

The Neighbour Dispute Checklist

What to do, in what order, before you spend a cent on litigation

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South African courts do not ask whether you are annoyed. They ask whether the interference is something a reasonable person, living where you live, should be expected to tolerate. Work through this checklist in order. Skipping to litigation is the most expensive mistake people make, and judges notice who tried to resolve things first.

1 IDENTIFY WHAT KIND OF DISPUTE YOU ACTUALLY HAVE

- ☐ Nuisance (annoyance) – noise, smells, smoke, dust, glare, dogs barking through the night.
Remedy: interdict. Damages only if you can prove actual financial loss.
- ☐ Nuisance (physical damage) – vibrations cracking walls, seepage, concentrated stormwater eroding your garden.
Remedy: interdict plus a damages claim.
- ☐ Encroachment – a roof, wall, carport, driveway or branches crossing the boundary line.
Remedy: demolition, or compensation plus transfer of the encroached strip.
- ☐ Lateral support – excavation next door has caused your land or building to subside.
Remedy: urgent interdict to stop the work, plus damages. You need not prove negligence.

2 BUILD YOUR EVIDENCE FILE FIRST

- ☐ Date-stamped photographs and video, taken over several days or weeks, not just one bad afternoon.
- ☐ A written log: date, start time, end time, what happened, how it affected you.
- ☐ Decibel readings from a calibrated meter for any noise complaint. A phone app is better than nothing but will be attacked.
- ☐ A land surveyor's report fixing the boundary and the exact extent of any encroachment.
- ☐ An engineer's report where there is cracking, subsidence or structural damage.
- ☐ Independent corroboration – a statement from another neighbour carries real weight.
- ☐ Written quotations for the cost of putting the problem right, and for the cost of demolition if that is what you want.

3 TALK FIRST, AND PUT IT IN WRITING

- ☐ Raise it with your neighbour in person or by phone, calmly, before anything else.
- ☐ Follow up the same day with a short email or WhatsApp recording what was discussed and agreed.
This becomes evidence later, whichever way things go. Keep the tone civil throughout.
- ☐ Keep every reply. A refusal, an insult or a broken promise in writing is worth more than any argument you make.

4 USE THE FREE AND CHEAP ROUTES BEFORE COURT

- ☐ Check your municipal by-laws – noise, building work, animals, stormwater and waste are usually covered.
Municipal enforcement costs you nothing and creates an official record.
- ☐ Lodge a formal complaint with the municipality and keep the reference number.
- ☐ In a sectional title or homeowners' association, check the scheme rules and raise it with the trustees in writing.
- ☐ Refer the matter to the Community Schemes Ombud Service (CSOS) if you live in a scheme.
CSOS adjudication is inexpensive and designed exactly for disputes between neighbours in schemes.
- ☐ Consider mediation. A mediated settlement can be made an order of court and is enforceable.

5 LETTER OF DEMAND THROUGH AN ATTORNEY

- ☐ Set out the unlawful conduct, the evidence you hold, the outcome required and a clear deadline.
- ☐ State your fallback position. If you would accept compensation rather than demolition, say so now.
Courts have refused demolition where the demand was disproportionate and the owner never considered alternatives.
- ☐ Send it by a method that proves delivery. A significant proportion of disputes end at this stage.

6 IF YOU MUST LITIGATE, DO IT PROPERLY

- ☐ Act promptly once you know of the problem. Delay and silence weaken your position badly.
- ☐ Join the right parties – body corporate, trustees or municipality where their interests are affected.
- ☐ Diarise every time limit, and apply for condonation immediately if you miss one.
A 2026 appeal about barking dogs was struck off without the merits ever being heard, purely because the papers were filed late.
- ☐ Put up your expert evidence with the founding papers, not as an afterthought in reply.
- ☐ Plead your alternative relief. Ask for compensation and transfer as an alternative to demolition.

FIVE THINGS THAT WILL SINK YOUR CASE

- ✗ Relying on your own irritation instead of objective evidence.
- ✗ Knowing about the problem for years and only complaining after an argument.
- ✗ Demanding demolition costing R200 000 over land worth R12 000.
- ✗ Cutting, removing or damaging anything before giving proper notice.
- ✗ Missing a court deadline and failing to apply for condonation.

7 YOUR NOTES AND KEY DATES

Record what happened and when. A dated contemporaneous note is worth far more than a memory months later.

Not sure where you stand? Let us tell you, quickly and honestly.

Bregman Moodley Attorneys Inc. has resolved property and neighbour disputes for Johannesburg clients since 1974. Most matters settle long before a court date.

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