

# It's Not Christmas: Trimming The Tree And Keeping Harmony With Your Neighbor

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July 20, 2022

## Practical Tips for the Massachusetts Homeowner

Every Spring and throughout the Summer, homeowners contemplate home and yard maintenance and with that annual rite of seasonable weather comes, “What about those trees?” In Massachusetts, a homeowner is responsible for those trees located on their property. Massachusetts follows the “Healthy Tree” rule where generally, a homeowner does not bear responsibility for a healthy tree that loses a limb or branch that causes property damage. This follows the premise that the homeowner had no reason to believe or it was not “reasonably foreseeable” to believe a limb or branch would fall. However, if the homeowner had prior knowledge that the tree was diseased or dying and took no action to remedy the situation (i.e. removal, trimming, etc.) liability may lie for damage caused by rotting limbs or falling branches. It is important to keep a watchful eye on the trees located on your property. If you have any question about the health of your trees, you may wish to consult an arborist or professional tree removal service.

An issue that arises quite frequently is what about those trees that are not located on my property but that overhang my property? May I lawfully cut, trim or remove those branches, limbs or trees? In Massachusetts, you may trim or cut branches, limbs or tree roots that are on your property up to your property line. A homeowner is not responsible for property damage caused by tree roots running from trees on their property, but the owner of the property onto which the roots travel has the right to cut or trim those roots up to their property line.

As a Practical Homeowner Tip: Do not cut down any trees that are not located on your property. Believe it or not, there is a statute in Massachusetts that calls for a criminal penalty of “imprisonment for not more than six months or a fine of not more than five hundred dollars.” See [G.L. c. 87 §11](#). If one willfully cuts trees on another’s property, he or she may be liable in tort for trespass for up to three times the amount of damages assessed unless there is a good reason to believe that the land on which the trespass was committed was owned by that person or he or she was lawfully authorized to cut trees from that property. See [G.L. c. 242 §7](#). If you are unsure if trees are located on your property or precisely where your property line lies, it is a good idea to hire a land surveyor to advise you on the exact location of the boundary of your property.

These issues are very common and unfortunately cause sometimes unnecessary disputes with neighbors. If you have an issue with your property line, sustained property damage as a result of falling limbs or branches or if someone has wrongly accused you of tending to your trees, please do not hesitate to contact our firm for legal advice.

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