

CHAPTER 7

LOVE YOUR NEIGHBOR?

How to Keep Petty Annoyances from Turning into Major Headaches

"People just weren't made to live in little boxes stacked beside and on top of each other," sighed a police officer investigating a complaint in a suburban condominium complex. The officer shook his head as he slapped a pair of handcuffs on a 28-year-old aerospace worker. His crime? Playing his stereo too loud.

No joke. After spending a night in jail, the man was scheduled for trial on a misdemeanor charge of excessive noise. Eventually the case settled, with the offender agreeing to pay a \$40 fine and the city agreeing to dismiss the charges. Fed up, the man moved to a house on a large country lot, where he now plays his stereo to his heart's content.

"It is easier to love humanity as a whole than to love one's neighbor," wrote Eric Hoffer in the New York Times Magazine. Sad, but true. And modern housing arrangements make it difficult even to like one's neighbor, let alone love him.

Take the case of an Illinois homeowner who decided to add a second story to his modest ranch home. Then he set his sight on further expansion. Over the years he added on to the house bit by bit until it looked like a 3,300-square-foot Taj Mahal, with plans to expand it to 5,700. For 15 years his neighbors put up with noisy construction equipment, piles of lumber, stacks of clay roofing tiles and giant sewer pipes, with constant dust and debris. Fed up, the neighbors joined forces with the village to try to get him to complete the project. At this writing the case has festered in court for three years, with no end in sight.

When the people next door carry on their daily activities right under your window, some friction is nearly inevitable. One neighbor likes to hear the birds sing; the other prefers a blasting

radio. One wants a view of the mountains; the other wants the privacy of a 20-foot hedgerow. One thinks the rusty iron fence between the properties is charming; the other thinks it's an eyesore.

If something your neighbor does is bothering you, remember that you'll probably be neighbors for a long time. Resolving the problem amicably may be more important than getting your way completely, because neighborhood feuds are no fun. Case in point: the legendary feud between the Hatfields and McCoys. The two Kentucky families reportedly went to court in 1860 over a disputed hog. Three decades later, the family feud was still raging, even though by then, everyone had long forgotten why they were at war.

So talk to your neighbor about the problem and try to work it out. Then try a polite but firm letter. Bringing in the law should be a last resort, not a first one. (For specific steps toward resolving disputes, [see the sidebar on page 18.](#))

In case your efforts to resolve the matter don't work, the law provides several stronger approaches. In many cases, knowing what the law has to say about the situation--and bringing that knowledge to your neighbor's attention--takes care of the problem without further action.

YOUR RIGHTS AS A NEIGHBOR

The problem you face might be addressed in your local government's zoning code, which regulates which activities are permitted in a neighborhood. If you live in a condominium, cooperative or planned subdivision, there might be private regulations and a homeowners' association to back them up. If the offending activity is classified under common law as a nuisance, it might be either a crime or a civil offense under local law. And if the appropriate agency doesn't take action, you could file a lawsuit in court to stop the activity or in small-claims court for monetary damages.

Let's start with zoning. City or county zoning regulations may limit the height of fences, the use of property for commercial purposes or the decibels of noise allowed at night. In some cases city officials notice a violation and issue a citation, but often it's up to the neighbors to complain.

For instance, a Minneapolis consumer official reports that his office receives numerous complaints about home machine shops that make the neighborhood look like a junkyard and smell like a gas station. Some complainants ask to remain anonymous--including a woman who grew tired of watching her husband tinker with an old junker car in the backyard. "I'm his wife," she said, "but don't tell him I'm the one who called. Just make him get rid of the thing.

"If you feel your neighbor may be violating a zoning ordinance, call your city hall or town council and ask if there is a regulation covering your neighbor's act. They may provide you with a copy of the ordinance or direct you to the local library, which usually has such rules on file.

To file a complaint, you may have to contact the city attorney or the controlling agency, such as the local zoning board. Having the city take up the cause for you requires less effort and expense on your part than filing a nuisance suit. However, you won't receive money; your neighbor will either be ordered to comply with the zoning rules, pay a fine to the city, or both.

