

## Landowners have rights and responsibilities

As an attorney, I have received many calls through the years by one neighbor concerning problems with trees, bushes or other vegetation that grow or hang over from an adjoining neighbor's property. I thought it may be helpful to explain the law in Kentucky concerning these situations especially given the effects the extreme weather conditions this past winter had on our trees.

In 1985, Kentucky has adopted what is known as the "Massachusetts' Rule" governing problems with trees between adjoining property owners.

Simply, a property owner is not liable to a neighbor for



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adjoining property of others. The theory behind the rule is that a property owner should be able to grow all the trees he wants on his own property without repercussion.

Although the neighbor cannot force the owner to cut

tree limbs and roots that extend into the neighbor's property from a tree that is alive.

Moreover, the owner is not required to remove limbs and roots that extend over and into the adjoining property of others.

The theory behind the rule is that a property owner should be able to grow all the trees he wants on his own property without repercussion. Although the neighbor cannot force the owner to cut back the trees, the neighbor has the right to cut off intruding limbs or roots on his own property. For example, if a neighbor's trees were hanging over your driveway or your house causing problems or the roots from the tree were buckling your sidewalk or driveway, then you would be permitted to cut the roots and the limbs back to the property line. Nevertheless, if you exceed past the property line, you can be liable for civil damages caused by your actions.

On the other hand, if the tree is dead and likely to fall and cause injury, a neighbor can file a nuisance suit requesting the adjoining property owner be required to re-

move the dead or damaged portions of the tree. The theory behind this is that it would be futile to require the neighbor to remove a portion of a dead tree back to the property line while leaving the hazard of a large portion of the total tree to remain in a threatening position. If the tree has already fallen, you can also file suit for the damages caused by the fallen tree.

In most cases, the best starting point to resolving a problem would be contacting the neighbor, explaining the problems and trying to work together to eliminate the problems.

There may be several issues involved including for

example where exactly the property line is actually located or if the property is owned by the government. If in doubt or an issue arises, it is always best to consult an attorney to assist and advise you with your specific problem because the law in this area is still being developed.

I hope this information is interesting and helpful. If you have any topics you would like to have covered, please contact my office by e-mail at [campbellcoatty@gmail.com](mailto:campbellcoatty@gmail.com), by phone at 491-7700 or by regular mail addressed to 319 York Street, Newport, KY 41071.

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