



Client Alert

California Legislature agrees with Robert Frost that "Good Fences Make Good Neighbors."

Good Fences Make Good Neighbors

The proverb "Good fences make good neighbors" has been around for a couple of centuries in different forms. One place it can be found is in *Poor Richard's Almanack* by Benjamin Franklin. His version is: "Love your neighbor; yet don't pull down your hedge."

It is interesting that the specific wording of the proverb "Good fences make good neighbors" is fairly modern. It comes from Robert Frost's poem *Mending Wall* from 1914. The poem centers around this concept and questions whether it is true or not.

What's ironic is that Frost coined the new wording of a proverb, while questioning the very wisdom behind it. Frost, ever the mischief maker says, "Something there is that doesn't like a wall." The "something," of course, being Frost (as in freezing, frozen, ice, etc.), that destroys the integrity of the wall. The witty poet nudges us again and almost gives it away in the second line, "The frozen ground swell." And yet, Frost leaves it ambiguous when he says, "I have come after them [the forces that undermine the wall] and made repair..." and by being the one who calls his neighbor to come and repair the wall. I had an English Professor who took this as evidence that Frost didn't like walls, but reluctantly thought they were necessary. So does our California Legislature.

Assembly Bill 1404 replaces Civil Code, Section 841 effective January 1, 2014 with a brand new Section 841, euphemistically called the Good Neighbor Fence Act of 2013.

This law requires:

1. That adjoining landowners share equally in the expense of erecting and maintaining boundaries and monuments between them;
2. That if a landowner intends to spend money on a common fence, the owner must give the neighbor 30 days' written notice describing the problem, his intentions, the cost of construction and maintenance and the proposed solution;
3. That, absent a written agreement to the contrary, the owners are presumed to be equally responsible for the reasonable costs of constructing, maintaining and replacing a common fence, but identifies factors to overcome the presumption that the owners are equally responsible for such costs; and
4. That a court, in its sole discretion, shall determine if the presumption has been rebutted, and, if



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so found, may order a contribution of less than half or no contribution at all.

The law also states that cities, counties and other public agencies are exempt from the provisions of this Section.

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