If you live in a condo, cooperative or planned development, you may be able to take similar measures through the governing board of your complex. Check the bylaws and regulations of your development to see whether there's a rule against the activity in question.

Your homeowners' association can be a powerful ally. After all, if a neighbor's actions are bothering you, they may be equally troublesome to other residents of the development. If your neighbor refuses to comply with your initial requests, consider asking other neighbors if the situation bothers them, too. They may be willing to sign a petition or a joint letter to the

homeowners' association, which is more likely to draw the attention of the board than a complaint from an individual.

The association will investigate the complaint, ask for input from the offending neighbor, then take a vote as to whether official action is warranted. If the board feels your neighbor has violated its governing rules, it will likely begin by issuing a formal warning letter. In extreme cases of noncompliance, homeowners' associations have referred the matter to the city attorney or have filed their own nuisance suits against the offending resident.

Another option is trying to convince the authorities that your neighbor's actions are a **nuisance**, a legal term for unreasonable action by a person that interferes with your enjoyment of your property. It might be noxious gases, annoying wind chimes, foul odors, plaster dust from a neighbor's constant renovations, or even family arguments so loud they bother you at home.

The law of nuisance involves a balancing test, weighing the social value of the activity against the social value of your use and enjoyment of your property. Accordingly, the authorities who have to deal with nuisance complaints expect them to be reasonable. You may not like the culinary odors emanating from next door, where your neighbor cooks lots of spicy dishes with garlic and onions. But your distaste for those particular odors is not enough to sustain a nuisance complaint.

If your local ordinances make a nuisance a crime (usually a misdemeanor), the offender might be given a citation to appear in court at a given date, or he might even be arrested, held until he posts bond, and ordered to appear in court. If convicted, he may be fined and/or jailed. If your local ordinances make nuisance a civil violation, he would face civil charges in court. The penalty for a civil violation is a fine.

Whether the alleged nuisance violates a civil or criminal city ordinance, the city carries the burden of prosecuting the case. Your role as the complaining neighbor is limited to testifying if the case goes to trial. Again, any money collected will be in the form of fines paid to the city, not to you.

The other option is to file a nuisance suit yourself. Here you'd bear the expense of bringing the case to trial, including filing fees and legal counsel, but if you won you could collect money damages from the neighbor. A less expensive approach that may be available in your area is to file in small claims court ([see page 20](#)). This would cost you less and probably result in a quicker resolution of the matter.

Either way, to prevail against your neighbor in court you'll have to show the following elements:

- The neighbor is doing something that seriously annoys you. It helps to show a copy of a letter you wrote asking the neighbor to stop or modify his behavior.
- The neighbor's actions have reduced your ability to use and enjoy your property.
- The neighbor is responsible for his actions.
- In some states (New Jersey, New Mexico, North Dakota, Oklahoma, and South Dakota), the neighbor's conduct must also be unreasonable or unlawful.
- The annoyance you're suffering would be adequately dealt with by a specific amount of money or an injunction directing the neighbor to do or to refrain from doing something.

WHAT BUGS YOU?

Now let's consider some particular trouble spots and what you can do about them.

Boundary Lines

Disputes about boundary lines are less common than other neighbor-related problems, in part because of modern surveying techniques. As a rule, boundary lines are set forth in the property description in your deed. Sometimes, though, if the property was originally recorded decades or even centuries ago, that description may be a bit murky.

If you and your neighbor are unsure where the boundaries lie, there are a number of alternatives:

- Spend a few hundred dollars to hire a surveyor.
- File a quiet title lawsuit asking a judge to determine where the boundary line is. This is usually even more expensive than just hiring a surveyor because you will have to pay court-filing fees with the possibility of also having to pay for a survey if the court so requires.
- Agree with your neighbor that a certain imaginary line or a physical object, such as a fence or a large tree, will serve as the boundary. Each party should sign a quitclaim deed, granting to the other neighbor ownership to any land on the other side of the line.
- Be sure to record the deed by filing it in the county records office (often called the "registry of deeds").

