

TITLE 44. MASHANTUCKET PEQUOT PARTY WALL LAW

44 M.P.T.L. ch. 1 § 1

§ 1. Title; Authority

- a. This law shall be known as the "Mashantucket Pequot Party Wall Law".
- b. This Title is adopted pursuant to the inherent authority of the Mashantucket Pequot Tribal Council, the lawful governing body of the Mashantucket (Western) Pequot Tribe.

44 M.P.T.L. ch. 1 § 2

§ 2. Purpose

This law provides a framework for preventing or resolving disputes regarding usage and responsibilities in relation to common property.

44 M.P.T.L. ch. 1 § 3

§ 3. Definitions

- a. "Party Wall" is defined as a common wall within or a part of a residential building owned by two different parties. The common wall must be located on and along the common boundary between said parcels and incorporated into the structure owned by said parties and utilizing said Party Wall. The Party Wall will also include other common structures within or part of the residential building such as a shared roof or foundation, such that changes to the common structure will affect the other party's use of said structure.
- b. "Adjoining Party Wall Owner" is defined as the owner of a property including the structure sharing a Party Wall, as defined herein, with an adjoining owner (hereinafter "Owner").

44 M.P.T.L. ch. 1 § 4

§ 4. Rights and Obligations

- a. Each Owner has the right to utilize the Party Wall to support the Owner's structure which incorporates said Party Wall, including the utilization of such Party Wall for structural support, weatherproofing, sound protection, fire protection, and other uses commonly associated with the existence of such Party Wall as a structural element.
- b. Neither Owner shall have the right to alter, demolish, or in any way interfere with the Party Wall in a manner which would detract from the adjoining parties' use of the Party Wall for the purposes described in this Law.

§ 5. Repair or Replacement

a. In the event that either Owner determines that the Party Wall is in need of repair or replacement said Owner shall notify the other in writing of said fact. If the parties agree they shall jointly retain a licensed contractor and obtain necessary permits from the Tribal Land Use Commission or such other entity with jurisdiction at the time so that such repairs and replacements can be accomplished.

b. The costs of such work shall be borne equally by the parties who shall each pay their portion of the work as required to obtain a permit or to retain such contractor.

c. In the event that the damage has been caused by the neglect or intentional act of one of the Owners or their guests, invitees, tenants, agents, employees, or others in possession of their property then the costs of repair or replacement shall be the responsibility of such Owner.

d. If an Owner does not contribute their portion of the expenses for the agreed upon work, the other Owner can go forward with any necessary work and expend such sums as are necessary in which case the other Owner shall be obligated to pay the appropriate amount as incurred. In the event said amount is not paid the Owner who owes either half the amount expended or more, depending on the facts, shall be responsible to pay said sum plus interest accruing at the rate of one percent (1%) per month from the due date. In the event said sums are not paid then the Owner who is owed the funds shall be entitled to reasonable attorneys' fees, court costs, and all reasonable costs of collection in pursuing payment.

§ 6. Right to Enter the Premises

a. Each Owner, their contractors or representative of the Tribal Land Use Commission, shall have the right to enter onto the other Owner's property after reasonable notice, at least 48 hours in advance, for the purpose of inspecting, repairing, or replacing the common wall as necessary, but such entry shall not take place until the other Owner shall be given an opportunity, if feasible, to make the necessary arrangements to allow entry and permit such inspections and/or work.

§ 7. Dispute Resolution

a. In the event that the respective Owners are unable to reach an agreement relating to the condition of the Party Wall, the need to inspect, or the need for repair, replacement, or other work, either party shall have the right to have the issue determined by arbitration. Arbitration shall be commenced by either party demanding same in writing with a description of the party's position as to the issues accompanied by the designation of a contractor or other individual with construction experience to serve as the demanding

party's arbitrator. The other party shall, within 20 days of mailing of the demand, have the right to either agree to the first party's position, agree that the contractor shall make such determination, or indicate that they do not agree and designate an experienced contractor or individual with construction experience to serve as such party's arbitrator. The two arbitrators shall then, within 20 days of appointment of the second arbitrator, choose a third party who shall arrange with the two arbitrators, to inspect the property within 30 days and the three by majority vote make a written determination as to what steps, if any, are necessary including the allocation of expenses. Each party shall be responsible for the costs and fees of their designated arbitrator, and any costs and fees for the third party arbitrator shall be borne equally by the parties. The decision of the three arbitrators, the arbitration award, shall be final and binding upon the parties.

b. In the event the second Owner does not respond to the demand for arbitration or shall fail to appoint a party to serve as their arbitrator the first arbitrator shall make the determination of the issues and in making such determination, shall give both parties an opportunity to present their positions on the issue.

44 M.P.T.L. ch. 1 § 8

§ 8. Notices

a. Notices and demands under this Section shall be sufficient if hand delivered to the other, or mailed by registered or certified mail, to the other party at the last address which the party sending notice shall have knowledge of. Any time periods required under this Law shall commence upon the actual mailing of the notices and shall be effective if delivered or mailed as required by this Law irrespective of whether the other party shall actually receive them.

44 M.P.T.L. ch. 1 § 9

§ 9. Tribal Court

Any arbitration award rendered under this law may be confirmed by the Mashantucket Pequot Tribal Court and enforced pursuant to 10 M.P.T.L., the Arbitration Law. The Tribal Court shall look at this law rather than an agreement to arbitrate.

Historical and Statutory Notes

Derivation.

Effective July 14, 2016, TCR071416-02 of 02 enacted 44 M.P.T.L. Mashantucket Pequot Party Wall Law.

Amendments.

Effective November 10, 2016, TCR111016-01 of 07 amended 44 M.P.T.L. setting forth the purpose of the law and correcting typographical errors throughout.