

Pining for Answers in Ohio Tree Law



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ATTORNEYS & COUNSELORS AT LAW

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About My Firm

Who We Are

- ▶ Suburban Law Firm in Hilliard, Ohio
- ▶ 12 employees
- ▶ 6 lawyers
- ▶ Partnered with two other firms



What We Do

- ▶ Litigation
- ▶ Business Law (Represent and advise businesses)
- ▶ Domestic (Divorce, Child Custody)
- ▶ Personal Injury (Car Accident – Dog Bite)
- ▶ Title Company (Real Estate)
- ▶ Estate Planning
- ▶ Traffic & Criminal
- ▶ Landlord/Tenant
- ▶ Contractor Issues



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- ▶ If you have any questions or concerns, you should retain an attorney to advise you on your specific situation.



Tree Ownership

- ▶ A tree is owned by the property owner of the property upon which the tree grows. Ohio law states that the property line extends upward toward the sky.
- ▶ The limbs of the tree extending onto another property do not extend ownership to that property owner. They only control the branches that extend over the line.
- ▶ However, a tree that is growing on the property line is deemed jointly owned by both neighbors.



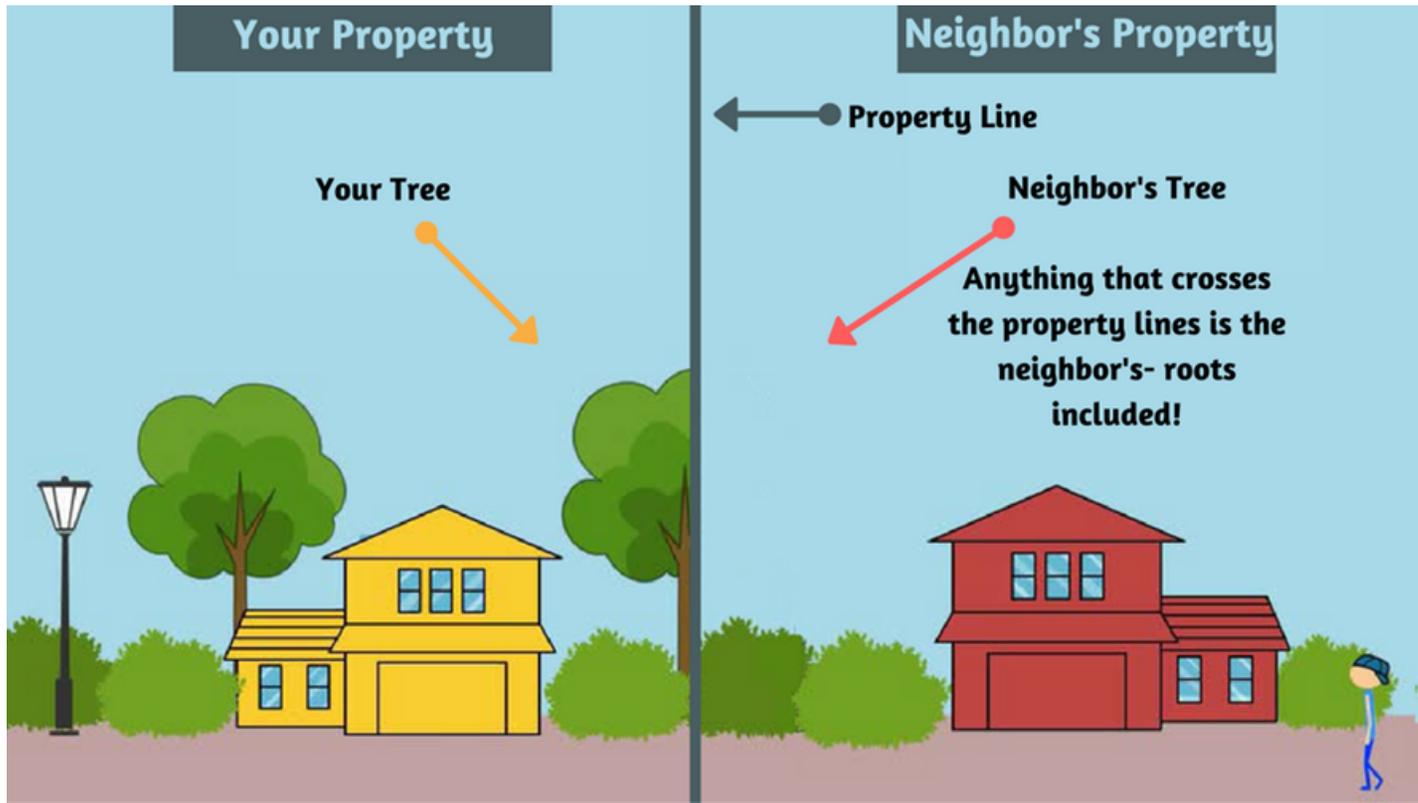
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Ground to Sky Theory

