

IN THE HIGH COURT OF NEW ZEALAND
HAMILTON REGISTRY

I TE KŌTI MATUA O AOTEAROA
KIRIKIROA ROHE

CIV-2022-419-000022

UNDER THE: Judicial Review Procedure Act 2016

IN THE MATTER OF: An application for judicial review

BETWEEN: Dennis Arthur Smith, Beneficiary, of
Taumarunui,
Applicant

AND: The Attorney-General,
Respondent

**AFFIDAVIT OF DENNIS ARTHUR SMITH IN SUPPORT OF
NEW EVIDENCE**

Dated: 20 February 2023

Next Court Date: 27 February 2023

Filed by: Dennis Arthur Smith, Applicant.

Address for Service: dennis@dennis.nz

4/2a Para St, Taumarunui, 3920 NZ

I, Dennis Arthur Smith, make oath and say that:

- 1 I am the Applicant in this matter.
- 2 As a result of an OIA request I received Exhibit marked "DAS-10" on 7 December 2022 from Pete Hill, LINZ.
- 3 On 7 November 2022 I received from the Taumarunui Disputes Tribunal Exhibit marked "DAS-11" which contained two "secret" communications from my neighbour Laurie Bull to the adjudicator of CIV-2021-068-000059.
- 4 The first letter was dated 30 August 2022 and was signed by both Laurie and Carolyn Bull.
- 5 The second letter was dated the same date.
- 6 I believe that this was probably dated in error as it was likely sent & received later and the second letter was unsigned.
- 7 In November or December of 2022 I phoned Taumarunui Disputes Tribunal to ask them why a simple request for clarification was registered as a "Request for Rehearing".
- 8 Samantha explained to me that this was done under the instructions of the adjudicator Gordon Meyer.
- 9 On 3 February 2023 at the rehearing, Respondent Laurie Bull argued that his communication was not "secret" but that it was "confidential" being addressed to the adjudicator directly.
- 10 As a result of my OIA request I received Exhibit marked "DAS-12" from LINZ on 7 December 2022
On Monday 5 December 2022 I received an email from my neighbours Cathy & Margaret Ashwood.
- 11 This commenced an email exchange that is recorded in the Exhibit marked "DAS-13".

Date: 20 February 2023



Signature of Dennis Arthur Smith

Deponent

Affirmed before me at Taumarunui this 20th day of February 2023:



Samantha Josiah
Deputy Registrar
District Court Taumarunui

"DAS-10"

From: Bray, Naomi
To: Megan McKinstry
Subject: FW: Dennis Smith FW: Txt from Police for Andrew C

FYI – this is in relation to the issue over stolen stuff that Dennis was involved in

Naomi

From: Hume, Kirsten <Kirsten.Hume@colliers.com>
Sent: Thursday, 31 March 2022 4:26 PM
To: Bray, Naomi <Naomi.Bray@colliers.com>
Subject: Dennis Smith FW: Txt from Police for Andrew C

This is the exhibit marked "DAS-10" referred to in the annexed Affidavit of Dennis Arthur Smith affirmed at Taumarunui this 20th day of February 2023 before me.

Samantha Josiah
Deputy Registrar
District Court Taumarunui

Hi Naomi,

I've received a text on my phone from a Policeman I gather re : Dennis Smith trail :

Hi Andrew, just writing to let you know. The Crown have pulled the charge of theft against Dennis SMITH. It was deemed evidential sufficiency for the offence was adequate and conviction likely however, with Police returning the steal to Joshua Hawkless and no reparation sought. Public interest to pursue with jury trial was not met. In short mate, you are no longer required as a witness in court. Cheers, Sam Edwards

I'm not sure if someone needs to let Andrew know ?

Thanks,

Kirsten Hume

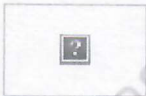
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"DAS-11"

This is the exhibit marked "DAS-11" referred to in the annexed Affidavit of Dennis Arthur Smith affirmed at Taumarunui this 20th day of February 2023 before me.

S. Josiah

Samantha Josiah
Deputy Registrar
District Court Taumarunui

(Disputes Tribunal Act 1988)

RESULT OF APPLICATION FOR REHEARING

District Court: Taumarunui

Case number: CIV-2021-068-000059

APPLICANT

person or organisation making
the original claim

Dennis Arthur Smith
2A Para Street
Taumarunui 3920

RESPONDENT

person or organisation originally
claimed against

Laurie Bull
8 Para Street
Taumarunui 3920

Result of application for rehearing:

The hearing is adjourned until a date to be set by the Court before me. 2 hours should be allowed for the continued hearing.

Reasons for decision:

1. Communications from Mr Bull were sent to the Court to be placed before me to assist me to determine the Application which had not been provided to Mr Smith before the hearing.
2. These are now provided to Mr Smith and the hearing of his Application will now be re-scheduled in the New Year.

Referee: Meyer, G - DTR
Date: 2nd November 2022



To: Mr. Gordon Meyer, Adjudicator

C/- District Court

Taumarunui.

Case number: CIV - 2021- 068 - 000059

From : 8 Para Street,

TAUMARUNUI. 3920

30th August, 2022

Dear Gordon

We have been notified by Samantha from the Taumarunui Court that there is to be another hearing. Date not settled as yet. We also understand that Mrs. Bell Case Number CIV-2022-068-000001, our neighbor, has also been served.

We hope you don't mind us communicating with you but, even though Samantha conveyed to us very well your probable reasoning, on reflection we find it very confusing for the following reasons:-

1. In the last hearing you, yourself, agreed with Mr. Smith's claim, and that he was right in that the case did not come under the Fencing act jurisdiction because it was Railway land and even, verbally, gave him an example of someone who had tried to build a fence adjoining Railway line and how it hadn't succeeded.
2. In your last Order of Disputes Tribunal dated 5th August, 2022 under The Tribunal Orders it states "The claim by Dennis Arthur Smith is struck out" and affirmed this under Reasons No.3. With this reasoning how can these matters be taken any further. That is other than our counter claim for restoration of our fence which you adjudicated on in our favour.
3. In our letter 30.8.2022 in response to your asking for our thoughts on Mr. Smith's response to your Order of Disputes Tribunal dated 13th June, 2022 we pointed out how we had been in touch with LINZ because of our concerns for our neighbourhood and who advised us:-
 - a. Any lease with Mr. Mills on the property concerned ceased on the 31st May, 2022.
 - b. Mr. Smith will totally NOT be considered for any future lease and so he is currently squatting.
 - c. That LINZ are currently trying to move him off the property but the process is and will take some time.
 - d. That Mr. Smith will not ever be considered for any Government property under their management ever anywhere in New Zealand forever and a day. I believe, from my investigations, that their probable reason for this is that they have encountered difficulties already with Mr. Smith in other areas of New Zealand. In particular Ohura where he is no longer welcome by the residents.

So my question is. What is the point of carrying on any other unnecessary proceedings if they cannot be fulfilled anyhow? We supplied you with contact details for LINZ for you to affirm this yourself. We hope you have taken advantage of this.

4. I have recently been shown a new Blog by Mr. Smith at Dennis.nz, where he himself admits that he has been served a notice for him to move off the property. We believe that the games Mr. Smith is playing and the non-finalization of these proceedings is only making it more and more difficult for LINZ to fulfil its desires and it's time they ceased.
5. All in all even if these things were invalid, which they aren't, section 3:8 of the blank lease which we provided for you from LINZ shows that we nor any of our neighbours are liable for any cost involved, nor was it approved by LINZ.

To be honest with you Gordon, with these proceedings now going on unnecessarily for over a year now, we and our neighbourhood are getting very tired of the unnecessary nature of these matters. For some of our neighbours the stress factor has become overbearing and also cannot understand why they are continuing, after your judgement.

There is a proper Court process to go through should Mr. Smith want a rehearing. As per this process he needs to make an application and it's our understanding the rehearing will only be granted if there are grounds and clearly there are no grounds.