Before you erect a fence or other structure on your land, make sure that it is indeed your land. If you innocently but mistakenly erect a fence on your neighbor's property, you may be liable for trespassing on your neighbor's land. She could ask the court for an injunction to make you tear

down the fence, as well as a money payment for any damage you may have caused to her land. The same applies in reverse: If your neighbor starts building on a parcel you feel is rightfully your land, notify her immediately. If you allow the construction to continue and wait too long to complain, you may be giving up your right to that strip of land. After many years of uncontested use, courts sometimes grant the party that has used the land a **prescriptive easement** allowing them to continue doing so. (See [chapter 3](#).)

How far over the boundary is enough to complain about? The reasonableness of the circumstances may dictate whether a court will and will not support you. For example, a judge may not be too sympathetic to your request that a neighbor relocate a building that is an inch over your property line. However, if that building is flush with your windows and blocking your sunlight and air, the court may feel differently.

Noise

In densely populated areas, one of the most common sources of neighborhood tension is noise. Complaints affect even the rich and famous. In 1991, rock star Axl Rose landed in court after a neighbor in his condominium complex accused him of blasting his stereo. The neighbor convinced a court to issue a restraining order to keep the noise to a reasonable level.

Some cities and towns have ordinances limiting noise to a given number of decibels. If the police have a decibel machine, you can ask them to measure the noise your neighbor is creating. This provides useful documentation should you need to proceed against your neighbor in court.

Timing is critical, though. A chain saw buzzing at 2:00 in the afternoon is far more reasonable than the same noise at 7:00 on Sunday morning. Accordingly, many municipalities

regulate noise levels during certain "quiet times" when most people sleep. They typically begin between 10:00 p.m. and midnight and last until 7:00 or 8:00 on weekdays; on weekends they often extend to 9:00 or 10:00 a.m. But some noises may be unreasonable at any time, such as playing an electric guitar so loud that it makes a neighbor's walls shake.

As with any nuisance, start by asking the neighbor to tone down the volume and explain why. Keep a log of the noise--when it occurred, how loud it was and how it affected your household. If the neighbor doesn't respond even to a letter, consult with your town council about local ordinances that might need enforcement. Consider a lawsuit only as a last resort.

Blighted Property

Unless they're governed by subdivision rules on exterior maintenance, homeowners are generally free to choose how their property looks. One exception occurs when a place is so neglected that it becomes a neighborhood eyesore, such as a yard overgrown with weeds or filled with trash, a dilapidated chain link fence, a rickety garage with peeling paint, or a house with broken windows and graffiti-covered walls. Blighted property decreases the value of surrounding homes and will frequently incur the wrath of surrounding neighbors.

If the neighbors refuse your request that they clean up their property to a reasonable standard, you may be able to get the city to do it for you, provided it has an ordinance declaring blighted property to be a nuisance. If so requested by a citizen--or if a city official observes the nuisance herself--the city may issue repeated notices to the offender. In about 95 percent of the cases, homeowners clean up their property after the first notice. About one percent of the cases are actually prosecuted in court.

A man in Ventura County, California, found out what can happen when you don't comply with a city's request to clean up your property. Prosecuted by the city on misdemeanor charges over the piles of trash and junk cars on his property, he was jailed twice. While he was in jail, the city undertook the cleanup of his property--then placed a \$15,000 lien on his home to recover the cleanup costs.

Illegal Activities

The law may be broad enough to cover "human nuisances" as well, such as drug dealers operating out of a neighborhood home. First, contact the property owner, who may or may not know that her tenants are using the house to traffic in drugs. Some cities require that such tenants be evicted or fine landlords who allow such a nuisance to continue. In some cases, state and federal laws provide for the government to seize property that is being used for illegal financial gain. The threat of forfeiting the house to the government is likely to persuade the homeowner to evict the undesirable tenants.

