

For Fence Sake!!!!

The fence-tastic world of fencing, fencing disputes and fence maintenance

Neighbourhood disputes are something none of us particularly like dealing with, especially when money is involved. But here is the issue – the reason fencing *causes* some of the nastiest neighbourly disputes in the first place is precisely *because* money is involved! So, what is a dividing fence here in Queensland? What are you obligated to do/contribute in the event of building a new fence or maintaining an existing one? And what are some things you can do to preserve the life of your fence (and your relationship with your neighbours)? Let's delve into the fence-tastic world of fencing! Before we do though, we need to mention that there are certain things we will not be covering here, like pool fencing and fencing in rural/farming areas. These are separate issues entirely and carry their very own unique set of rules and regulations. So... let the games begin!

The 'dividing fence'

According to *The Dividing Fences Act 1953*, a dividing fence is a "structure, ditch or embankment, or a hedge or similar vegetation barrier, enclosing any land, whether or not it extends along the whole boundary of land separating the neighbours". While that definition is quite a mouth full, it does highlight the potential complexity of fencing, and the reason why fences cause so many disputes. Essentially, a fence is *anything*, at *any* point, and for *any* length, that divides two properties.

The sheer fact that the "thing" is separating two properties means that it is equally owned by the adjoining neighbours, *providing* it is *actually* built on the common boundary line. A fence, or even part of a fence which is built on one neighbour's side (even slightly to one side of the common boundary), is considered to be the sole possession (and therefore responsibility of), that neighbour. This is irrespective of the fact that the adjoining neighbour may have contributed to the construction of the original fence at some stage.

The moral of the story is simple... make sure you know for certain that your fence is actually on common boundary lines before starting any sort of maintenance on a fence (and asking your kind neighbour to pay half towards it). If you don't have the original plans for your property, you can determine the boundary lines by consulting your local Council or employing the services of a property surveyor.

Fencing requirements in the sunshine state (where we all love our neighbours... right?)

The basic requirement in Queensland when it comes to dividing fences is that neighbours must contribute equally to the cost of building and maintaining a "sufficient" dividing fence. It is also a requirement not to attach anything to a dividing fence that might unreasonably and materially alter or damage it. Essentially, this means that adjoining neighbours are liable to pay half each for the cost of any fencing work being done for/on a "sufficient" dividing fence. That's fair enough... but what is this business about "sufficient" fencing? This is important to understand, because when you want

something over and above what is deemed as “sufficient”, you may actually end up having to wear more of the cost. So, “sufficient” fencing means:

- Where two areas of residential land are adjoined, the fence must be between 0.5 metres and 1.8 metres high, and constructed out of substantial material.
- Where the owners both agree that a particular fence is sufficient (for example, both owners might decide a simple, low chain fence is sufficient for them).

Sounds simple right? Well, most of the time it can be, but sometimes the water can start to get a little muddy. **If one neighbour wants to have more work done than is necessary** for a “sufficient” fence, then that neighbour will be liable to pay the extra cost. For example, if you are perfectly happy with a standard timber fence, but your neighbour would like to erect a solid block wall, it will be your neighbour who has to pay the additional cost for a more expensive fence. Working out who owes what is where things can be tricky. When push comes to shove, the best way to approach an issue of fencing (either repairs to an existing fence or the construction of a new fence) is to:

- Discuss the type of fence with your neighbour
- Investigate and discuss the cost with your neighbour, and obtain multiple quotes from fencing contractors
- Discuss and agree on how the fence will be built/repared
- Put all of these details and arrangements in writing

Once this has been done, you can compel your neighbour to contribute to any costs for the fence by giving written notice. The written notice must specify:

- The common boundary to be fenced
- The kind of fence proposed
- A proposal for the fencing project (estimates of cost, contribution required, method of construction)

In the event that an agreement cannot be reached, the matter can be referred to the Queensland Civil and Administrative Tribunal (QCAT). This is a costly and time consuming process though, so if neighbours can just get along and have a chat about things in a selfless and logical manner, one would hope things do not need to go as far as QCAT!

If you wish to **repair an existing fence**, both neighbours are equally liable to contribute to the maintenance and repair costs, unless one of them actually caused the damage. Obviously, in this situation it is the neighbour responsible for causing the damage that is required to restore the fence at their own expense.

What if you and your neighbour have looked into repairing your existing fence, but have found that it is not cost effective to do so? If the only option is to **replace an existing fence** with a new one, both neighbours are responsible for contributing equally to the cost of demolishing the old fence, and constructing the new one.

So what are some other issues that might crop up? What about **retaining walls**? A retaining wall is not covered under *The Dividing Fences Act* because they are not deemed to serve the same purpose as a dividing fence. Retaining walls generally benefit one neighbour more than the other (for engineering and structural reasons), and so the cost is rarely split between adjoining neighbours.