We are reluctant to say this as we want to be fair and understanding, but we need to state that we are not prepared to attend another hearing either in person or by telephone as the outcome can never change.

Oh by the way, as yet, we have not seen any sign of the monies due us for the restoration of our fence due by the 5th September, 2022 as per the outcome of the final hearing, and we are about to start the next step in the proper Court process to obtain this money.

Looking forward to your kind response and please we would like a response this time. Have a great day.

Kindest Regards,

A stylized, cursive handwritten signature in blue ink, appearing to read 'Laurie Bull'.A handwritten signature in blue ink, appearing to read 'Carolyn Bull'.

Laurie and Carolyn Bull

To: Mr. Gordon Meyer, Adjudicator

C/- District Court

Taumarunui.

Case number: CIV - 2021- 068 - 000059

From : 8 Para Street,

TAUMARUNUI. 3920

30th August, 2022

Dear Gordon

In response to your asking for our thoughts on Mr. Smith's response to your Order of Disputes Tribunal dated 13th June, 2022 we firstly want to thank you for giving us the opportunity to respond. Very much appreciated.

As you will know we have already responded to the consideration involving the refund of courts costs on our claim. Thanks.

In regards to the rest we would like, firstly to advise you of some information we have received and our position in this whole matter. Hope that's ok with you.

As you know, it being mentioned in our last hearing, my wife and I are retired church Pastors and I have recently become, even though I'm supposed to be retired, the part-time Hospital Chaplain for our local hospital. Why have I told you this is because we want you to understand that we care a lot about people in our whole community and have served our community in many ways over our 30 years much to our own financial shortfall.

In our end of Para Street in Taumarunui we have also always had a great little mini community, one where we all look after each other and so our initial rejection of Mr. Smith's proposals, as first in line, was too look after our neighbours as we were aware of Mr. Smith's intentions and our neighbours along with ourselves, were not in agreement. This was not just Mrs. Bell but a number of others including people who did not even border the LINZ property as he had upset most of our street in one way or other, abusing and intimidating people and taking advantage of much older people than ourselves.

Our response was not out of spite, we assure you, but because of our genuine reasons in our rejection of Mr. Smith's proposals and to stand in the gap for our neighbours.

Our focus, I guess, has been our portion of the boundary but recently, and you'll laugh at this, someone down in Upper Hutt put up a post of my 21st back fifty-six years ago, chuckle, on a Facebook Group site relating to Upper Hutt. It just so happens that a lady originally from Upper Hutt, who we didn't know, but now lives around the corner on an adjoining street (Taupo Road) and also bounds the LINZ property, saw the post and made a connection with an unkind public blog Mr. Smith had put up on-line. This she sent it to me and as much as it is quite derogatory I will not stoop to his level and will ignore it.

The interesting part of discovering this lady is that she has also rejected Mr. Smith's proposals and, although hasn't ever gotten to the Tribunal stage, has had to put up with some horrible other abuse.

You will be asking by now why am I telling you all this I'm guessing as it doesn't have to do with any legal issues. However, we felt, out of concern for our neighbourhood and finding others caught up in this also, we needed to take a step, and so I rang a Megan McKinstry, who is the Portfolio manager For LINZ and who had supplied the information concerning leases of the property which you will find on page 12 on our original submissions. You will see her number and email details on that letter should you wish to contact her yourself. She would not be adverse from hearing from any of us.

Although she was very cautious, due to our Privacy Act, she was able to tell me the following.

1. Any lease with Mr. Mills on the property concerned ceased on the 31st May, 2022.
2. Mr. Smith will totally NOT be considered for any future lease and so he is currently squatting.
3. That LINZ are currently trying to move him off the property but the process is and will take sometime.
4. That Mr. Smith will not ever be considered for any Government property under their management ever anywhere in New Zealand forever and a day.

Although Megan couldn't tell us more, we believe that they were not aware of any business agreement that Mr. Mills had with Mr. Smith and that there had been no request by either to build a fence around the entire property. Erection of anything on the property requires such consent from LINZ as per the Lease that you've sighted. Also, as you yourself have quoted, LINZ are not interested in doing deals with neighbours and even if they had consented, which we believe they haven't, the cost would have to be born by the legal occupier of the property not the neighbours (Section 3.8 of the lease).

This means Mr. Smith had and even more so now, has no longer any rights to do anything, in our opinion, especially knocking our fence down. We believe that LINZ's attitude in their lease would have meant that our predecessors of our property and our neighbours properties would have built the fences concerned and we would have taken ownership when we purchased the property 30 years ago, as would our neighbours when they purchased their properties.

Ours was a good "Adequate" fence (An "adequate fence" is described as **"a fence that, as to its nature, condition, and state of repair, is reasonably satisfactory for the purpose that it serves or is intended to serve"**), consistent with most of our Rural Town, always acceptable to all our previous lessors of the property and never replaced as Mr. Smith alleges. A two or so metre portion of it had been rolled up when earlier legal lesser's had allowed us to have our pigeon loft partially on their property and this portion of fence was just plainly put back in place with the help of the fencer who supplied the quote for the restoration

of the now defunct fence, when we moved the loft fully onto our property at Mr. Smith's request.

Even so Mr. Smith had no right when he was working under the illusion of the fencing Act which prohibits any action, including the building of his fence, until a decision was concluded by yourself. And now, as you yourself mentioned to Mr. Smith at the beginning of our last hearing, being railway land which has certain requirements, for which you gave him an example of someone else's actions. He has no rights especially with no lease or intention of him receiving a lease from LINZ.

Well I hope this is of help to you Gordon. We are truly grateful to have had you with your wisdom as an adjudicator in these matters.

Looking forward to your response

Kindest Regards,

Laurie and Carolyn Bull



Our Ref

DOIA 23-085

This is the exhibit marked "DAS-12" referred to in the annexed Affidavit of Dennis Arthur Smith affirmed at Taumarunui this 20th day of February 2023 before me.

7 December 2022

S. Josiah
Samantha Josiah
Deputy Registrar
District Court Taumarunui

Mr Dennis A Smith

Email: victusinambitus@gmail.com

Wellington Office

Radio New Zealand House

155 The Terrace

PO Box 5501

Wellington 6145

New Zealand

T 0800 665 463

F +64 4 472 2244

E customersupport@linz.govt.nz

W www.linz.govt.nz

Dear Mr Smith

Response to your Official Information Request

Thank you for your official information request received on 11 November 2022 for:

"May I please have a copy of this call in MP3 format including the time and date of the call, the number it was from and to (i.e. inbound or outbound) and your summary of this call as you have recorded it?"

In the alternative please detail:

1. LINZ policy, rules, regulations, codes or practice and or similar in regard to inward bound recordings and or summaries of calls from the public such as this.
2. What calls are recorded or summarised by LINZ and whether correct procedure has been followed in this instance.
3. What you said, specifically and in detail, relating to my personal suitability (or otherwise) to be a government tenant.
4. The specific grounds or basis for what you said to Laurie about me.
5. Acceptance or correction of Laurie & Carolyn Bull's summary.
6. What you told him about the dispute between us, (i.e. that you did or did not tell him that the matter is and has always been disputed and that you have or would be instructing your lawyers to undertake litigation to have me evicted)."

As previously advised, Crown Property at Toitū Te Whenua Land Information New Zealand (LINZ) does not make audio recordings of phone calls in any form. Files notes of calls are sometimes made but this depends on the circumstances – staff apply their judgement as to when this should occur. In this case, there is no audio recording or written note of the phone conversation between Megan McKinstry and your neighbour Laurie Bull.

Accordingly, the first part of your request is refused under section 18(e) of the Official Information Act as the document/recording alleged to contain the information requested does not exist.

With regard to the remainder of your request, we note:

- LINZ has no policy or procedure that requires this type of phone call to be recorded or file noted (refer to the Public Records Act 2005 for legal requirements relating to Government record keeping).
- Megan McKinstry's recollection of the call is as follows:

"I received a call from [Mr Bull] on or around the 18th of August 2022, he conveyed some concerns with regard to interactions between Mr Smith and the adjoining owners.