Another approach is for you and your neighbors to pursue a private law suit against a neighborhood nuisance. Neighbors can be a powerful, unifying force against a common "enemy." When a pleasant little neighborhood cafe deteriorated into a notorious drug den, a group of New England neighbors banded together to get the tavern shut down. They jointly hired a lawyer, who persuaded a judge that the establishment constituted a nuisance to the neighborhood. It was promptly shut down, to the mutual joy of all the neighbors.

Animals

Some neighbors get along like cats and dogs--in some cases, because of cats and dogs.

Consider the situation of two southern California neighbors, one a dog lover and the other a cat lover. Between their yards sat a thick concrete wall. On one side was a litter of normally well-behaved Chinese chow dogs; on the other, two mellow cats.

No problem--until the cats learned how to climb the wall, perch atop it and glare down at the dogs, just for fun. The dogs took to barking and yapping whenever anything stirred on the other side of the wall.

The entire neighborhood was unhappy. The cat owner blamed the dogs for the noise; the dog owner blamed the cats for teasing the dogs. Even more infuriated was a third neighbor, who worked nights and was trying to sleep when the "dog alarm clock" went off every morning.

The trouble escalated when the dog owner started hurling shoes, balls and other objects at the cats to chase them off the wall. One unidentified flying object sailing over the wall smacked the cat owner's child on the head. By that point, everyone was threatening to sue everyone else.

The solution? The cat owner suggested a truce: The cats would go out in the mornings and the dogs in the afternoons. By late afternoon, all the animals could go out because the third neighbor would already be at work. The dog owner agreed to stop pitching objects at the cats; the cat owner agreed to pluck the cats off the wall whenever she found them tormenting the dogs. The animal war ended as quickly as it had begun.

When the fur flies between pet owners and their neighbors in Ventura County, California, the confrontation can end up in "animal court," a voluntary program and an alternative to formal court proceedings. There, the county's "poundmaster" presides over about 100 cases a year, which

have included a cat that bit a woman, a rooster that rudely awakened the neighborhood, and a variety of disputes over dogs that bit, barked or intimidated children.

If your town has no "animal court," it probably has one or more applicable ordinances indexed under "Dogs" or "Animal Control" that can be enforced in regular court. Such laws often limit the number of animals per household, the length of time a dog may bark or the frequency of barking allowed. Leash laws require that dogs not run at large, and "pooper scooper" laws require owners to clean up after their pets.

If you have a problem with a neighbor's pet, knowing your local laws can add clout to your efforts to resolve it. If polite requests to your neighbor don't work, call your local animal control service, which is likely to be more receptive to your problem than the police or other city officials. Unless the animal control authorities consider your complaint unreasonable, they will probably call the offending animal's owner with a warning, followed if the problem persists by a citation. A citation is like a ticket; it requires the offender either to pay a fine or to challenge the citation in court. After being punished in the pocketbook, many people will change their animals' behavior to conform to the law. If they continue to allow their animal to annoy you, they can be fined repeatedly if you continue to complain.

If the problem persists, you may need to bring a civil lawsuit for nuisance to get a court order. The offender is likely to obey, because one who disobeys a court order may find himself in contempt of court, which can mean time in jail or at the bank, withdrawing hefty sums to pay a fine.

For animal problems, call the police only as a last resort. Police are generally not very interested in problem dogs, as they have more important matters to worry about. Bringing the

police into the equation also may sever any further relations with your neighbor. However, if you have to bring them in, they might take a variety of steps, including:

- Issuing a citation to your neighbor for violating a municipal code
- Contacting "Animal Control" to confine the animal if it is extremely troublesome or dangerous
- Asking the city attorney to file a criminal complaint against your neighbor, if his action or inaction amounts to a criminal offense

Trees

Trees can cause as much contention between neighbors as yapping dogs, whether they block people's view, crack a home's foundation or drop debris on their driveway. Here are the ground rules:

Ownership A tree whose trunk stands entirely on the land of one person belongs to that person. If the trunk stands partly on the land of two or more people, it usually belongs to all the property owners.

Damage Someone who cuts down, removes or harms a tree without permission owes the tree's owner money for compensation for that harm done.

