

- reprinted from
The Oregonian
September 9, 1991

MANAGING YOUR MONEY
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NEIGHBOR LAW

Perhaps only God can make a tree, but people sure can make a mess when it comes to pruning.

Cutting back or cutting down trees is emotionally and financially expensive, and where it involves bad feelings with the folks who live next door, the cost may well be loss of a neighborly relationship. To head off problems, you should know more than what the law says about trees and fences. You also need to remind yourself about the value of good sense and mutual respect. Using common law, common sense and common courtesy will help keep you and your neighbor chatting over the back fence -- and out of the witness box.

First, test your knowledge of tree law with these questions. When deciding on an answer, don't be content with what's legally "right." Try for a solution that solves the problem and retains a good relationship.

1. The big maple in your back yard casts so much shade on your neighbor's vegetable garden that her tomatoes won't ripen. Does she have the right to prune your maple without your permission?

Yes, she can trim back to the boundary line without your permission, but she'd be wise to talk to you first. She needs permission to go onto your property -- unless the limbs threaten to cause imminent and grave harm. She can't cut down the tree or kill it by overtrimming.

Cora Jordan, the Berkeley, Calif., attorney who wrote "Neighbor Law: Fences, Trees, Boundaries and Noise," describes this common-law "right of self-help" when trimming a neighbor's tree. Usually, it is the only remedy provided by law, and generally the neighbor who does the trimming must pay for it.

"Always warn the tree owner before you hack away at the tree," Jordan says. "If you want to do a major job of pruning, the owner may well want to take responsibility for the work to assure the health and symmetry of the tree. An effective approach might be to offer to share the cost of trimming the whole tree."

Another good reason to warn the tree owner of an impending pruning is to prevent a breach of the peace: "Tree owners can be extremely protective," Jordan says. "The

last thing you want to do is create a screaming disturbance that lands you and the neighbor on the evening news."

2. Your stately Douglas fir blocks your neighbor's view of Mount Hood. He cuts off all the branches down to the trunk on his side, a shock that kills the tree. Does he owe you for the tree, and if so, how much?

You bet he does -- the worth of the tree times three in Oregon, Washington and California (It's five times the damage in New Hampshire.) A tree's worth is not just its value for wood, Jordan says. It also includes its aesthetic contribution to the value of your property, which can boost damages into scary ranges.

Oregon also has criminal statutes setting fines and jail time for damaging a tree, but those relate more to forestry than to urban trees.

In the view-blocking example, there obviously was time to head the problem off long before your neighbor fired up his chain saw. A growing tree doesn't block a view overnight.

"If your tree is dropping huge amounts of leaves on someone else's property, beginning to shade a treasured vegetable garden or, especially, starting to block an expensive view, be aware of it," Jordan says. "The neighbor could be sending signals to you, ranging all the way from nasty looks and remarks about the tree to actual threats to chop it down."

Take a friendly offensive, she suggests. Have a chat with the neighbor and be ready to compromise on a trim. If you can't agree, suggest mediation through a service such as Portland's Neighborhood Mediation Center (503-595-4890). It's free, it's relatively quick, and mediators combine common sense with the Portland codes to arrive at workable solutions.

Mediation specialist Jamie Damon, who has been helping Portland neighbors settle disputes for five years, says, "It's amazing what you can do if you all sit down together and talk about it."

She says it's also amazing how many neighbors don't communicate.

"You need to talk to each other," she said. "Don't just trim the tree and throw the branches into the neighbor's yard."

Only about 20 percent of the cases she handles are settled in a session around a table; 80 percent are resolved with a phone call or an explanation short of a mediation session.

Damon says that when she and the parties search for solutions, they look beyond the law to avoid spiteful behavior. A property owner with a healthy laurel hedge who is forced to whack it down to a stumpy-but-legal limit of 6 feet may start taking notes on the behavior of the neighbor who forced the hedge issue, perhaps reporting a dog on the

loose, junk in the yard, an illegally parked car.

"We try to stop that escalation for revenge before it goes any further," Damon said.

One way to do that is to reach a reasonable agreement on the hedge. For instance, Damon said she might ask both parties whether they could live with 8 feet.

3. Branches of your neighbor's tree hang over your back fence, but it's August and you don't mind a bit: The branches are laden with juicy, luscious peaches. Whose peaches are they?

The location of the tree's trunk determines who owns the tree, Jordan says. And that includes the tree's branches and fruit, even if it hangs over the property line.

"You may not legally help yourself to the fruit," she says. "If you do, you are, in theory, converting someone else's property to your own use, and your neighbor could sue you."

Not very likely, but possible, based on the logic that because a tree owner is sometimes liable for damage caused by overhanging limbs, it's only just that when the same branches are heavy with fruit they belong to the tree owner.