What about **corner blocks**? In this instance, the fence or structure around the property has to be constructed in such a way that traffic will still have a clear line of vision around the corner. Two types of fences are allowed in this situation:

- A truncated fence – these may be more than 1 metre in height around the whole bend, because this will not interfere with visibility.
- A non-truncated fence – where the fence has a height of 1 metre or less for a distance of 6 metres in either direction from the traffic, again to allow for a clear line of vision.

Of course there are different types of fences (such as open panels/slats etc...) which may also be used at various points along a corner block fence in order to satisfy these requirements. Using professional fencing contractors means that you can be sure you have options when it comes to your fence, and that ultimately your fencing meets Council requirements.

There are a whole lot of other situations where Council will need to be called to determine the specific fencing requirements, such as when building on a **small lot**, in the case of **multi-unit dwellings**, when building a **brand new house in a new area**, and when renovating an existing house which has been **heritage or character listed**. In addition to this, if you are planning on building a **fence which is higher than 2 metres** above the natural ground level, you will actually need to seek building approval. Again, this is where we can help!

Finally, it's worth mentioning that there are certain materials used for the construction of fences that are restricted. In a nutshell materials like barbed wire, razor wire, tiger wire and electric fencing are only really allowed in industrial and rural areas. Where they are in place, they often need to be separated from public access by a barrier, and there are regulations under the *Health, Safety and Amenity Local Law 2009* which stipulate how and where the fencing must be erected.

Maintaining your fence - so you don't have to worry about repairing it!

What if you don't need to worry about building a new fence because you already have one? Well, you can follow our advice and maintain it, maintain it, maintain it! That way you won't have to worry about large-scale repairs and costly fence replacements (and all the other dramas we just spoke about). Here are some handy tips and tricks for maintaining either your Colorbond or timber fence:

Timber

Wooden fences are subject to the elements in a big way, so looking after it is super-important. The aim here is to avoid rotting by:

- **Inspecting your fence regularly.** If you find that paint is starting to peel, and wood is beginning to chip away, these are all signs that your fence needs some help. We recommend adding fence inspections to your annual maintenance checklist, and when doing this annual inspection look out for things like rotting wood or damage to the bottom of posts and lower rails. This is because the lower parts of your fence are subject to moisture from the ground and vegetation, so if anything is going to go first, it will be the bottom of the fence. It is absolutely vital that you deal with these smaller problems as they arise, because damage and rot spreads throughout the fence in no time. Weakened posts or footings can cause an entire section of the fence to buckle or fall, and that is *not* what we want!
- **Giving your fence a quick touch-up.** This can really lift its overall appearance and improve the lifespan of the fence. Prior to re-painting the fence it is also a good idea to treat the timber because this helps the paint to last even longer.
- Looking at **replacing sections of the fence**, rather than the whole thing if necessary. If you maintain the fence well enough in the first place though, you shouldn't even need to do this.

If you find that you do need to replace your fence for whatever reason, there are a few things to know when choosing your timber. Cedar and redwood are rot resistant by nature, so they are the best options. You could also use pressure-treated wood which can help to prevent rotting in the future.

Colorbond

This type of fencing is really popular because it is a low maintenance option. Having said that though, anything which isn't maintained will cause problems eventually, so here are some tips for looking after your Colorbond fence:

- **Hosing** your fence down is a good way to keep nasties at bay. It will help to remove cobwebs and the build-up of other materials.
- The metal in a Colorbond fence can start to corrode if it is continually damp. This is why it is important to **remove any excess soil** that might build up at the bottom of the fence. Soil is damp and retains water, so we don't want that butting up against the fence over long periods of time.
- In a similar way, if rainfall pools at the bottom of the fence this can cause issues. Be sure to have **good drainage** along the bottom of the fence line.
- **Avoid spraying the fence** with chemicals and fertilisers as these can damage the fence significantly.
- Colorbond suggest **not using touch-up paint** on a Colorbond fence because you will see differences in colour and the fence will look patchy. Instead, it is recommended that you paint the entire fence with a good quality water-based exterior acrylic paint. Two coats are plenty, and the fence has to be really nice and clean before you start re-painting. Just check what this does to your warranty though.
- If you run into problems with graffiti on your fence, you can use a **graffiti remover**. Just be careful to follow the manufacture's guidelines.

So there it is... the fence-tastic world of fencing! The most important things to remember are to check with your local Council for requirements specific to your situation, be nice to your neighbours, have a professional erect a new fence or carry out major repairs on an existing fence, and maintain your fence. Maintenance, as always, is the key to a stress-free, cost-effective and long-lasting home environment!

Sources:

- Department of Justice and Attorney-General (www.justice.qld.gov.au)
- Brisbane City Council (www.brisbane.qld.gov.au)
- Amazing Fencing (www.amazingfencing.com.au)

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