Trimming Dangerous limbs falling onto another's property can cause real problems. You may trim the branches of a neighbor's tree that hang over your property, with certain restrictions:

- You may trim up to the boundary line only.
- You need permission to enter the tree-owner's property (unless the tree poses "imminent and grave harm" to you or your property).
- You may not cut down the entire tree.
- You may not destroy the tree by trimming it.

Are you liable for the encroachment of your trees or shrubbery on a neighbor's property?

The law varies from state to state, but in general it depends largely on the extent of damage done.

It's best to avoid a confrontation--legal or otherwise.

For instance, two California neighbors who lived on tightly adjoining lots in a small housing tract resolved a dispute over a tree that overhung both of their driveways. Neighbor One, a meticulous man, was dismayed when Neighbor Two's tree began to shed a sticky substance all over his new car. Neighbor One insisted that offending limbs be cut down, but Neighbor Two's gardener balked.

The solution? Both neighbors agreed to use the same gardener, and jointly instructed him in how the tree should be maintained on a regular basis.

If your neighbor complains about the encroachment of your leaves or vines, offer to remove them. Roots are a more serious (and potentially costly) problem. You will save money in the long run by hiring a landscaper or "tree surgeon" to take whatever steps are necessary to prevent root damage to your neighbor's home or wall.

It's always best to notify the tree owner before starting any trimming, pruning or cutting. If the owner objects to the trimming, offer reassurance that the job will be done professionally and responsibly, within the mutual rights of both parties involved.

Fruit-bearing trees that overhang a neighbor's property pose a tastier dilemma. When apples drop onto the neighbor's property, is the fruit considered manna from heaven? According to a long-standing common law doctrine, no. The fruit belongs to the owner of the tree--and so it has been since the 1800s, when a man named Hale scooped up 20 bushels of pears from the orchard trees of his neighbor. A court ordered Mr. Hale to return his booty to the orchard owner, even though Hale had been standing on his own land when he plucked the fruit.

What if your neighbor's fruit is a problem for you? If rotting fruit habitually falls from a neighbor's tree into your yard, notify him. Ask him to clean the fruit from your yard and to trim the tree to avoid such droppings in the future. If he ignores your request or refuses to comply, your neighbor may be liable for any damages the errant fruit causes to your grass or garden. (The same thing goes for the fruit of a neighboring tree that may cause physical injury to you, such as coconut that falls from a high tree and smacks you on the head.)

Trees are not strictly private property like barbecue grills. In some instances, neither the tree owner nor the neighbor has unlimited control over the fate of a tree. One subdivision overlooking scenic Farmington Valley in Simsbury, Connecticut, has a restrictive covenant in its deeds bearing homage to trees: Homeowners cannot cut them down, even their own land. They can, however, trim diseased limbs or branches that block their view of the valley below.

Subdivision rules such as this are designed to restrict the use of each lot in a tract for the benefit of all who reside there. One lot owner can enforce the restriction against another. If you are considering buying property in a subdivision, ask about any such restrictions in the general building plan.

Views

Residents of certain parts of the country, particularly along the coast, are protective of the scenic view from their property. If view is important to you or to the value of the property you are considering buying, be sure to investigate your legal rights to protect that view before closing the deal.

What can you do if you wake up one morning and find a new fence on your neighbor's land blocking your view of Big Sur? That depends in part on where you live. Generally there is no absolute right to a view, air or light, unless granted in writing by a law or subdivision rule. Such provisions are more common in coastal areas or other scenic-view locations.

The best way to protect a view is to purchase an easement from your neighbor, guaranteeing that no obstruction of your view will be built on the land described in the easement. ([See the section on easements in chapter one.](#)) You may cringe at the thought of paying for a view that is already there, but in the long run it is likely to be less costly--and more scenic--to buy an easement now than to bring a lawsuit in the future.