From what I recall, I did convey the fact that the lease over the property had expired, and that Mr Smith did not have authority to be on the land, and LINZ was in the process of recovering possession of the land, but this could take some time. I do not recall, and unlikely to have said, anything about future applications to lease Crown land."
- LINZ's reasoning regarding your trespass at 2A Para Street is documented in our previous correspondence with you (see attached letter dated 1 June 2022).

If you wish to discuss this decision with us, please feel free to contact ministerialsupport@linz.govt.nz

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely



Sonya Wikitera
Head of Crown Property

"DAS-13"



This is the exhibit marked "DAS-13" referred to in the annexed Affidavit of Dennis Arthur Smith affirmed at Taumarunui this 20th day of February 2023 before me.

Dennis A Smith <victusinambitus@gmail.com>

Our boundary.

Cathy Ashwood <catblackalex@hotmail.com>
To: "dennis@dennis.nz" <dennis@dennis.nz>

S. Josiah

Samantha Josiah
Deputy Registrar
District Court Taumarunui

6 December 2022 at 11:10

Dennis,

I am not engaging further with anything you have written.

Number 4 is it. Stay away from our boundary fence, do not cross the boundary line.

Had you kept your saw away from my tree then it would be a different story. I do not accept that it was encroaching on you in any way. Be factual and truthful.

There is no justification for your pushy actions or attempts to threaten.

I will be engaging the authorities, including your landlord/s.

No I don't wish to knock on your door.

If you didn't want to create an issue between us, then you went around that in the wrong way.

I might add that I'm well aware of your rights – you have none. The fencing act doesn't apply to you, nor do any boundary laws.

My rights however, take precedence and are protected by laws.

End of communication.

From: Dennis A Smith <victusinambitus@gmail.com>
Sent: Tuesday, 6 December 2022 10:50 am
To: Cathy Ashwood <catblackalex@hotmail.com>
Cc: dennis@dennis.nz
Subject: Re: Our boundary.

Morning Cathy

Received and noted thank you.

In regards to your point number 4. "STAY AWAY FROM MY FENCELINE" etc, no, I will respect your boundary but I will go up to it and enjoy whatever I choose to do on my land. Make up your mind Cathy. Either you want me to clean up my section or you don't. I intend to continue working to improve the property as I am able and it is my intent to comply with all laws. My understanding is that a neighbour may trim overhanging branches of any neighbour's tree back to the boundary. I have and I will continue to do this until somebody shows me where I can't. Your two emails have thus far failed to do this.

In regards to dumping, I repeat my request to please refrain from dumping ANYTHING for whatever reason over the fence line and advise your mowing contractor to do the same. If you have a problem with weeds then a normal person would do what I did to you when I wanted to talk about bringing down the poplar, I walked up to your door, knocked on it, introduced myself and we talked reasonably. If you now wish not to do this but instead buy into gossip and hate and email, I can handle that but what did YOU expect me to do Cathy? Ignore your email? Agree to everything? You have explained that there is a boundary peg and a fence line and damage to your tree. I have told you that I will look at it today. I will and I will revert to you, by email.

In regards to all the rest, sure, believe whatever you want . . . but it is probably pretty much immaterial - my defensiveness, any gossip or theft, terminology used, branch sizes and heights, weeds etc. If you have issues with anything I have done or do, you can take them before the appropriate authorities whoever or whatever with my blessing if you don't wish to engage with me directly. I will take photos of all this arvo. I suggest you do the same.

I believe that the real problem Cathy is that one of your trees was growing over the boundary onto my section. I trimmed it back to the boundary or close to it and this has pissed you off. I will be outside this arvo, working and will have a look at any damage this afternoon but in the context of gossip and hatred that has clearly come from or been fed by others' contributions, you appear to have seen my reasonable actions as otherwise. I respectfully suggest that you check the law on trees and boundaries in NZ and we can confirm the boundary if it is not the actual fence line between us in person if you wish.

Finally, you initiated this email string and calling me a "cheeky prick" is not good neighbourly conduct Cathy. Please hold your hatred in check and refrain from this verbal abuse. You've never heard this kind of language from me and while I can understand the reason why you hate me so much I don't appreciate your attitude. Fight your own fight Cathy, not others'.

Regards

Dennis A. Smith

www.dennis.nz

NZ Phone: +64 9 817-6402

AU Phone: +61 29 067-2067

[4/2a Para St, Taumarunui, 3920, NZ](#)

dennis@dennis.nz

On Tue, 6 Dec 2022 at 07:06, Cathy Ashwood <catblackalex@hotmail.com> wrote:

Dennis,

Wow, just wow. I completely expected you to reply and argue ... you just can't help yourself can you!

1. No I did not shout at you yesterday the other day, last week, last month or whatever, I didn't even know so get your own facts right you cheeky prick. I noticed last evening 5/12/2022 that there was much more daylight and a clearer view to the rubbish tip you have out the back of that place, than there was the day before!! TBH I don't give a toss if it was yesterday or the day before. Doesn't make any difference because it's NOT YOUR TREE.
2. There is clear damage to the tree. To say otherwise, well you must need glasses. They are not lower branches, they are limbs at least as high as my chest. I'm 1.65m tall. Get your facts right.
3. Do what you want to your own but leave my stuff alone. I don't want a better outlook thanks. I like my trees, they were planted way before my time, and long before you moved in. Again, the last thing I want is more view to you or the road. Far out. Don't act like you're doing me any favours. Man you really have it bad aye ... you can't just go around doing what you want to other people's property.
4. STAY AWAY FROM MY FENCELINE and anything on it, around it, near it, close to it, leaning on it, hanging over it, next to it or otherwise.
5. 6, 7, 8. You seem to be confused about trees on my section that are my property. We own the property, the fence, the trees and anything from that boundary peg. Besides, this is NOT a negotiation in any way shape or form. You do not have permission to touch anything relating to my section. It's not negotiable no matter how much you argue. Refer to no 4 if you are still confused.

For the record, any rubbish dumped on the other side of the fence has come prior to me being here. Any debris chucked over on my behalf comes from your side to begin with. Never have I once seen you pull any weeds from there so I'll dump whatever I like there to stem the growth.

9. someone has been on this section, did I say it was you? No I didn't. Do you have such a guilty conscience that you automatically think someone's accusing you? That's sad Dennis.

I will get the authorities involved if I have to but honestly, do you really want to fight with yet another neighbour?? Think hard about that because you're seemingly surrounded by ill will at your own doing. You create these problems for yourself and then have a whinge because people get shitty. What actually do you think's going to happen Dennis?? You push people to the brink of frustration and no it's not them ... it's YOU.

The reality is, this is all so unnecessary and a waste of my time. The problem is that you did something that you had no right to do and the so solution is simple ... don't touch what's not yours Dennis.

Have some respect!!

From: Dennis A Smith <victusinambitus@gmail.com>

Sent: Monday, 5 December 2022 10:52 pm

To: Cathy Ashwood <catblackalex@hotmail.com>

Cc: dennis@dennis.nz

Subject: Re: Our boundary.