Once the fruit falls from the tree, does the neighbor have the right to enter your yard to collect it? The law on that is as fuzzy as the fruit, Jordan says. Besides, the ripening of peaches is a predictable event and calls for a simple deal between neighbors: "You rake my peach leaves in November, you earn peach-eating rights in August" ought to do.

4. Roots from your weeping willow wept their way across your property line and were last seen cracking up your neighbor's brick patio. Who pays for the repairs?

If your tree grows in Portland, you're lucky: Your neighbor is expected to protect himself and his patio from your tree's root encroachment. That's easier and safer than it used to be, thanks to a new method of stopping invasive roots from spreading. In the past, chemicals used to block root growth sometimes also killed the tree -- and we know what happens if you kill your neighbor's tree in Oregon: triple damages.

With the newer methods, the roots are cut and a synthetic shield is installed to prevent regrowth. Time-release pellets also can control regrowth, Jordan says.

If your tree grows in Seattle or any other Washington town, your neighbor is lucky. Washington is one of only three states that gives a neighbor the right to sue for damages caused by a healthy tree. In Washington, the tree's owner is liable for its damage to the neighbor's patio.

WEATHER PROMPTS REVIEW OF INSURANCE

Because they've had to refer to their policies all too frequently in the past couple of years, Oregon homeowners probably can recite from memory the fine print that covers -- or doesn't cover -- damage from ice, wind, downed trees, floods and slides.

Still, even insurance agents are required to take refresher courses. Here's ours, in the form of commonly asked questions about homeowners' policies and storm damage:

Q: What types of storm damage does my homeowner's policy cover?

A: Damage to your house, garage or fencing from trees downed by ice and wind is covered in several ways. Take fallen trees, for example.

If your tree falls on your house, your homeowner's policy covers the damage, subject to a deductible amount, usually \$250. If you have a \$1,000 claim, you pay the first \$250; the insurance company pays the next \$750.

If your tree falls on your neighbor's house (or garage or fence), your neighbor's homeowner's policy covers the damage.

If your tree falls on your car, your auto policy's comprehensive coverage, if you have it, covers the damage. Drivers are required to carry liability, but not comprehensive, and owners of older cars sometimes drop that coverage.

If your tree falls on your neighbor's car, your neighbor's auto policy comprehensive covers the damage.

Q: What about neglect?

A: If your tree was diseased, and you knew it was, and your neighbor had warned you he was concerned about it, the damage your tree causes could be attributed to your neglect. In that case, your homeowner's liability coverage might cover the damage, and your neighbor wouldn't have to tap his own policy.

Q: Who pays the costs of tree removal?

A: If the tree damaged a structure, such as a house, fence, garage or other building, your homeowner's policy covers the cost of sawing it up and hauling it away. If it falls in the yard without damaging a structure, you bear the cost of removing it.

Q: What is the city's role if the tree is in the median between the sidewalk and the street?

A: If it's an immediate hazard, the homeowner can remove the hazard -- a limb blocking a driveway, on a car or impeding traffic in the street, for instance. But Brian

McNerney, Portland's Urban Forestry manager, urges people to call his department at 823-4489 to report the problem and to have a city arborist assess it.

"We work in partnership with the property owner," McNerney says. The city doesn't want to take chances with weakened or teetering trees; yet "the trees are a valuable asset, and we don't want to overreact, either."

As for who pays for tree clearing and removal when it's in the city right-of-way, McNerney said city crews would do the work if there's a hazard involved. Otherwise, it's the property owner's responsibility.

Q: What if a power line to my house snaps?

A: Power company crews will repair and reattach lines which run from the pole to the "weatherhead" -- the pipe just above the meter. From there on, it's the owner's problem. If the meter needs repair, the owner should consult an electrician to get it fixed. The power company won't reattach the line unless the meter is fixed.

Q: What about damage to my electronic equipment caused by power surges?

A: When lines snap and transformers blow, electrical surges can run through the system and into the house, zapping your stereo, computer or television -- sometimes seriously enough to ruin the appliance.

If it's an act of God -- as storms are -- the power company is not responsible for the damage. Check your homeowner's policy for limited coverage. Special endorsements are often required for computer equipment, or you can buy a gizmo called a surge protector to eliminate the hazard.

Q: What responsibilities does the homeowner have?

A: As a policyholder, you are obligated to take steps to prevent further damage when damage occurs.

Put tarps or plastic over roof holes, for instance; board up broken windows; cover a hardwood floor from exposure to the elements. Use common sense to protect property and people. Your homeowner's policy covers the cost of temporary repairs to prevent further damage.

Q: What about renters whose property is damaged?

A: Damage to structures -- your duplex roof or your apartment's carport, for example -- will be covered by your landlord's policy.

Damage to your own personal property -- your stereo or dining room furniture, for instance -- is covered by your own renter's policy, if you have one. It's the same story for fire damage, as several uninsured renters were disappointed to learn recently when a fire swept through the Northeast Portland warehouse where they had goods stored.