- ▶ “Ground to Sky” Theory – As the property owner, you own everything above your property as if a fence were built directly on the property line. This would include trees, their individual branches, or even roots.
- ▶ Under the Ground – The same theory goes downward. So this makes it apply to root systems as well.



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Pop Quiz

▶ What's a tree's favorite dating app?

▶ Timber



If a tree falls in the woods...

- ▶ If a tree falls and damages personal property (car, house, etc.), who is responsible for the damage?
- ▶ Generally, the party whose property is damaged bears the responsibility of the damages, unless the owner of the tree was negligent in some way.



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Negligence

- ▶ Ohio law states that tree owners are not responsible for the damages caused by their trees, unless the tree owners are negligent. *Shoemaker v. Harris*, 1998 Ohio App. LEXIS 6066. Negligence arises out of whether or not the tree owner has actual knowledge of a weakened tree. *Hay v. Norwalk Lodge No. 730, BPOE*, 92 Ohio App. 14, 3 (1951). If the owner has knowledge of the weakened condition, and damage occurs, they are liable. If the tree is not in a weakened or damaged condition, or if they reasonably do not have notice of the same, the owner is not liable for the damage.
- ▶ Example – German Village – Client had a neighbor whose tree was weakened. They wanted the neighbor to trim the tree. Had an arborist look at it. Neighbor refused to trim tree. Tree falls on client's car.



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Duty to Inspect Trees - Urban

- ▶ In urban areas like Central Ohio, a tree owner may also be liable for damage if they have constructive notice of a weakened tree.
- ▶ These owners have a duty to inspect their trees regularly.
- ▶ A tree owner in an urban area is treated as though that owner has actual knowledge of the results of an actual tree inspection.
- ▶ If an inspection of a tree would not have given the tree owner knowledge of a weakened state, the tree owner is not liable for any damages resulting from a fall.



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Duty to Inspect - Rural

- ▶ In rural areas, the standard for inspection is lower. Generally, property owners are not responsible for regular inspections of their trees, unless the condition of the tree is obviously weakened as stated above.
- ▶ The good news is the trees are also less likely to cause property damage.
- ▶ Further apart from neighbors.



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What if my tree hangs over my neighbor's property?

- ▶ Can neighbor make me trim my tree?
 - ▶ No
 - ▶ You are not required to do so.
 - ▶ However, if you are aware of a weakened state of the tree (or should reasonably notice), then you could be liable for the damages if the tree were to fall on property.



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Can my neighbor trim my tree?

- ▶ Yes and no.
- ▶ If the limbs or branches of your tree extend onto the neighbors' property, she or he may remove those limbs that overhang such property.
- ▶ The neighbor may not trim any part of the tree that doesn't extend onto their property.
- ▶ The neighbor also cannot harm the tree.
- ▶ The neighbor needs to be cautious when cutting/trimming the tree. The neighbor cannot kill or otherwise cripple the tree, and needs to exercise reasonable care.



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What if my neighbor kills or cripples my tree?

- ▶ Ohio Revised Code Section 901.51 “Injuring vines, bushes, trees, or crops on land of another.”
 - ▶ No person, without privilege to do so, shall recklessly cut down, destroy, girdle, or otherwise injure a vine, bush, shrub, sapling, tree, or crop standing or growing on the land of another or upon public land.
- ▶ Penalty
 - ▶ Whoever violates section 901.51 is guilty of a misdemeanor of the fourth degree.
 - ▶ 901.51 also states that the violator is responsible for treble damages (three times the value of the tree).