Hi Cathy

1. Today – no , it was yesterday and you know that because you shouted out at me when I cut them. Please be accurate on important matters.
2. Damage - no, I cut ALL the lower limbs (more than two) and branches back to the boundary using a hand saw (deliberately not a chainsaw) and there is no "damage" to your tree. In time if you want we can put up a decent fence on the boundary and I think that you will see the problem that your interpretation has. NZ courts interpret the boundary law and trimming of trees as anything reasonable is OK. What I did yesterday was indeed eminently reasonable. While I used inches as a guide yesterday, giving or taking a foot or so will prevent regrowth from causing repeat difficulties, especially at the level of up to 1.8m, the normal height of a modern fence. You will note that I have left the higher branches as I considered there was and there remains no need for me to touch them, unlike the lower limbs.
3. Blackberry - agreed. Some blackberries are now trimmed. The wild plum is now trimmed. The flowering privet is now gone. The lower totara branches and more are yet to be done as I work on this area. Hopefully my work will pay off in time with a gradual improvement in your outlook. While two of the other neighbours currently contest my fencing wishes, all but one of them do appreciate the gradual improvement in their outlook.
4. Branches on your side - no, using the corner peg and the existing fenceline as a guide, they were ALL on my side of the boundary. Please take photos if you have a problem and/or mark our boundary more clearly if our boundary remains a problem to you. As you will have seen, I respect all my boundaries, and this includes yours. I will check again tomorrow when it gets light but I tried to respect the fence/boundary line and to only cut back to the boundary.
5. Your appreciation (or not) - sorry that you feel this way but if you plant a tree on or close to the boundary you must expect that the neighbour can and will cut them back somewhere, someday. I have. I did.
6. Hidden camera and theft. Good on you. I hope you catch them. If you know the time and date and if it is within the last month, the Police are welcome to view the footage from my cameras.

Cathy, I am aware of communications between you and others in the community which appear to have contained inaccuracies. I am not aware of any issue between us and I have ignored your dumping of rubbish on my property, both before and after May 2019 when I took on this challenge. I ask that you please now:

1. Refrain from dumping. This includes your mowing contractor who puts his grass clippings over the boundary as well as the rubbish you have put over the years behind my sheds.
2. Be very careful to deal with facts alone as BS around here abounds. There are always two sides to a story. IMHO, it is far better to exercise goodwill with your neighbours than to fight them. As far as I know up until

now there has been no issue between us and it may be better to let others conduct themselves the way they want to and retain decorum and goodwill between us.

3. And lastly to address the hidden hinted at insinuation in your last comment, if it was your intention to do this, no, I did not take your fence nor am I a thief, certainly for the last four decades! Please invite the Police to visit and talk to me at any time where they will actually find the consummate professional here giving them the utmost cooperation.

Regards

Dennis A. Smith

www.dennis.nz

NZ Phone: +64 9 817-6402

AU Phone: +61 29 067-2067

[4/2a Para St, Taumarunui, 3920, NZ](#)

dennis@dennis.nz

On Mon, 5 Dec 2022 at 20:24, Cathy Ashwood <catblackalex@hotmail.com> wrote:

Denis @ [4/2a Para Street Taumarunui](#).

From Cathy and Margaret @ [366 Taupo Road Taumarunui](#)

Denis,

I see you've been chopping branches off trees today.
Or rather you hacked off a couple of large branches from our tree doing some damage to the tree in the process.

These branches were on our side of the boundary so you're not welcome to cut anything down. How about you pull out your own blackberry instead of focusing on things that don't concern you?

You'll see a boundary peg up there marked 4. Well anything in line with that peg that denotes THE boundary line. Anything on our side of that peg is out of bounds to you so just keep yourself and anything else away from our boundary and any of our trees at all times.

I really don't appreciate what you have done to that tree.

By the way, someone has been over the fence and stolen some of my fencing so there's a hidden camera up there now.

Cathy



Dennis A Smith <victusinambitus@gmail.com>

Our Boundary

Cathy Ashwood <catblackalex@hotmail.com>
To: "dennis@dennis.nz" <dennis@dennis.nz>
Cc: Megan McKinstry <MMcKinstry@linz.govt.nz>

27 January 2023 at 13:15

Dennis you're a liar and I've now formally asked you to stop.

Take me to court and dispute the boundary line because until you do, nothing can be touched.

Either that or I'll go you for preventing the quiet enjoyment of my mother's property and I do have a long list. It goes back to 2019 and it starts with your dogs trespassing on our property for two years while you did absolutely nothing to stop it, despite being asked politely by me on more than one occasion - that seems to be a pattern with you.

We are the permanent residential landowners here, you are merely a tenant on a commercial premises.

You'd do well not to push your luck.

From: Dennis A Smith <victusinambitus@gmail.com>
Sent: Friday, 27 January 2023 1:00 pm
To: Cathy Ashwood <catblackalex@hotmail.com>
Cc: dennis@dennis.nz
Subject: Re: Our Boundary

> I've maintained those plants ...

Get over it Cathy.

> they are planted on OUR BOUNDARY.

No they are clearly on my side. I do not accept your determination of where our boundary is up there or the significance of any boundary dispute where the location of the flax bushes are.

> We can go to court if you like

Yes, please. It will cost you from only a non-refundable \$40 and you may sue me for anything up to \$30k. You have my approval to do this here and yes, I agree that there is a boundary dispute.

> you are a liar

Nope. Look again!

> spiteful on yoru part

Not at all nor have I ever done anything out of spite towards you. Your ascribing a poor motive to me and your approach to my landlord and constant reference to my lease shows the actual reverse situation. You are the

troublemaker and shit-stirrer - not me. I'm simply doing what I have always done, cleared and improved the section. I'm currently working near you - that's all.

The branches that I cut down last year extended some five metres over our boundary and I have since burned them up. A foot or so, yeah whatever. Over my three plum trees - nah! The grass and flax have been cut down for my goats and they (plus some trees) are all on my side of the fence and boundary. Spite has nothing to do with it despite what you may say or claim or do.

> I do not consent to you cutting anything down.

FFS, Cathy, I don't need your consent. Don't you get it? Didn't Megan tell you this? Do you want Karen or the court to tell you this?

IMHO the law is clear and the boundary is clear as you well know as you have explained to me last year.

Do what you will on your side, but mind your own business about what I do on my side. A while back, I came over to discuss my intention to remove the Poplar because it is growing predominantly on my side of the boundary and one of the co-doms has a backlean onto your property. You and I then agreed to its removal. Lately I have offered to remove the sickest totara but all else has never been discussed nor agreed.

I repeat this because it doesn't seem to have gotten through to you that I do not seek, nor have ever sought your consent for anything I do or have done on my side of the boundary, Cathy, nor do I need it. Sue me please or go away and STFU.

Regards

Dennis A. Smith

www.dennis.nz

NZ Phone: +64 9 817-6402

AU Phone: +61 29 067-2067

[4/2a Para St, Taumarunui, 3920, NZ](#)

dennis@dennis.nz

On Fri, 27 Jan 2023 at 08:57, Cathy Ashwood <catblackalex@hotmail.com> wrote:

I've maintained those plants and encouraged their lush growth since way before you came along and actually they are planted on OUR BOUNDARY.

This very statement means that there is now a **boundary dispute** so therefore you do not have any legal right to touch anything. We can go to court if you like and resolve this dispute. Until that time, do not touch any tree or flax bush and as for clearing the weeds, you are a liar because there are as many weeds there as there were before.

It's not even your land Dennis and if you even attempted to be honest you'd acknowledge that it's no odds to you that those flax bushes and the trees are there, it's no odds to you if they stay there, along with all the branches that you previously cut off our tree. It's just spiteful on your part.

Understand now that this is a dispute and I do not consent to you cutting anything down, even if you think it belongs to you

From: Dennis A Smith <victusinambitus@gmail.com>
Sent: Friday, 27 January 2023 8:13 am
To: Cathy Ashwood <catblackalex@hotmail.com>
Cc: dennis@dennis.nz
Subject: Re: Our Boundary

Morning Cathy

My comments in reply are below.

Regards

Dennis A. Smith

www.dennis.nz

NZ Phone: +64 9 817-6402

AU Phone: +61 29 067-2067

[4/2a Para St, Taumarunui, 3920, NZ](#)

dennis@dennis.nz

On Thu, 26 Jan 2023 at 21:08, Cathy Ashwood <catblackalex@hotmail.com> wrote:

| I see you have been climbing up behind our fence and cutting down the flax.

