



Ohio Revised Code

Section 971.16 Action for failure to build or maintain partition fence.

Effective: September 30, 2008

Legislation: House Bill 323 - 127th General Assembly

(A) An owner may file an action in a court of common pleas of the county in which the owner resides if the owner of adjoining property neglects to build or maintain in good repair a partition fence or the portion of a partition fence that the owner is required to build or maintain.

(B) In an action filed under this section, a court shall consider all of the following when making an assignment of responsibility for building or maintaining in good repair a partition fence:

(1) Whether a partition fence currently exists even if it is in disrepair;

(2) Whether there is evidence that a partition fence existed in the past;

(3) Whether a written agreement between the owners has been filed with the applicable county recorder in accordance with section 971.04 of the Revised Code;

(4) Whether an affidavit has been filed with the applicable county recorder in accordance with section 971.05, 971.06, or 971.07 of the Revised Code;

(5) All of the following:

(a) The topography of the applicable property;

(b) The presence of streams, creeks, rivers, or other bodies of water;

(c) The presence of trees, vines, or other vegetation;

(d) The level of risk of trespassers on either property due to the population density surrounding the property or the recreational use of adjoining properties;



(e) The importance of marking division lines between the properties;

(f) The number and type of livestock owned by either owner that may be contained by the partition fence.

The court shall make an assignment in equitable shares.

(C) The court shall assign attorney's fees and court costs in an equitable manner to the parties.
