

When trees cross the line | The Avvo NakedLaw Blog

Tuesday, October 6 2015, 11:38 AM

Real Estate, Tips & How-To

When trees cross the line

□ Oct 2, 2015

By [Gemma Alexander](#)

◀ 61

◀ 7

◀ 1



As summer turns to fall and the weather gets stormy, a homeowner's thoughts turn to hot cocoa on the stove, warm fires in the hearth, and the possibility of a fallen tree branch crashing into the living room.

Most of the time, trees add value to a home. One [study](#) reported in *The Wall Street Journal* found that homes with street trees sold for over \$7,000 more than similar homes without them. The National Forest Service recognizes the aesthetic, environmental, and historical value of urban trees, using a [formula](#) that can place the value of a single mature tree in the thousands of dollars.

But whether it's the fear of branches falling onto a house or the perception of blocked views, homeowners are

not always appreciative of the value of trees—especially when the tree is in someone else’s yard. Trees are frequently at the root of property disputes between neighbors, and with the confusing patchwork of local laws governing arboriculture, many of these disputes [get out of hand](#).

In most cases, however, the legal answers are simpler than the conversations with your neighbor may turn out to be.

Smashed roofs and clogged sewers

The greatest fear inspired by trees is that one will fall on your house. This does sometimes happen in heavy winds, and when it happens, the damage can be considerable. But healthy trees can be expected to weather normal storms, so when a tree does come down, insurance companies usually treat it as an accident similar to a lightning strike. Unless the tree was a known or suspected hazard, the homeowner whose house was damaged would file the claim with their own [insurance](#).

A tree does not constitute a hazard simply by being large or growing above a roof. Consultation with an International Society of Arboriculture [certified arborist](#) is the best way to determine whether a tree constitutes a hazard. If it is, the owner of the tree must improve or remove it; if they don’t, they can be held responsible for any damages resulting from falling limbs.

Tree roots are a lot less dramatic than falling branches, but they are more often responsible for damage, and the associated rights and responsibilities are not as well defined. A tree’s roots often extend well beyond the drip line and can grow into cracks in foundations, fill sewer lines, or damage septic systems. In some states a tree’s owner is responsible for root damage to a neighbor’s property, in others they are not.

While a few states do not have clear rules on the subject, all states give you the right to cut roots back to the property line. But beware: if that results in a significant loss of the trees’ roots, it increases the risk that the tree will fall over. If a tree falls after root pruning, you could be judged responsible for creating the hazard, making you liable not only for the damages, but also for the loss of the tree.

Creating a menace or making a mess

The same rules apply to tree limbs as to tree roots, with the same complications. If you don’t like the look of a branch looming over your roofline, you can cut it back to the fence. But as with roots, cut too much and the tree could die. You do not have the right to kill your neighbor’s tree, so aggressive pruning could open you up to liability, not to mention the ill-will of a neighbor with a lopsided tree.

The situation with debris from trees is more straightforward. Leaves that fall or blow onto your side of the property line are considered a [natural product](#) and are your responsibility, even if they clog gutters or cause flooding.

Counter-intuitively, in many places you do not have a right to pick fruit on branches that grow into your yard, even though you do have the right to trim those branches. Although rules vary by city, in most places once the fruit falls it becomes a natural product that you must clean up. If you choose to eat it at that point, you are within your rights.

Blocking the view

In most cities, trees take precedence over views. However, in communities with significant viewsheds, like those along the ocean, there may be height restrictions or other laws to protect views. Many homeowners' associations have rules governing trees that hinder views.

The take home

Trees are regulated at the local level, when they are regulated at all. While these guidelines tell you what is true in most places, you should always check with local authorities and your homeowners' association before firing up the chainsaw. You can also do some [general research on property disputes](#) for your area. And don't discount the potential for a respectful conversation with your neighbor now to avoid the need to look up liability rules later.

Related articles on NakedLaw

- [This is mine, that's yours: Dealing with property disputes](#)
- [4 property damage disputes between neighbors: who pays?](#)
- [The homeowner's guide to land use laws](#)

You might also like



The 6 Most Corrupt Cities in America



Top 5 Reasons Men File for Divorce



Indiana jury makes dangerous call in feticide case



8 People Who Were Executed and Later Found Innocent

Recommended by

TAGS:

#Property #Real Estate