

DECISION

Case number: NDR204-22
Applicants: Matthew Joosen
Wendy Joosen

Respondents: Qi Gu
Xia Zhang

Before: Member Bishop
Date: 8 March 2023
Proceeding type: On-Papers Hearing
Initiating document: Application for leave to be represented filed by the respondent on 18 November 2022
Application for decision/order by consent filed on 20 January 2023

THE TRIBUNAL THAT:

1. The application for leave to be represented filed on 18 November 2022 by the Respondents, **Qi Gu** and **Xia Zhang**, is refused.
2. **Wendy Joosen** is joined as an Applicant in the proceedings.

BY CONSENT, IT IS THE DECISION OF THE TRIBUNAL THAT:

3. The hedge forming part of the dividing fence between 11 Power Street, Norman Park QLD 4170 (Qi Gu & Xia Zhang's property) and 17 Power Street, Norman Park QLD 4170 (Matthew & Wendy Joosen's property) is to be maintained by Qi Gu & Xia Zhang at a height of 2.75m as measured from 17 Power Street (as shown by the white painted line on the attached photo and agreed in the presence of "Jack", the gardener for Qi Gu & Xia Zhang, Matthew and Wendy Joosen on 20 December 2022. This is to be maintained by Qi Gu & Xia Zhang at the height stipulated above, four times per year, those months being January, April, July and October every year.
4. The three golden cane palms and the ivory curl tree that are overhanging from Matthew and Wendy Joosen's property into the air space of Qi Gu & Xia Zhang's property are to be lopped to the fence line by Matthew and Wendy Joosen and are to be maintained at that height, so they do not grow into the airspace of Qi Gu & Xia Zhang's property. This is to be maintained by Matthew and Wendy Joosen as stipulated above, four times per year, those months being January, April, July and October of every year.
5. If deemed necessary by Qi Gu & Xia Zhang, who are responsible in performing the maintenance their duties of maintenance stated in this order, Matthew and Wendy Joosen must give access to Qi Gu & Xia Zhang or their engaged agents and professional gardener

to access Matthew and Wendy Joosen's property to undertake any necessary future work required to conform with this order. The engaged agents and professional gardener must be fully insured with a public liability policy that has coverage for 20 million dollars of damages for Matthew and Wendy Joosen's property.

6. If deemed necessary by Matthew and Wendy Joosen, who are responsible in performing their duties of maintenance stated in this order, Qi Gu & Xia Zhang must give access to Matthew and Wendy Joosen or their engaged agents and professional gardener to access Qi Gu & Xia Zhang's property to undertake any necessary future work required to conform with this order. The engaged agents and professional gardener must be fully insured with a public liability policy that has coverage for 20 million dollars of damages for Matthew and Wendy Joosen's property.
7. In the event either party fails to fulfill its obligations under this order then the order can be taken to the appropriate legal jurisdiction for enforcement.
8. The order continues regardless of changes to landscaping by Qi Gu & Xia Zhang or Matthew and Wendy Joosen, for example, if Qi Gu & Xia Zhang removed their hedge, Matthew and Wendy Joosen must continue to maintain the golden cane palms and all other duties of maintenance noted in this order and vice versa, if Matthew and Wendy Joosen removed the golden cane palms, Qi Gu & Xia Zhang must continue to maintain the hedge and all other duties of maintenance noted in this order.
9. Each party is to bear their own legal fees, applicant costs and search costs incurred during the course of this Application for tree dispute (case number NDR204-22) and the Response and Counter claim.
10. The duties of the maintenance by Qi Gu & Xia Zhang and Matthew and Wendy Joosen noted in this order will be carried out contemporaneously with the specific date/s to be agreed between the parties in that particular month of January, April, July and October of every year.

Signed



Member Bishop
Queensland Civil and Administrative Tribunal