That's why a Los Angeles Superior Court judge ordered the rock star Madonna to trim her driveway hedges to eight feet in height and to trim a pine tree down to her roof level--and to pay the legal fees of the neighbor who brought the lawsuit against her. The neighbor contended that the untrimmed foliage blocked his Hollywood Hills view of the city lights below and reduced the value of his property. He was able to prevail because he had a longstanding written agreement with her regarding his view, so he simply went to court to enforce that contract.

Unless you live in a community that has a view ordinance, you are unlikely to get relief in the courts without such a contract. But even given a view ordinance, the mayor won't necessarily jump in and order your neighbor to tear down the obstruction. If the city does not feel your

complaint has merit, you will have to initiate a lawsuit and wait until your day in court to request an order requiring your neighbor to restore your view. Depending upon the backlog in your local courts, that wait could be months. And of course your neighbor might appeal the decision, causing another lengthy delay.

In the interim, get used to looking at fence posts instead of whitewater. In the interests of time and sanity, it may be advisable to forego the legal wrangling and negotiate with your neighbor. If your city does not have a view ordinance, you can still ask a court to have the offending fence or trees removed if you can show that by erecting or planting it, your neighbor was "deliberately and maliciously" trying to block your view. This would fall under the category of **spite fences** (see below).

Fences

The word *fence* is not limited to the picket or stockade-type barrier you may imagine. Fence ordinances generally include anything that serves as an enclosure or partition, including trees or hedges. Keep in mind that a living "fence" that started out as a legal four-foot-high hedge may grow into an unpermitted 12-foot-high wall. Many zoning regulations restrict the height of fences, whether they are made of cut timber or living trees.

Consider the plight of a Huntington Beach, California, family whose backyard was bordered by towering beautiful Italian cypress trees, ranging from 20 to 30 feet in height. Their neighbors complained to the city, which served the family with a notice to cut all the trees down to the required six-foot height limit. A tree expert affirmed that lopping off the trees would kill them,

certainly not what the neighbors wanted. The city allowed the existing trees to be "grandfathered" in under a use permit.

A fence that sits directly on the property line of two neighbors is known as a **boundary fence**. The legal rights and responsibilities depend on a number of factors, including who "uses" the fence.

As a general rule, boundary fences are somewhat like trees that straddle a property line-- they belong to both property owners. That means both neighbors are responsible for the upkeep of the fence and neither may remove or alter the fence without the other's permission. Of course, the owners are free to agree otherwise. One may wish to "buy" the fence from the other and have it recorded in his deed for posterity. Or one neighbor may be willing to give up his "share" of the fence if the other agrees to pay for the maintenance.

If you live in a historic part of the country, beware of obscure fence laws that may still be on the books. In Maryland, a Howard County landowner was subjected to an anachronistic county law that not only required him to share the cost of a fence on the property line with his neighbor, but also required the fence to be "hog-tight"--low enough so that a hog could not squeeze under it. And no, neither of the neighbors had any hogs on his property. (At last report, county officials were working to repeal the law.)

A **spite fence** is one that is excessively high, has no reasonable use to your neighbor and was clearly constructed to annoy you. For example, suppose you live atop a canyon view and you've been feuding with your neighbors, who live further down the slope. The neighbors suddenly erect a 20-foot-high stockade fence near the property line. Unless your neighbors can demonstrate a reasonable need for such a high fence, such as extra privacy concerns, you can sue them under the

doctrine of private nuisance. The case may be difficult to win, however, because most fences or other structures have some arguable utility to the owner.

If you win, your remedies, depending on the law of the state where you reside, may include an injunction to have the fence removed (or at least lowered to a less offensive height) or compensatory damages (a money payment to you). Factors the court will consider in determining the appropriate amount of compensation include the diminished value of your property and any annoyance caused by the erection and maintenance of the fence. However, you cannot recover for "hurt feelings" or embarrassment due to the fence.

Most spite fences spring from a history of bad feelings in the neighborhood, which deteriorate into anger and spite. That's why it pays to be neighborly in the first place. Cooperating with your neighbors can make life easier for everyone.

Sidebar: STEP-BY-STEP GUIDE FOR RESOLVING NEIGHBOR PROBLEMS

STEP 1: Discuss the problem with the neighbor, who may not be aware that the late-night parties bother you or that Fifi is digging up your flowerbed.