Yes and clearing more of my property up to our boundaries, just as I told you I would be doing. Last year you complained because I didn't do any maintenance up there. Now you complain that I do. Make up your mind Cathy. It seems clear to me that your complaints are purely personal in nature. Let others fight their fights and let it go.

| This is an invasion of our privacy and you have no reason to be in this area for any purpose at all.

Oh nonsense! I disagree on both of these claims - there is no invasion of your privacy and I have every right to use my property as I so choose. Check back a week or more onto your secret camera tapes and you will see that I don't even look over the fence into your property!

Our boundary is clearly marked and I have and will continue to work as I choose on my property. I have never been on your property and have no intention of ever coming onto your property, Cathy, except as we have already discussed, to eventually take down the Poplar but I do not have a timeframe for that job yet.

| You do not even see this area from the other side so it serves absolutely no benefit to you to cut those flax bushes or anything in this area and it is an essentially senseless act, much like how you unlawfully reached over our fence and our boundary line to hack at our Japanese Maple.

Think whatever you like but anything done on my property is my care. Anything on yours is your care. Please, keep your hatred to yourself and mind your own business.

For the record. I cut the overhanging branches of one of your trees to a length well short of the boundary as seen from my side. You straightened the fence back closer to your tree and you or your arborist took the branches further back to the trunk. Please get your facts straight and do not claim falsehoods.

The flax bushes and trees in this area all belong to us

No they don't. They are mine. They are on my property, not yours. Take a line from the corner peg to the corner of Simon's property and you will see that our boundary is South of the plum tree, all of the flax and most of the Poplar and Totara trunks.

and have been planted by the owners of this property many years before you inhabited that premises,

So? It is my understanding that ownership of plants is determined by where they are currently growing, not when or where they were planted nor by whom. As they are growing well on my side of the boundary, they are clearly mine to deal with.

FYI, all trees and plants on my side will be eventually coming down except those that produce fruit (such as the plums) or flowers (such as the dahlias), or are ornamental, (such as the Jukas) in which case I reserve the right to move them as I see fit.

they offer shelter to our boundary and are aesthetically a barrier to those ugly tin buildings, they help stabilise the bank, they do not obstruct your view, they are not hazardous to you, they do not interfere with your property guttering or foundations, they don't impede your ability to grow crops, so much like the remainder of our boundary line, there is no logical, sensible, reasonable or lawful reason for you to touch any of the trees and vegetation along any part of this area and I do not consent to you cutting any of it.

Ditto and I do not seek your consent to work or do anything on my property! As previously advised, I will trim trees overhanging onto my property back to the boundary line, as you too may do to any tree growing on my side of the boundary that overhangs onto your side.

Added to that, I find it utterly disturbing and creepy that you are sneaking around above our property, invading our privacy and potentially trespassing on our property to cut things down that don't affect you in any way.

Ditto. There is nothing creepy or disturbing or dishonest in my work here Cathy. I have advised you beforehand what I will be doing and when, in writing. I have done and will continue to do this as I so choose. Get over it!

Why don't you focus on cleaning up the rubbish tip that you have created in between those sheds and which is an eyesore and a health hazard to all the neighbours around you?

Why don't you mind your own business, Cathy? I don't live to comply with your "nutty" whims of contempt such as you have espoused here. You have processes available to resolve any legitimate concerns that you don't want to speak to me about in person - the disputes tribunal is one; as is the local council, so use them if you have legitimate concerns or STFU and mind your own business if your concerns are nonsense and the idea that you can demand things of your neighbours like this by email without engaging is just arrogant BS.

Keep well away from this area and if you persist, I will seek legal advice on applying to the disputes tribunal and/or mediation for compensation for the unreasonable damage you did to the Japanese Maple.

No. This is the second time you have instructed me to keep away from our own boundary line, and this is the second time that I state that I have and will ignore your requests thus.

Feel free to "seek legal advice" over any matter of your choosing because it appears to me that you do not respect the law as regards to boundaries, fencing, trees etc. Your threats are empty and your demands err. RDC tells me

and always has told me that I have complied with their zoning requirements for industrial-zoned land and the law is clear regarding trees, fencing and boundaries. Have at it Cathy, if that is what you want!

In a nutshell, a boundary (in this case marked by a fence) determines a point at which care, concern and responsibility stops and starts. Whether you like or want a flax bush, tree or plant growing on my side of the boundary for example is immaterial to me and basically this is all just none of your business. As a human I care but if there is anger, hatred, gossip and/or stupidity coming from a certain quarter, yours for example, don't expect me to share a lot of love in return for your troublemaking efforts and guerilla communications like this. Just honour our boundary, please. What's on my side is mine to take care of and I have done and will. What's on your side is yours. It's that simple.

Now, if any of my trees are growing over onto your property you may trim them back to the boundary. Your usage of your land is your care - it's also none of my business. Both of our land use complies with RDC's zoning laws - Industrial and Residential thus as far as I can see, no action nor change is required from either of us.

No correspondence will be entered in to on this matter so do not reply.

No. You have emailed me thus I have replied in kind. Whether you choose to read it or not (or when or if you ever read it) is your call. Mind your own business.

From: Dennis A Smith <victusinambitus@gmail.com>
Sent: Tuesday, 20 December 2022 8:56 am
To: Cathy Ashwood <catblackalex@hotmail.com>
Subject: Our Boundary

Hi Cathy

I note that you have straightened our boundary fence. Thank you.

I note also that this straightening has indicated that my trimming was to an approximate line well on my side of the boundary and not on yours, thus I am assuming that without communications from you that this now makes your previous claim moot and that the matter of your concern is now over, however please clarify this as you so wish, if I am wrong in this. As your concerns have involved others, I wrote a report on this event and will update this report accordingly.

FYI, over the Christmas period I intend to clear the rest of the fenceline along the bank from my place to yours back to the corner of my shed as I gradually tidy up the back there. If you have any special requests or wishes, please let me know now so that there may not be further need for your concerns. If you want me to let you know when I am doing the work, let me know as you so wish. I have neither intention nor need to trespass on your side but do intend to cut any overhanging branches back to the boundary, certainly up to 1.8m above-ground, which is where any new fence may be, avoiding substantial trees such as plum or totara. If you prefer to do this work let me know and I will be happy to leave it to you.

I am also happy to remove the end totara towards the West (like we have agreed with the poplar) if you want as it appears to be smaller (and looks sicker) than the others. If so, let me know. I do though want to keep the other totaras on Aroha's side as they are all healthy, thus I will only be trimming the lower branches of them.

Thank you.

Regards

Dennis A. Smith

www.dennis.nz

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AU Phone: +61 29 067-2067

[4/2a Para St, Taumarunui](#), 3920, NZ

dennis@dennis.nz



Dennis A Smith <victusinambitus@gmail.com>

Our Boundary

Dennis A Smith <victusinambitus@gmail.com>
Reply-To: dennis@dennis.nz
To: Cathy Ashwood <catblackalex@hotmail.com>

20 December 2022 at 08:55

Hi Cathy

I note that you have straightened our boundary fence. Thank you.

I note also that this straightening has indicated that my trimming was to an approximate line well on my side of the boundary and not on yours, thus I am assuming that without communications from you that this now makes your previous claim moot and that the matter of your concern is now over, however please clarify this as you so wish, if I am wrong in this. As your concerns have involved others, I wrote a report on this event and will update this report accordingly.

FYI, over the Christmas period I intend to clear the rest of the fenceline along the bank from my place to yours back to the corner of my shed as I gradually tidy up the back there. If you have any special requests or wishes, please let me know now so that there may not be further need for your concerns. If you want me to let you know when I am doing the work, let me know as you so wish. I have neither intention nor need to trespass on your side but do intend to cut any overhanging branches back to the boundary, certainly up to 1.8m above-ground, which is where any new fence may be, avoiding substantial trees such as plum or totara. If you prefer to do this work let me know and I will be happy to leave it to you.

I am also happy to remove the end totara towards the West (like we have agreed with the poplar) if you want as it appears to be smaller (and looks sicker) than the others. If so, let me know. I do though want to keep the other totaras on Aroha's side as they are all healthy, thus I will only be trimming the lower branches of them.

