

CHAPTER 563

WALLS IN COMMON

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563.1 Resting wall on neighbor's land.

Where building lots have been surveyed and plats thereof recorded, anyone who is about to build contiguous to the land of another may, if there be no wall on the line between them, build a brick, reinforced concrete, or stone wall thereon, when the whole thickness of such wall above the cellar wall does not exceed eighteen inches exclusive of the plastering, and rest one-half thereof on the adjoining land, but the adjoining owner shall not be compelled to contribute to the expense of building said wall.

[R60, §1914; C73, §2019; C97, §2994; C24, 27, 31, 35, 39, §10163; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.1]

563.2 Contribution by adjoining owner.

If the adjoining owner contributes one-half of the expense of building such wall, then it is a wall in common between them, but if the adjoining owner refuses to contribute, the adjoining owner shall have the right to make it a wall in common by paying to the person who erected or maintained it one-half of its appraised value at the time of using it.

[R60, §1915; C73, §2020; C97, §2995; C24, 27, 31, 35, 39, §10164; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.2]

563.3 Openings in walls.

No wall shall be built by any person partly on the land of another with any openings therein, and every separating wall between buildings shall, as high as the upper part of the first story, be presumed to be a wall in common, if there be no titles, proof, or mark to the contrary, and if any wall is erected which, under the provisions of this chapter, becomes, or may become, at the option of another, a wall in common, such person shall not be compelled to contribute to the expense of closing any openings therein, but this shall be done at the expense of the owner of such wall.

[R60, §1916; C73, §2021; C97, §2996; C24, 27, 31, 35, 39, §10165; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.3]

563.4 Repairs — apportionment.

The repairs and rebuilding of walls in common are to be made at the expense of all who have a right to them, and in proportion to the interest of each therein, but every coproprietor of a wall in common may be exonerated from contributing to the same by giving up the coproprietor's right in common, if no building belonging to that person is actually supported by such wall.

[R60, §1917; C73, §2022; C97, §2997; C24, 27, 31, 35, 39, §10166; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.4]

563.5 Beams, joists and flues.

Every coproprietor may build against a wall held in common, and cause beams or joists to be placed therein; and any person building such a wall shall, on being requested by the other coproprietor, make the necessary flues, and leave the necessary bearings for joists or beams, at such height and distance apart as shall be specified by the other coproprietor.

[R60, §1918; C73, §2023; C97, §2998; C24, 27, 31, 35, 39, §10167; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.5]

563.6 Increasing height of wall.

Every coproprietor may increase the height of a wall in common at the coproprietor's sole expense, and that person shall repair and keep in repair that part of the same above the part held in common.

[R60, §1919; C73, §2024; C97, §2999; C24, 27, 31, 35, 39, §10168; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.6]

563.7 Rebuilding in order to heighten.

If the wall so held in common cannot support the wall to be raised upon it, one who wishes to have it made higher must rebuild it anew and at that person's own expense, and the additional thickness of the wall must be placed entirely on that person's own land.

[R60, §1920; C73, §2025; C97, §2999; C24, 27, 31, 35, 39, §10169; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.7]

563.8 Heightened wall made common.

The person who did not contribute to the heightening of a wall held in common may cause the raised part to become common by paying one-half of the appraised value of raising it, and half the value of the ground occupied by the additional thickness thereof, if any ground was so occupied.

[R60, §1921; C73, §2026; C97, §2999; C24, 27, 31, 35, 39, §10170; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.8]

563.9 Paying for share of adjoining wall.

Every proprietor joining a wall has the right of making it a wall in common, in whole or in part, by repaying to the owner thereof one-half of its value, or one-half of the part which the proprietor wishes to hold in common, and one-half of the value of the ground on which it is built, if the person who has built it has laid the foundation entirely upon the person's own ground.

[R60, §1922; C73, §2027; C97, §3000; C24, 27, 31, 35, 39, §10171; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.9]

563.10 Openings in walls — fixtures.

Adjoining owners of walls held in common shall not make openings or cavities therein, nor affix nor attach thereto any work or structure, without the consent of the other, or upon the other's refusal, without having taken all necessary precautions to guard against injury to the rights of the other, to be ascertained by persons skilled in building.

[R60, §1923; C73, §2028; C97, §3001; C24, 27, 31, 35, 39, §10172; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.10]

563.11 Disputes — delay — bonds.

No dispute between adjoining owners as to the amount to be paid by one or the other, by reason of any of the matters provided in this chapter, shall delay the execution of the provisions of the same, if the party on whom the claim is made shall enter into bonds, with security, to the satisfaction of the clerk of the district court of the proper county, conditioned that that party shall pay to the claimant whatever may be found to be due on the settlement of the matter between them, either in a court of justice or elsewhere; upon the presentation of such a bond, the clerk shall endorse approval thereon, and retain the same until demanded by the party for whose benefit it is executed.

[R60, §1924; C73, §2029; C97, §3002; C24, 27, 31, 35, 39, §10173; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.11]

563.12 Special agreements — evidence.

This chapter shall not prevent adjoining proprietors from entering into special agreements about walls on the lines between them, but no evidence thereof shall be competent unless in writing, signed by the parties thereto or their lawfully authorized agents, or the guardian of

either, if a minor, who shall have full authority to act for the guardian's ward in all matters relating to walls in common without an order of court therefor.

[R60, §1925; C73, §2030; C97, §3003; C24, 27, 31, 35, 39, §10174; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §563.12]

[P] Statute of frauds in general, §622.32