

FRANK J. and PATRICIA K. GROFFIE

Address withheld

San Jose, California 95132

Phone numbers withheld

FGroffie@aol.com

January 24, 2017

**Name
and address
withheld**

San Jose, California 95132

Dear Ladies:

It's time we replaced the fence between our two properties. It is falling over and is old. It was present when we bought our house in 1996, 21 years ago. The previous owner of your property (Wayde Carroll) and I (Frank) worked together to try shoring up some of its rotting posts way back about 15 years ago.

California Civil Code, Division 2, Section 841¹ was made effective 3 years ago on January 1, 2014. According to this statute,

(a) Adjoining landowners shall share equally in the responsibility for maintaining the boundaries and monuments between them.

(b) (1) Adjoining landowners are presumed to share an equal benefit from any fence dividing their properties and, unless otherwise agreed to by the parties in a written agreement, shall be presumed to be equally responsible for the reasonable costs of construction, maintenance, or necessary replacement of the fence.

(2) Where a landowner intends to incur costs for a fence described in paragraph (1), the landowner shall give 30 days' prior written notice to each affected adjoining landowner.

To preserve our legal right to recoup your share of the cost of replacing the fence in any future court action, we, as required under Section 841, hereby provide you with the following seven notifications:

1. Prior written notice

We hereby give notice that we will replace the fence dividing our two properties no less than 30 days from now. A timeline is described later in this letter.

2. Presumption of equal responsibility

We presume that you and we share equal responsibility for the reasonable costs of construction of a replacement fence dividing our two properties.

3. Nature of the problem

The fence along the adjoining boundary between our two properties is falling over. It is at least 20 years old. Most of its nine 4-by-4-inch posts set in the ground and holding it vertical are rotted through at the ground surface. The 2-by-12-inch (by 8 foot long) horizontal base boards are partially rotted through, as are the 2-by-2-inch lower rails and the bottoms of the main face boards. The fence can no longer, in any practical sense or way, be simply repaired.

¹ http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=841.&lawCode=CIV

4. Proposed solution for addressing the problem

We plan to tear down the existing fence and construct a new fence in its place.

Location. The new fence will be located in the exact same location as the existing one.

Design and construction. The construction of the new fence will be equivalent to the existing one in all essential respects: same height, same design, same materials. Certain important aspects (but by no means all aspects) of the construction will be as follows:

- Vertical 4-by-4-inch posts composed of treated Douglas fir will be set in concrete sunk 2 feet into the ground.
- The concrete will completely surround the sunken portion of each post and will be mounded at the top to encourage rainwater to drain away from the posts.
- The main face boards will be composed of redwood and will overlap about 1 inch.

Please note that we have experience with building fences with our adjoining neighbors. About 6 years ago, we rebuilt the shared fence along the west side of our property in close cooperation with our neighbors on that side, Patrick and Linda **Identifying information withheld**. About 12 years ago, we rebuilt the shared fence along the east side of our property in close cooperation with our neighbor on that side, Mari: **Identifying information withheld**

5. Estimated cost of construction

The cost estimate for the replacement fence, including materials, labor, and disposal of the old fence material, is \$1,922. This estimate, dated January 24, 2017, prepared by Geronimo Cobian, is attached. Please note that this is the significantly lower of two estimates that we obtained.

6. Proposed cost sharing approach

We will expect you to pay us \$961, which represents ½ of the cost estimate for the complete replacement. A day or so after building the new fence, we will present you with a note making this request.

Note that we will perform the actual construction labor and disposal ourselves because (1) we can thereby control the quality and timing of the work, (2) we have the expertise, and (3) we strongly prefer to expend our labor in lieu of paying others. We will obtain the materials at an estimated cost of \$1,124.50. This amount is based on an estimate for the materials (attached) dated January 16, 2017, by Fence Specialists Inc. (Thus, the value of the construction labor and disposal is \$797.50.)

One way to look at the sharing approach is as follows:

	Total	Your share	Our share
Total	\$1,922.00	\$961.00	\$961.00
Materials	\$1,124.50	\$961.00 ^a	\$163.50 ^a
Labor and disposal	\$797.50	\$0.00	\$797.50 ^b

a. Out of pocket.
b. Not out of pocket; labor expenditure.

7. Timeline

We will have the materials delivered to our house a few weeks from now. We will begin the construction on February 22 and end the work on February 23 or 24, weather permitting.

Other

We will endeavor to minimize damage to your plants and such. However, please expect that we may unavoidably leave a few stray twigs on your side.

If you have questions, please call Frank at 408- **Withheld** Patricia at 408- **Withheld**

Sincerely,

Patricia Groffie

Frank Groffie