Thank you.

Regards
Dennis A. Smith
www.dennis.nz
NZ Phone: +64 9 817-6402
AU Phone: +61 29 067-2067
4/2a Para St, Taumarunui, 3920, NZ
dennis@dennis.nz



Yeah right

Dennis A Smith <victusinambitus@gmail.com>
Reply-To: dennis@dennis.nz
To: Cathy Ashwood <catblackalex@hotmail.com>
Cc: "dennis@dennis.nz" <dennis@dennis.nz>

31 January 2023 at 07:56

Good morning Cathy

You clearly are out of your depth and need legal help urgently. This statement is not aggression, nor a personal comment, it is a statement of fact designed to help you.

A defamation warning like I have issued you here is a VERY serious matter which any lawyer, even Karen, should advise you to act quickly and firmly to resolve ASAP. This is NOT as you have wrongly assumed and stated just another "boundary dispute". A defamation warning thus, takes any squabbling over ownership or cutting of trees or plants to another level altogether and this has the potential to backfire on you very badly if not handled professionally, assuming of course that my claim has merit. I believe that it does otherwise I would not have issued the warning.

As I explained in the warning very deliberately and clearly, you said something to a third party that was defamatory and you have 'doubled down' with this email response. You cannot do that Cathy, not in New Zealand, not legally anyway. I have explained this and why this is the case, and I have advised you to seek assistance urgently.

Assuming that you persist with your chosen course of action, which is essentially to double down and fail to negotiate this is what will happen now . . .

1. On or after the 7th day following your defamation I will lodge a Statement of Claim, List of Documents and Notice of Proceedings with the local Taumarunui District Court.
2. My SOC will be a simple document, basically stating the facts as I have enumerated them, that on xxx you said xxx to xxx and that this was not true therefore was defamatory.
3. The other documents are standard and self-explanatory.
4. My SOC will summarise these email communications.
5. In the first Cause of Action/heading of my SOC, I will be asking for a declaration of defamation from the court - NZ is unique in this regard that the court may issue this declaration if asked to. This has legal ramifications regarding other matters but as I will be taking the case and not engaging legal assistance this is irrelevant.
6. I will also be asking for costs (aka damages) from you. This is the part that (if I am successful) will hurt you financially.
7. Samantha (most likely the DR) will then send it all to Central processing who will check it for compliance, i.e. that it follows the law in regards to format and content.
8. If it passes muster (and it should do), they will then allocate a number to it (CIV-2023-068-0000xxx) and return it to me probably sometime in the next couple of months for serving.
9. If it doesn't then they will return it to me and I will correct any problems and resubmit the documentation as many times as necessary until it is accepted.
10. I will then have 12 months to serve it on you, which I will do and then I will advise the court that service was completed on a certain day and time.
11. You then have a set number of days (by law) from that point to respond and/or defend my claims should you choose to do this.
12. Your legal advice, should you get it and if it is good advice, will require you to address each of the claims I will have made in the Statement of Claim.
13. This is not your opportunity to have your say, rather to simply accept or deny the allegations I make in the SOC.
14. A court date will be allocated for a hearing and then the hearing will proceed as the court so determines.
15. It is normal that you will get to have your say at the hearing, many months, even years hence.
16. I have already told you that any "boundary dispute" should be in the DT, not the DC, thus jurisdictional issues will likely prevent you from issuing any counterclaim related to your current beefs.

This warning is purely a defamation matter Cathy not whatever you think it might be or try to twist it into - as you say a "boundary dispute".

There are a lot more to things that could happen, such as strike out opportunities, interlocutory applications, clarification of evidence matters, counter-claims and so on but in essence we are talking here about a very serious matter that could cost us both substantially in time and money.

That all said:

1. First, congratulations on not sending this to Megan or if you didn't or will not then this may be seen as a small act of good faith on your part. Thank you.
2. Obviously it is far better IMHO for you to think very carefully about this all and whether you may have defamed me, and what your choices are.
3. Speak to Karen Ngatai or Ron Cooke, or even reread my emails if you don't believe me. I ALWAYS say what I mean and mean what I say - always.
4. You find it ironic that I claim harm, but defamation exists in NZ law regardless of issues of harm, Cathy. Harm is secondary to the defamation which has already occurred. Please read Ali's resource as he covers this subject well.
5. Please also think about what it looks like to others and potentially a judge, when you sent these emails to Megan. Did you do this out of spite or to try to cause me damage? Remember that you had to deliberately remove her or put her into the communications loop and that your early threats to do exactly that are all part of this whole thing! To many who read back over what you have written, you will come across as a vindictive woman scorned and out to get somebody whom you have clearly and wilfully chosen to hate.
6. You say that I am "incorrect in many of your assumptions and justifications" and that this "Equates to lying in my book". Hoo-wee Cathy! That's a big call which you might have trouble convincing a judge with, methinks!
7. You called me a liar to a third party. A court will simply look at the facts. Did you say this nor not? If you did, would a reasonable person think more or less of me as a consequence of your words? I think yes and if it is not true then defamation has occurred and that your interpretation of lies here is nonsense.
8. Truth is a defence of defamation so if you wish to use this as a defence you will have to convince the court that what you said was true. My case will be thrown out if you do that and I will win if you can't.
9. You talk about "breach" but you obviously don't know what you are talking about. A breach of what? We are simply neighbours and the only contract that I know of between us is that we have agreed to bring down the Poplar between us, "sometime". You clearly have an issue here but it is not legally clear to me what it is.
10. It seems to me that this defamation has nothing to do with what you are disputing or trying to argue about.
11. Defamation is a totally different matter and as I have said, it is much, much more serious. My email talked about defamation only - the act of you telling others that I am a liar is defamation.
12. You will stop doing this voluntarily or I will stop you through the courts.
13. A long time ago defamation used to be a crime, 'criminal defamation' but it is now a civil matter and as Ali's website explains it can (and has already) occurred by you regardless of any adverse consequences. Please speak to Karen about it all, Cathy. It's a VERY serious matter.
14. You say that you're "disputing the boundary and your actions upon the boundary." Not according to my email you're not! Defamation has nothing to do with boundaries Cathy. You better get this straight before you get to court because a judge will not hear you and will strike out any defence relating to a boundary dispute for want of jurisdiction. Boundary matters up to \$30k are for the DT not the DC. Likewise, defamation is not for the DT - only the DC.
15. I have accused you of defamation and as I have detailed and said previously, should you not rectify any problem that you have created within the timeframe that I set, upon expiry of that time, I will be suing you for defamation.
16. You say, "Take it as defamation – it's of no odds to me. Why should I care about you? Do you give a shit about us?" These may sound like big and brave words to you but they are ultimately stupid words Cathy as like it or not, defamation is a simple and very serious matter.
17. I've taken your reply on board here but my timeline remains - withdraw and apologise within 7 days from the point of defamation or I will sue. Simple.
18. Repeating the claim of a lie (as you have clearly done here, aka doubling down) is also a very serious thing Cathy because logically it denies you any defences which may mitigate any award against you. It is normal to only double down when you are sure of your position.
19. Be very careful what you say now because you are on notice of defamation and most lawyers will advise you to STFU when warned like this.
20. Not speaking another word if you have been given this kind of warning - to me, to Laurie, Pam, Megan or ANYBODY would be good advice I would have thought.
21. The defence of truth is indeed available to you, so if the claim of truth is a part of your defence you will need to prove to the court that I did lie in order to defend any defamation claim brought against you. Again, Karen should give you good legal advice if you don't want to read Ali's web resource yourself. I'm glad you have the 'proof of my lies' but seeing as there can be none as I never lie, I can't wait to see it and methinks you may be needing it!

