ARE YOUR NEIGHBOURS’ TREES OR HEDGES BLOCKING YOUR VIEW?

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Property Law Act May Clear the Way

The story usually goes something like this……..

You bought a house because you fell in love with the view. There may have been trees or shrubs on the neighbouring property or they were planted after you moved in but you gave it little attention as they did not obstruct your view. However, over the years, the trees grew or a new structure was erected that not only obstructs your view but also casts a shadow over your property. It could be affecting your health or garden and your enjoyment of your home.

You may have asked your neighbour to do something about the trees or structure but they have done nothing or they make a comment along the lines of “my house, my castle”. It can lead to real frustrations and tension with the neighbour.

So, what can I do? You may be surprised to find that you may have the right to require your neighbour to remove, repair or alter a structure or to remove or trim a tree on their property. This right can be found in the Property Law Act. The Court has the discretion and may take into account a range of relevant factors before directing your neighbour to remove the offending structure or trees. The expressions used in the Act include “undue obstruction”, “undue interference” and “hardship”.

The Courts have been willing to direct a neighbour to trim a hedge or tree and keep it at a certain height or to remove a tree or even a large stand of more than 300 trees in a rural setting. In that case, the Court ordered that over 300 pine trees be removed, along with their stumps, and the land be returned to pasture to preserve a neighbour’s view of the Akaroa Harbour and sunlight for their garden. Whilst the Courts are careful to balance the relevant interests of the parties, they have not been afraid to sort out the problem.

If you are frustrated that your attempts to convince your neighbour to remove an offending structure or remove trees have been unsuccessful, we suggest that you contact us so we consider your individual circumstances and discuss your options.

How can we help?

Jackson Russell is experienced in dealing with all manner of property disputes. Issues of this nature can often be resolved out of Court.

For further information please contact your usual Jackson Russell advisor or our Property Disputes Law specialists:

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Disclaimer
The information contained in this note is of a general nature and is not intended as legal advice. It is important that you seek legal advice that is specific to your circumstances.

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