

Limbs From My Neighbor's Tree Overhang My Property . . . What can I do?

Though not strictly a local government issue, this situation is often presented to local government officials.

The following case discusses the issue:

Jones v. Wagner, 425 Pa. Super. 102, 624 A.2d 166 (1993), *appeal denied*, 536 Pa. 626, 637 A.2d 286 (1993).¹

It generally is understood that an owner of realty has a cause of action against any person who has committed trespass upon his land. What is less generally known is that this cause of action does not require that the landowner allege any actual injury or damage. The harm that is to be remedied is the right to peaceably enjoy full, exclusive use of the property, not the fact that property is being damaged.

Moreover, a landowner generally has a right not only to the exclusive possession of the surface of his property but also to what lies above and below it. There is a property right in the air space above the land, and this property right can be invaded by overhanging objects, including tree limbs. When tree branches overhang a property line, the aggrieved landowner is not limited to seeking monetary relief for any damage that may have occurred. When tree limbs grow over onto another person's property, there is a trespass. In fact, in the case of tree limbs, there is a continuing trespass occurring by the mere fact of the overhang and the possessor of land is entitled to pursue various remedies, including self-help. With regard to self-help, an aggrieved landowner is entitled to trim the branches back to the property line, and this is true even if the overhanging branches do not damage the property. Also, if the landowner has incurred reasonable expenses in the course of exercising a self-help remedy, he may recoup those expenses from the trespasser.



Now, where's that property line?

¹ See also *Koresko v. Farley*, 844 A.2d 607, 617 (Pa. Cmwlth. 2004) ("encroaching tree parts are a trespass which a landowner may remove").