

## How to resolve problems with your neighbors

Darryl E. Owens | Sentinel Staff Writer

Robert Frost observed that good fences make good neighbors. But suppose your neighbor's fence encroaches on your property? Or your eyes are bloodshot because their bulldog barks at ungodly hours? Or their humongous oak's branches hang over your gate?

These are common issues that often lapse into nasty neighbor disputes. Noise reigns as the top nuisance, trailed by clashes over boundaries, unruly kids, pets, odors, water runoff, and threats and intimidation, said Robert Borzotta, founder of NeighborsFromHell.com and author of the forthcoming titular book.

But Googling a lawyer isn't the best course -- at least not right off.

"A polite request coupled with kind words is almost always better-received than even the most professional demand letter written from an attorney," said Gene Shipley, an attorney with GrayRobinson, P.A., in Orlando. "Formal litigation is expensive and rarely ever pleasant for the parties involved."

No one is served when issues fester into a blood feud, so first try resolving the matter neighbor-to-neighbor.

"Let your neighbor know that you are committed to living together in peace, that something is bothering you and you want to find solutions that work for both of you," said Elinor Robin, a Florida Supreme Court-certified mediator in Boca Raton. "Be willing to listen to what the neighbor has to say, and then focus on the problem, not the person; the key is working together to manage the situation."

If giving peace a chance falls flat, consider mediation. A mediator referees emotionally charged disputes and helps bring both parties to a place of collaboration and compromise.

If mediation fails, check your homeowners association's community covenants.

"If a neighbor's actions are a violation of any of the provisions of the governing documents, then the association should get involved," said **Donna D.**

**Berger**, managing partner at **Katzman Garfinkel**, a Fort Lauderdale community-association law firm.

Excessively loud music, vicious dogs and improperly parked cars are violations under many associations' regulations. But encroaching fences or overgrown trees typically constitute personal disputes and aren't covered by association bylaws, Berger said.

As a last resort, consider legal recourse.

"While I would hope that neighbors could resolve these issues fairly and reasonably by discussing the problem and coming up with rational solutions, the reality is that some neighbors are neither fair nor reasonable," said David de Armas, an attorney with Cramer, Price & de Armas, P.A., in Orlando.

Consequently, the law establishes some general rules for governing neighborly conduct:

You can trim the roots or branches of a neighbor's tree or any other vegetation that has grown on your property at your own expense "in order to protect [your] property from damage by the tree, even if this results in damage to the tree," de Armas said.

If a neighbor has erected a fence or other structure on your property, you can't remove it without risking liability, but you can seek injunctive relief from a court, said Marc L. Levine, an attorney at GrayRobinson.

But remember: Sometimes, even when you win, you lose.

"One of the benefits to retaining counsel is to have a professional 'fight your battles for you,' distancing yourself to some degree from the direct conflict that takes place by counsel," Shipley said. "It's impossible to distance yourself from the opposing party to a suit when that person [and other occupants] lives next door."

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