22. Consequences ... I cut some overhanging branches back and as I have told you, I will continue to tidy up the back of my section regardless of what you say or do. I care about your Mum but she (as you too) must realise that I can legally do whatever I so choose on my land.
23. Take your flax away if you want to keep it, otherwise the goats will surely eat it. Anything else on my side is mine. Ditto yours. Animal retention/access, your fencing skills, your future property values, fumes, your "quiet enjoyment", "legal nuisance", your views, your whims, and anything else you have raised are simply nothing to do with defamation.
24. You have asked me "Do you realise how your actions affect others?" Yes, of course I do. I'm not stupid! I am an ultra polarising person, a totally black and white dude that is hated by those who are up themselves and/or those with an agenda and the humble laugh at the likes of you and other amateurs at conflict like your other 'mates' trying to boss me around by using BS and deception. I've never seen it work in 64 years, 2.5m words of blogging and 36 books thus far!
25. Defamation though, such as when you tell others falsely that I am a liar is serious enough for me to act.
26. I have and I will continue to act.
27. In regards to plant ownership, when I said, "No they don't. They are mine. They are on my property, not yours" and "there is no invasion of your privacy and I have every right to use my property as I so choose" I tried to explain that the source of the plants in question matters not to ownership and the reasons why you need to back off, STFU and mind your own business, because any trees, plants or flax growing on my property are mine. Check the law on this - please.
28. I will also be exercising my right to share these communications and my opinion on what I call 'doubling down on BS', with the public.
29. You say you expect me to argue about the value of your back section, but why would I want to argue about that? The world doesn't revolve around you nor your land value, Cathy. I'm in the process of cleaning up my section not yours. I keep telling you to, "Let it go and get over it". Please do so.
30. You ask, "What is it about me and mum anyway?" Nothing. You are just neighbours whom I've met once to talk about a Poplar and a couple of times to say, "Hi!" over the back fence. You can and have done and said whatever you want to whomever and I have said and done nothing about this ... until you defamed me.
31. I don't give two hoots about whether you love me or hate me or what you think about me or why you do what you do or say what you say but you WILL undo this falsehood and damage in the way and timeframe I have asked you to do it or I will seek assistance from a DC Judge to do this. Either way I will achieve justice Cathy.
32. You ask me "What do I expect?" but you attack via email telling me that you will not engage further but you do.
33. You started this email exchange and then you grizzle and gripe and tell me that you "haven't ... been unreasonable in asking you to stop". Now where have those demands and your bad attitude gotten you thus far Cathy?
34. When the other trees come down and the boundary is cleaned up, will you be happy then? I doubt it!
35. Is there really anything that I could do or say that would cause you to change your bad attitude towards me? I doubt it!
36. You say that I persistently ignore you therefore I don't give a shit but there is a big difference between ignoring somebody and not agreeing with them.
37. I might be a 'professional arsehole' but what say you're wrong and I've done nothing illegal and you're the stropky, spoiled little girl with a bad attitude, who's gotten sucked in by two other neighbours who live and play in the world of BS and gossip?
38. BTW, do you know how many people Karen has pissed off around town and why she didn't stand again this time? Or what they say around town about Pam being a fruitloop or Laurie and his boys - well whatever? All I have to do is mention their names and I get back venom about them equally akin to yours against me!
39. You say that you have nothing to apologise for and that you're "happy to litigate". WTF? Really? Are you nuts?

Get some legal advice Cathy, fast, especially if your Mum and her well-being means anything to you. Take it from me, it's not worth it. This is called defamation and has nothing to do with any boundary dispute or 95% of what you're going on and on and on about. For the record and for what it's worth, I think that I am just as much of an arsehole as you've got yourself caught up in fighting others' fights - all built on gossip and BS.

IMHO you have NO IDEA how defamation in the courts is so VERY different from the dopey legal posturing you've shown me thus far.

Fix the problem Cathy.

Regards
Dennis A. Smith
www.dennis.nz
NZ Phone: +64 9 817-6402
AU Phone: +61 29 067-2067
4/2a Para St, Taumarunui, 3920, NZ
dennis@dennis.nz

On Sat, 28 Jan 2023 at 21:35, Cathy Ashwood <catblackalex@hotmail.com> wrote:

How ironic that you're claiming I've caused you harm when you've caused me so much stress and upset.

You are incorrect in many of your assumptions and justifications. Equates to lying in my book. Take it as defamation – it's of no odds to me. Why should I care about you? Do you give a shit about us?

And for the record, I'm disputing the boundary and your actions upon the boundary.

You are directly affecting our quiet enjoyment of my mother's own property. That is breach on your part, and your behaviour considered to be a legal nuisance.

Do you know that what you did to the Maple and other trees, now exposes us up to all the exhaust fumes from the main road so when the wind is blowing our way, if our ranchslider or windows are open, those fumes come straight in the house! Do you know that you broke the law when you reached over and cut those branches? What did you say? "For the record. I cut the overhanging branches of one of your trees to a length well short of the boundary as seen from my side" ... uh no you did not and I have the proof so that is an outright a lie.

Since you attacked the flax and created huge gaps, my dogs can now escape through there. All the neighbourhood cats now have easy access to my garden whereas before the flax and weeds created a barrier. My pathetic efforts at fencing aren't enough, I rely on those plants so what I said about those plants being of no consequence to you but of great consequence to us is the truth. What I said about them being our flax was true, they've been there for a long time. That they don't affect you is completely true. What did you say in return? Do you recall? Something along the lines of "No they don't. They are mine. They are on my property, not yours" and "there is no invasion of your privacy and I have every right to use my property as I so choose" All lies. The flax might be on LINZ property, but they are still my plants. The plum tree is on my boundary. It is my tree. IT IS an invasion of my privacy as I SEE IT, that is not for you to decide. So yeah ... lies.

Do you realise how your actions affect others? No you don't. You give everyone the impression that you are a nasty spiteful and hateful man with no ability to care about what anyone else is feeling.

What is it about me and mum anyway? Have you pissed everyone other neighbour off so much and been warned off by lawyers that we're the only ones left for you to pick on? You think it's okay to bully a couple of old ladies by waving around your 'rights' to cut down a bunch of trees and plants that are up a bloody six foot bank and nowhere near your actual space to start with? Far out, what a joke.

It's actually unbelievable to the both of us but you've done quite well at making an 86 year old lady sick with worry because she believes, that left to your devices, our entire boundary will be bare, we will have no protection from the winds or the fumes and the value of that top section will reduce significantly. But oh I bet you'll argue the fuck about that won't you.

I don't know Dennis, what actually do you expect? I haven't actually been unreasonable in asking you to stop. I keep saying it's of no consequence to you and it really isn't, but you persistently ignore me so it's obvious you don't give a shit but this can't go on ...

I'm happy to litigate. I've everything to gain.

I have nothing to apologise for.

From: Dennis A Smith <victusinambitus@gmail.com>
Sent: Saturday, 28 January 2023 8:50 pm

To: Cathy Ashwood <catblackalex@hotmail.com>
Subject: Defamation Warning

Hi Cathy

As part of an ongoing email exchange and what you call a "boundary dispute", at 13:15 on 27 January 2023, you emailed both LINZ (mmckinstry@linz.govt.nz) and myself (dennis@dennis.nz) a defamatory statement, "Dennis you're a liar".

As I have never lied to you, ever, over any matter, not even a 'white lie', this statement is clearly defamation on your part, and IMHO it is obviously a falsehood deliberately and maliciously spoken to a third party/parties for the express purpose of attempting to cause harm to me.

Accordingly, I ask you to now withdraw and apologise to both myself and the other third party/parties you sent it to within 7 days of the original defamation event in the same manner as you sent it (by email) or I will sue you in the Taumarunui DC for defamation and my costs forthwith. Should LINZ secure my eviction from 2a Para St at any time following any defamation supplied from you to them, these costs/damages could be very substantial.

It is my claim that defamation has occurred here, regardless of any other matter in dispute between us. If you are uncertain as to what defamation is and how it works in NZ you may wish to peruse Ali's excellent resource, <https://defamationupdate.co.nz/>.

