a solution that satisfies both parties' needs.
- Keep a record of your interactions.
- Be neighbourly, keep an open mind and be willing to compromise.
- Write a letter presenting your concern if you are uncomfortable meeting in person.
- Turn to an outside authority if you can't work it out on your own. Seek help from your local conflict resolution center, police, zoning board or city health department. Stop negotiating if your neighbour behaves unreasonably and the situation worsens; enlist a neutral party to assist you.