Most Common Trees in the United States

Tree	Number of Trees	Percent of all Trees
Red Maple	21.8 Billion	7.6%
Loblolly Pine	19.2 Billion	6.6%
Sweetgum	12.2 Billion	4.6%
Douglas Fir	10 Billion	3.5%
Quaking Aspen	9 Billion	3.2%
Sugar Maple	9 Billion	3.1%
Balsam Fir	8.9 Billion	3.1%
Flowering Dogwood	8.6 Billion	3.0%
Lodgepole Pine	7 Billion	2.5%
White Oak	5.4 Billion	1.9%

These 10 species account for 39% of all trees!

When in Doubt...

- ▶ ASK AN ARBORIST!
- ▶ Make sure they are ISA-Certified
 - ▶ International Society of Arboriculture
- ▶ An arborist will be able to tell you whether the tree is weakened, so you understand your responsibilities.





What about trees on the property line?

- ▶ Who can cut limbs (or entire tree) of a jointly owned tree?
- ▶ Either neighbor may cut the branches that extend onto their own property, but must obtain permission from their neighbor before cutting additional branches, or the entire tree.



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INTERESTING TREE FACTS



- There is an official tree for every state.
- The tallest tree in the world is located in California and is 369 ft tall.
- The U.S. plants about six trees per citizen each year.



Said they display artificial Christmas trees in their homes.

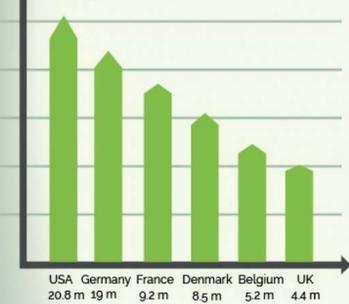


Said they did not display any Christmas trees in their homes.

Said they display real Christmas trees in their homes.

More people display artificial trees instead of real trees in their homes.

Annual Trees Grown In Different Countries



The Impact of 1 Million Trees



Provide air pollution control worth \$62 billion.

Absorb 38,000 metric tons of CO₂ in the first ten years.

Top 3 Most Popular Real Trees



Offset the climate impact of 8000 passenger vehicles.

Supply oxygen to 4 million people daily.

City Codes – Be Careful

- ▶ Be careful—local codes may provide additional guidance and/or penalties for how to deal with trees.
- ▶ Example – Columbus City Code **912.17 - Abuse or mutilation of trees.**
 - ▶ Unless issued a written permit by the director of the recreation and parks department, no person shall attach any rope, wire, nails, advertising poster, or other contrivance to any tree in any public street, park or public place. No person shall permit any fire to burn where such fire or heat therefrom, or heat from any source, will injure any portion of any tree in any public street, park or public place. Without permit, no person shall use herbicides or other chemicals on any trees, shrubs or evergreens in any public street, park or public place.
- ▶ Consult with a lawyer for other local codes.



Property Lines

- ▶ Much of the information and advice earlier in the presentation relies on where the tree is located.
- ▶ It is important to know exactly where your property line is.
- ▶ Most people have a general idea, but understand that it's what the plat says, not what you think.
- ▶ You can always pay for a survey to determine the line.
- ▶ This will help determine ownership of the tree, but also delineate any responsibility.



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Damage Calculation for Trees

- ▶ Estimated values based on 20-foot-tall mature tree:
 - ▶ Maple - \$1,200
 - ▶ Elm - \$600
 - ▶ Red Oak - \$1,032
 - ▶ Mahogany - \$7,275
 - ▶ Loblolly Pine - \$264
 - ▶ Beech - \$508
 - ▶ White Pine - \$888
 - ▶ White Oak - \$1,700



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Interesting Facts on Trees

- ▶ Earth has more than 60,000 known trees species
- ▶ More than half of all tree species exist only in a single country (Brazil)
- ▶ Trees didn't exist for the first 90 percent of Earth's history
- ▶ Before trees, Earth was home to fungi that grew up to 26 feet tall.
- ▶ Trees in a forest can “talk” and share nutrients through an underground internet built by soil fungi.



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Best Practice – Tree Issues

- ▶ Communicate with your neighbor.
- ▶ Listen to your neighbors if they express concern.
- ▶ Remember—you might live next to these neighbors for a long time.
- ▶ Benefits of cooperation outweigh many costs.
- ▶ Come to agreed resolutions.
- ▶ Seek professional help.
- ▶ Know where your property line is.



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Questions?

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