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Press Release

IF A TREE FALLS IN YOUR NEIGHBOR'S YARD, DOES IT MAKE A LAWSUIT?

For Year-Round Time Frame

UNIVERSITY PARK, Pa. -- Poetry readers know there is nothing so lovely as a tree. Unfortunately, poetry goes out the window and accusations can get pretty ugly when trees are involved in legal disputes, says a community forestry expert in Penn State's College of Agricultural Sciences.

"Most homeowners expect everyone to love their trees because they do," says Bill Elmendorf, urban and community forestry program coordinator and instructor in the School of Forest Resources. "In reality, a neighbor downwind may hate raking the tree's leaves, the tree may have invasive roots or it may block views. If the tree is failing, it may fall on houses, cars or people."

Elmendorf explains that few homeowners understand the laws and legal rights that apply to trees. In addition, most people have no idea that ornamental trees can have a monetary value that can be recovered in court should anything happen to it.

"Some trees can be replaced easily for about \$500 to \$2,500," Elmendorf says. "An older or landmark tree, believe it or not, can have an assigned value of \$25,000 to \$60,000, based on size, species, condition and location."

Elmendorf says homeowners should know several key points about trees and the law. These points are:

--Who owns the tree? If a tree's trunk is entirely on a homeowner's property, the tree belongs to that homeowner. If the tree straddles the boundary between two properties, the tree is owned jointly by both landowners. "You can't remove it or prune it without the other owner's permission, and you can't prune it to the extent that it will damage the community property of the tree," Elmendorf says.

--Can you trim your neighbor's tree? Property owners have the absolute right to trim back a tree's branches and roots that reach over into their yard. "The property owner only can prune up to the boundary line. Hopefully the pruning will be done correctly," Elmendorf says.

--When am I responsible for damage or injuries caused by my trees? Homeowners are responsible for maintaining their property's trees. "Ignorance is no excuse," Elmendorf warns. "The landowner has two duties: reasonable inspection and care to make sure the tree is safe."

--If my tree falls down, is it an act of God? Elmendorf cites the book "Arboriculture and the Law": "An act of God represents some inevitable event that could not be prevented by human care, skill or foresight, but which results exclusively from nature's cause, lightning, tempest and floods." Does that

mean a homeowner is liable? "All these laws are open to interpretation," Elmendorf says. "That's why we have lawyers and courts. The key is to act as a reasonable person should act."

--Can someone remove a tree from my property? No, unless the tree is an imminent hazard to people or property. If a neighbor or a person working for the neighbor removes a tree from the homeowners property, the neighbor may be found liable for replacing the value of the tree.

"A qualified arborist can estimate the value of a tree according to a formula created by the International Society of Arborists," Elmendorf says.

-- If my neighbor's apple tree extends into my yard, can I eat the fruit? The fruit of a tree belongs to the owner. Although laws are unclear about fallen fruit, a landowner cannot pick fruit from a neighbor's tree. "Neighbors also cannot prune branches in order to get the fruit," Elmendorf says.

"The best course of action in any dispute involving trees is direct communication," Elmendorf says. "Go and talk with your neighbor first and try to work out a solution. If you have to go to court, because of the high value an ornamental tree can have, make sure you have a good lawyer and a good arborist."

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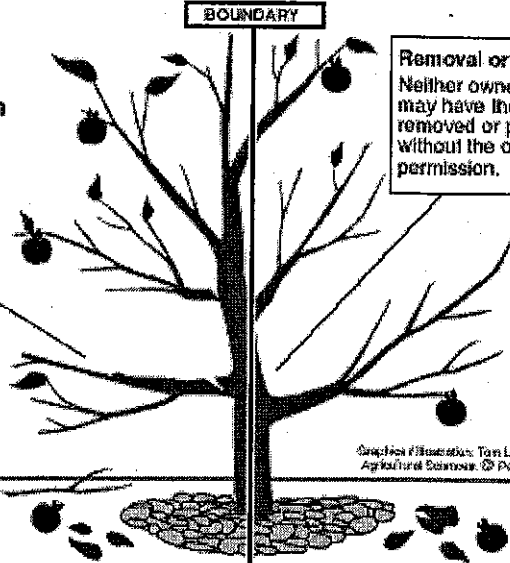
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If a tree's trunk lies on the boundary between two properties, the tree is owned jointly by both property owners.

Responsibility
Both owners must cooperatively provide reasonable care and inspection to make sure the tree is safe.

Removal or Pruning
Neither owner may have the tree removed or pruned without the other's permission.



Graphics Illustration: Tom Lohr, College of Agricultural Sciences © Penn State 2008

Liability concerns?
Get professional legal advice.

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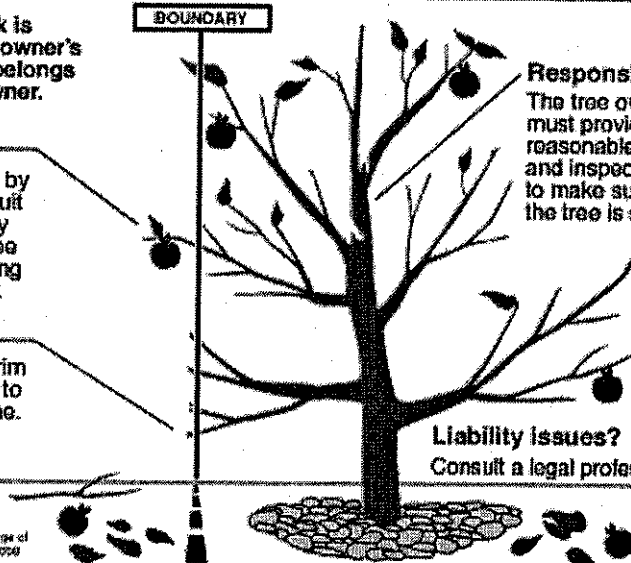
When a tree's trunk is entirely on a homeowner's property, the tree belongs to that property owner.

Harvesting
Unless permitted by the tree owner, fruit can't be picked by neighbors. On-tree fruits legally belong to the tree owner.

Trimming
Neighbors may trim limbs or roots up to their boundary line.

Responsibility
The tree owner must provide reasonable care and inspection to make sure the tree is safe.

Liability issues?
Consult a legal professional.



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