

# Orlando Sentinel

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ASK A LAWYER

## Trouble pours out the downspout

Ask a Lawyer  
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**Question:**

My Next-door neighbors installed gutters on their house, with two downspouts that discharge water heavily on our property every time it rains.

There has been soil erosion on their deeply sloped property that continues to get worse. We have talked to the owners about the problem to no avail. They now have moved out, and their property is rented.

I am concerned that the erosion and flooding will eventually cause damage to my property and to the foundation of my house. What legal recourse do I have?

C.H.  
Orlando



FRANK POHL  
Pohl & Short, P.A.

**Answer:**

Both you and your neighbor enjoy certain rights of land ownership. Rain runoff from your neighbor's higher ground is entitled to its natural flow onto and from his land. Florida law does not permit your neighbor, however, to direct the water flow onto your property if it results in damage to your house and land.

Florida law also recognizes your "reasonable" right to protect your property from this excess water from these downspouts. Subject to any zoning or subdivision limitations, you could construct a fence or wall to slow down or divert the water flow, as long as the fence or wall doesn't cause the water to pool and flood your neighbor's property.

The Florida courts apply a reasonableness standard in interpreting these cases.

At this point, you might get some help, or at least advice, from your local government department that handles drainage issues. (In Orange County, for example, it's the Roads and Drainage Department.) If that doesn't work, you may need a lawyer to file a legal action to have the excess water discharged directed away from your property, and to determine if you can sue for specific damages.