STEP 2 Warn the neighbor. Obtain a copy of the applicable local ordinance (look in the **municipal code** which should be found in your local library or in City Hall or contact your local council representative). Mail it with a letter of warning alerting your neighbor of a violation of the law. Wait a reasonable time to see if the problem violation of the law. Wait a reasonable time to see if the noise problem is resolved.

SAMPLE WARNING LETTER

Dear Neighbor,

Just as you enjoy playing your stereo, I enjoy a quiet environment in my home. It is impossible for me to do so when your stereo is played at such a loud volume.

Please read the enclosed municipal noise ordinance. You will see that the law requires that you comply and keep your stereo to a reasonable volume.

I trust that we can resolve this matter amicably, so that I will not be forced to contact the authorities. Thank you for your anticipated cooperation

STEP 3: Suggest mediation. Try to work out the problem with a impartial third person mediator to resolve the dispute informally. The sidecar on mediation discusses how to find and use a mediator.

STEP 4: **Contact the authorities.** If all else fails, call the police and/or file a civil lawsuit against the neighbor.

Sidebar: MEDIATION

Mediators are trained to listen to both sides in a dispute, identify problems, and suggest compromises and equitable solutions. They provide an impartial and unbiased forum for neighbors to talk.

The key to mediation, unlike a lawsuit, is that it is not an adversary process. No judge makes a decision for either party. The outcome of the dispute is in the hands of both parties. Until both agree, there is no resolution. The parties are more likely to comply with the agreement, since both have agreed to it.

You may be able to find dispute resolution services through the yellow pages (look under "mediation services" or "arbitration services"). And many bar associations offer nonprofit programs. Many states' Departments of Consumer Affairs have dispute resolution offices also. Consult the state government listings in your telephone directory.

Sidebar: SMALL-CLAIMS COURT

If negotiation has failed, your neighbor won't even discuss mediation and the local authorities aren't interested, consider small-claims court. You can do it yourself with no lawyers involved. It is less expensive and not subject to the delays of regular court.

The maximum amount you can sue for in small-claims court is usually between \$2,000 and \$5,000, depending on the state (call the clerk of the court in your county to find the limits and procedures in your state). Of course you could sue for less than the maximum.

How do you determine the amount to seek? Under the law, you have a right to be "made whole"--that is, for your property to be put back in the condition it was in before encountering problems with your neighbor.

If you have receipts for an item or structure that you had to have repaired, that would be a logical amount to seek. If you haven't made the repairs, you may want to sue for "diminution in value"--the difference between what the property was worth before and after the damage. That can

be determined by hiring an appraiser to write a report or by obtaining estimates from two or more reputable repair people.

In most states, small-claims court is a fairly simple process. Go to the clerk's office (often located in the municipal court building) and pick up the paperwork to file your claim. If you have questions, an information officer should be there to help you. Ask to see a sample form that has been filled out. There is usually a small fee (\$25 or so) to file your claim.

Once you file the form, you will be notified by mail of a hearing date. Before the hearing, be sure to accumulate as much documentation as possible to support your claim. Any recorded evidence supporting your position on the dispute will be helpful; otherwise the judge will be forced to decide exclusively on the basis of what you and your neighbor say in court. Such documentation may include: invoices and cancelled checks (showing repair costs to your property); photographs of property damage (before and after if possible); warning letters given to your neighbor (with dates and a signature); and other similar evidence. The hearing may be held in open court or in a private hearing room, depending upon your locality. Usually the judge will listen to both sides and mail you a written decision within a few weeks.

Most small-claims courts can award money only. If you want removal of a fence, tree or noise, you will generally have to file in regular court. The same is true if you want an injunction to get your neighbor to stop doing something that constitutes a nuisance.

But remember, if you are suing for a nuisance or a noise problem, you can sue more than once. As long as the neighbor does not correct the problem, you can sue again and again in small claims court, receiving monetary compensation, until the problem is taken care of.

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