

TO: Chairman Owens and Members of the Judiciary Committee

FROM: Phil Cline

SUBJ: SB 396

DATE: Thursday, February 16, 2012

Judge should apply reports produced by structural engineers if it covers other pertinent information to the claim even if they are not in statute or law form yet.

Prior to altering, demolishing, removing or partially removing any party wall, or taking any action which could affect any party wall or the lateral support of any party wall, the persons planning to take such action shall notify the owner or owners of any property abutting such party wall by certified mail at least 10 days prior to taking such action.

The persons planning to take such action shall hire a qualified engineer to inspect the property and the party wall, including a determination of lateral load resistance when applicable.

When a building within a row of buildings with party walls is altered, demolished, or replaces, the lateral load resistance and stiffness parallel to the front, rear, and side walls contributed by the existing building to the row of buildings shall be maintained or replaced by the persons doing the altering, demolishing, or replacing.

Any persons causing damage to any wall or party wall, or the lateral support of any wall shall be liable to the owner or owners of any property affected by the damage to such party wall, building, or lateral support of such party wall, for all damages or losses attributable to such damage.

Everyone is entitled to lateral support of ground and walls. Lateral support is an absolute right. Lateral support of a wall of a building is exactly the same as lateral support of the ground. Both are an absolute right.

Kansas law applies to both lateral support of land, it is identical to that of walls. Who ever removes lateral support must replace it if

damaged or removal of lateral support causes any loss to adjoining property owner. Person doing work is liable.

Adjacent landowners each have an absolute right to have their land laterally supported by the soil of their neighbor. If a person disturbs the lateral support of their neighbor's land, property, building, or wall and causes such neighbors' land, property, building or wall to fall away, slide, or move from its position or causes damage to any structure or building placed upon such neighbor's land, property, building, or wall, the person causing the damage is liable. Proof that the disturbance of lateral support was a direct and proximate cause of the injury to the adjoining, land, property, building, or wall, or any structure upon such land is all that is necessary for recovery of losses to include punitive damages.

In Kansas support of ground by lateral support is the same as lateral support by adjoining party walls. In Kansas lateral support of land applies to buildings and walls alike.

Any suites being brought by a party being damaged by lateral support damage or removal would be able to recover all their losses to include reasonable attorney fees and punitive damages.

A person found of flagrantly failing to properly repair lateral support should have sanctions applied to the cost of the damages and punitive damages awarded.

Any contract labor must be fully bonded & insured to perform demolition & lateral support work. Not the person or persons hiring contract labor is responsible for any damages or the owner of the property becomes liable.