I also note that I reserve the right to expose any or all of your actions, conduct and words at any time in the future.

Cathy, I have no interest in initiating litigation of any other matter in what you have called a "boundary dispute". I have no problem with your land use now that you have stopped dumping or have instructed your contractors not to dump over the fence. The boundary between us is well marked, especially since you straightened and rebuilt your fence. The trees/boundary law is clear. If you have issues of dispute it is you who should initiate litigation and it is I who has invited you to sue me after you threatened or suggested court.

I have advised you of this materially previously, however defamation is a different and more serious matter and must be dealt with in a different jurisdiction. Please withdraw and apologise forthwith as I have asked above and even though defamation has still occurred, should you do this in good faith, I will not proceed with DC action.

Regards

Dennis A. Smith

www.dennis.nz

NZ Phone: +64 9 817-6402

AU Phone: +61 29 067-2067

4/2a Para St, Taumarunui, 3920, NZ

dennis@dennis.nz



Dennis A Smith <victusinambitus@gmail.com>

Defamation

Dennis A Smith <victusinambitus@gmail.com>
Reply-To: dennis@dennis.nz
To: Cathy Ashwood <catblackalex@hotmail.com>

4 February 2023 at 13:43

Hi Cathy

A week ago I warned you that you had defamed me by calling me a liar to my landlord and I asked you to undo the damage you attempted to create and may have created by withdrawing and apologising in the same manner to the same people as you did when you defamed me.

You have failed to do that.

In reply, you essentially doubled down, refusing to withdraw and apologise as I asked you to within the seven day timeframe I set and indeed you said more in reply, clarifying twice what you meant when you called me a liar and stating that you don't care how I take or took it, because you believed that I didn't care about you and/or your aging mother. You also said that you supported (indeed invited) litigation and more which all indicates a bad attitude from you towards me and no willingness to negotiate or to exercise goodwill.

Accordingly, I will now proceed with the promised course of action, a) to take the matters further for adjudication for defamation and damages, including losses that I have incurred, via the District Court and b) to share these events and communications with the world. It is normal for me to supply a copy of any post to another party in these circumstances, which I will normally do some 24 hours before publication. In the event that you desire more or less time, please let me know.

Regards
Dennis A. Smith
www.dennis.nz
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AU Phone: +61 29 067-2067
4/2a Para St, Taumarunui, 3920, NZ
dennis@dennis.nz



Dennis A Smith <victusinambitus@gmail.com>

Catherine and Margaret Ashwood - boundary 366 Taupo Road Taumarunui

Dennis A Smith <victusinambitus@gmail.com>

7 February 2023 at 13:47

Reply-To: dennis@dennis.nz

To: Taumarunui <Taumarunui@claw.co.nz>

Cc: "dennis@dennis.nz" <dennis@dennis.nz>, "catblackalex@hotmail.com" <catblackalex@hotmail.com>

Received Thank you

Regards

Dennis A. Smith

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4/2a Para St, Taumarunui, 3920, NZ

dennis@dennis.nz

On Tue, 7 Feb 2023 at 11:18, Taumarunui <Taumarunui@claw.co.nz> wrote:

Mr Smith, I will not discuss with you my client's financial position.

As for the rest of your email, I have no response.

Karen Ngatai

Community Legal Advice

TAUMARUNUI



From: Dennis A Smith <victusinambitus@gmail.com>

Sent: Saturday, 4 February 2023 1:24 pm

To: Taumarunui <Taumarunui@claw.co.nz>; Cathy Ashwood <catblackalex@hotmail.com>

Subject: Re: Catherine and Margaret Ashwood - boundary 366 Taupo Road Taumarunui

Good morning Karen (cc Cathy)

I respond to your communication and your demand/request thus:

Paragraph 1, where you state that you act for Cathy & Margaret Ashwood is accepted in regards to any fencing/boundary matter but only conditionally upon proof provided of the claims that your clients a) Are "unable to obtain legal aid" and b) "Have no means to pay for a lawyer". I simply do not believe that your clients sought to obtain legal aid nor do not have the means to pay for a lawyer. I believe that they came directly to you and did not seek legal aid assistance; and/or that they have funds sufficient to pay for a lawyer and thus I seek confirmation of these two claims please.

I deny all claims and insinuations you make in paragraph 2, in which you effectively describe my actions both leasing 2a Para St and trimming your client's overhanging trees as illegal. Please engage the valid processes to deal with these false accusations, or retract them immediately. I know from multiple sources that the Police consider the matter of my lease to be a civil dispute and have not acted to evict me because of this very situation. It's a "dispute" Karen, and you know this.

I note that this must have been included in your communications with your clients too or you are taking sides and your advice to them is biased and not full advice if you do not explain that the matters are in dispute and I have indicated to all that I will defend. I have and I will, thus I thought that I was 'innocent until proven guilty'. Fairness and accuracy Karen, just like you've put it in this communication, yes? [sarcasm]. I also know a lot more than you do about my lease and the current status of it! Be very careful what you say here Karen as IMHO the act of providing dodgy legal advice to a client is a very serious matter, especially when you are also not a lawyer and are on the verge of defending another defamation matter. You have been warned.

I ask you to advise your clients that as I have previously advised to them more than once, I will continue to tidy up my section at 2a Para St, which will include trimming of any overhanging trees back to the boundary (both ways). Should they seek to remove any plants that they have purchased and planted over the boundary such as the flax, they are welcome to remove them at any time during February 2023. Thereafter they should remain on their side of the boundary, please.

In this regard I note that (again, contrary to your unsolicited 'dodgy' legal advice given to me here) NZ law does indeed give me the authority to complete any work on my section and indeed gives me the right to trim overhanging limbs of a neighbour's back to the boundary. Please check your sources of information here Karen as it appears as though you persist with inaccurate analysis based on only one source of information which is probably why your clients both lost their claims of lack of standing in the DT. Please learn from this failing of your advice, Karen as also, as you should know by now, according to the DT, I do indeed have valid legal standing.

There have been multiple instances where I have discussed this matter with your clients of taking down or trimming plants - in regards to a Poplar, a Totara, a flax bush and a Japanese tree. At each point however I have engaged with Cathy as a courtesy or in defence and have never and have no intention of "seeking their consent". I speak to others as a courtesy Karen, not because I have to according to your whims or your 'dodgy' advice.

Your clients have made a range of claims of ownership and boundary locations basing these claims on a range of reasons, such as, "They're mine", "I planted them", "You this ...", "You that ...", "You have no reason to be up there" etc. As far as I understand, these wild and emotive exaggerations from your clients have now all settled to legal reality - the boundary is now agreed and what's on my side is my care and visa versa.

For the record, I believe that my lease with my landlord is none of your or your client's business, and that my legal standing has already been proven before the court with others of your clients, thus rendering your advice in paragraph 3 moot. I therefore deny your request in paragraph 3 to refrain from work. It is my intention to eventually remove all plants and trees on the back of my property other than the plum tree and plants that produce flowers as I have been doing for the last four years. We (Cathy and I) have already agreed that the Poplar will be coming down and I have offered to remove the first sickish-looking Totara. We also agree that the fenceline exists from the corner peg at the north east corner of your client's property to the fence corner on the north-west of their property.

I repeat and summarise this reply in the interests of clarity - yes, in all fencing/boundary issues I accept that you represent my neighbours conditional upon my receiving your validation. Yes, your clients may take any plant(s)

away during the month of February 2023, but no, I will continue to work on clearing and improving my property at 2a Para St, Taumarunui, respecting the boundary as we have already agreed. If they seek any changes to this planned work, you or they are welcome to discuss it with me.

Regards

Dennis A. Smith

www.dennis.nz

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4/2a Para St, Taumarunui, 3920, NZ

dennis@dennis.nz

On Tue, 31 Jan 2023 at 15:09, Taumarunui <Taumarunui@claw.co.nz> wrote:

Hello Dennis, attached is a letter re the above and a copy of an authority to act.

Regards

Karen Ngatai