

Retaining Wall Dispute Guidelines

It is always advisable to attempt to resolve issues or differences of opinion verbally by talking with the other party and trying to find common ground where issues or disputes can be resolved.

These guidelines are designed to assist with the process of dealing with issues which relate to retaining wall disputes. By following these steps carefully, resolutions to issues may be more readily resolved between the parties involved.

Step one – ascertain current ground levels

Establish the current ground levels on both sides of the property boundary.

It is recommended that a Licensed Land Surveyor be engaged to prepare a 'Contour and Feature Survey' of the subject area to establish the current levels.

Step two – compare ground levels

Compare the original (natural) ground levels (being the levels prior to any building work occurring on the properties) with the current 'Contour and Feature Survey'. The natural ground levels can be determined from the original Building Approval Site Plan. Also, determine the amount of ground level alteration on each property (either above or below natural ground level).

Step three – reach an agreement

Reaching a solution which is acceptable to all parties is the ideal situation. Any solution should include the implementation of the work required and consist of both parties reaching agreement on:

- Returning the ground level to the original level or install a suitable retaining system
- Location of the retaining wall in relation to the boundary line
- When the wall/s will be built
- Who will build the wall/s
- The proportion of cost to each party
- Who will be responsible for obtaining a Building Permit.

Step four – approval requirements

If a retaining wall over 500mm high is to be constructed, you are required to:

- Engage a practising Structural Engineer to inspect the properties and design a suitable retaining wall system
- Confirm if an application for Development Approval is required to be made to the City. Generally retaining greater than 0.5m within 1.0m of a common boundary will require development approval in addition to a Building Permit
- Apply to the City for a Building Permit (BA1 or BA2 form)
- Should the proposed building work adversely affect or encroach other land, a BA20 Notice for Consent to Work Affecting Land – Encroachment Form, must be submitted with the Building Permit Application. Please refer to the City's website at joondalup.wa.gov.au
- Where fencing is to be removed and access is required via your neighbours' property, a BA20A Notice for Consent to Work Affecting Land – Notifiable Events form is required. This form is not required to be submitted to the City. Please refer to the City's website at joondalup.wa.gov.au

Site plans

Should you not have a building approval site plan, copies are generally available at the City for a fee. Simply complete and submit a Copies of Building Plans application form available on the City's website.

If you are not the property owner, you are required to submit a signed letter of authority from the property owner, authorising you to obtain the building approval site plan on their behalf.

Land alterations adversely affecting dividing fences

Should it be identified an alteration of the natural ground level exists on either side of the boundary which adversely affects a dividing fence, then it is likely that the owner of the land where the land level has been altered would be held responsible. The responsibility may consist of the repair or replacing of the dividing fence pursuant to civil action by the adjoining landowner under the *Dividing Fences Act 1961*.

Land altered on the higher side

If the land on the higher side has been raised or 'filled' above natural ground level, the owner of the land on the higher side may require to retain any soil/sand/material from spilling onto the lower side.

Land altered on the lower side

If the land on the lower side has been lowered or 'cut' below natural ground level, then the landowner on the lower side is required to retain the amount of alteration below natural ground level as it may undermine the neighbouring land.

Community mediation service

Sometimes communication breaks down or issues cannot be resolved, regardless of the attempts to address concerns or differences of opinion. It is at this point that mediation can assist.

The City offers an independent mediation service for residents and property owners in the City of Joondalup which can assist in the matter.

Mediation

Mediation is a primary dispute resolution method whereby parties in dispute can meet in the presence of mediators, who are both neutral and independent, to resolve disputes between parties and negotiate a fair and workable outcome.

The first point of contact for mediation will be the City's Customer Relations Advocate, and the process will be coordinated and conducted by the Citizens Advice Bureau (CAB). The mediation process is guided by two experienced and professionally qualified mediators.

Should you wish to seek further information regarding mediation, please contact the City's Customer Relations Advocate on **9400 4942**. Alternatively, you may wish to seek legal advice regarding the matter.

Further information

For further information please contact the City's Building Services on **9400 4961** or Planning Services on **9400 4100** or email info@joondalup.wa.gov.au