



Trees and the Law

It's hard to believe that anything as beneficent and beautiful as a tree could land you in court — but it's possible, at least in Massachusetts.

The fact is, homeowners here have duty of reasonable care relative to their trees. What this means is that if the owner knows or should have known that his or her tree poses a danger, there may be liability for any damages caused. For example, if a limb were to fall from an obviously damaged tree in your yard and land on a neighbor's car you would be held responsible.

These events are not uncommon.

In one case, a homeowner was informed by a neighbor that a large branch from a dead elm had fallen on the neighbor's property. The owner had the tree inspected but not removed. Almost predictably, another branch fell a year later, this time striking the neighbor. Litigation ensued and the owner was deemed responsible for the damages.

What does "should have known" mean and what is "reasonable care"? It depends on where you live. The rule of reasonable care applies more stringently to people who live in urban and inner suburban neighborhoods where the chance of harm is greater than it would be in a rural environment.

The bottom line: you've got to inspect your trees and ensure that they are in safe condition.

Here are some other questions that clients often ask us:

Q. Are there restrictions on planting trees on my property?

A. Surprisingly few. Not only does Massachusetts allow you to cover your lot with trees as you see fit, but you cannot be held liable for damages done to neighbors by invading roots, overhanging branches, sap or debris.

Q. What if a neighbor's tree encroaches on my property?

A. You can remove any branches or roots that cross the boundary line. And you don't have to wait until they damage your property before doing so.

Q. Can I be held responsible for damage caused by an Act of God?

A. No. Tree owners are not liable for damage caused by events such as windstorms or blizzards.

Q. What happens if I cut down or trim a neighbor's tree that does not encroach onto my property?

A. Possible trouble. Massachusetts General Laws chapter 242 § 7 says that a person who willfully cuts down or destroys the trees, timber, or wood on the land of another will be liable to the owner in tort for treble damages. The only exception to this rule is if the defendant had good reason to believe that the land he trespassed on was his own. Therefore, it is wise to be sure of where your property line is before cutting trees.

An Offer from Hartney Greymont.

We would be pleased to perform a visual inspection of your trees from the ground. The inspection will identify obvious visual defects and help you comply with your obligation to inspect your property for obvious hazards. For more information or to arrange a visit, please call us at 781-444-1227.

Note: The points above do not constitute legal opinions or advice—we're arborists, not lawyers. If you're interested in learning more about your obligations as a property owner, we suggest you speak with your attorney. 🍀



Plant a Home Orchard

We believe that just about everyone would like a fruit tree or two. The main obstacle seems to be the justifiable suspicion that fruit trees are hard to care for and more appropriate to warmer climes.

Today, we're going to address your concerns and, if possible, turn you into the kind of homeowner who can walk outside and eat an apple off his own tree.

Step One. Survey your property for a location that receives full sun. Lots of sunshine is essential to producing quality fruit. Next, be sure the soil drains well. Fruit tree roots do not prosper in soggy ground.

Step Two. Select a dwarf or semi-dwarf variety. This may not be your first impulse, but there are several good reasons to do this. Smaller trees produce sooner and produce more fruit per square foot of ground. Dwarf varieties are also easier to prune—and that's an important consideration. Finally, a small tree requires less space. That may not seem like a factor now, but, over time, it could be.

Step Three. Choose disease-resistant varieties. Besides lasting longer, a tree that can fend off disease and infestation will need less care and less pesticide. If you're planting apple trees, however, count on having to spray or hiring someone to spray for you if you want to be able to eat your apples out of hand. Lower quality or cider apples take a lot less work.

Step Four. Many varieties are not self-fruitful or only partly self-fruitful and need to be pollinated by other varieties. Granny Smith

is frequently used for this purpose. If pollination is a step you would prefer to avoid, simply check to see that the tree you're planting requires no cross-pollination.



Many commercial orchards have switched to close planting of dwarf trees to maximize yield per acre. The home gardener can use this technology also.

At Hartney Greymont, we've been planting fruit trees for clients since 1938 and have a good idea of what varieties are best suited to the climate and soils of New England. For example, the Dwarf Gala apple tree is hardy, self-fruitful and a pleasure to eat. Trees grow to about 15 feet and will produce six to twelve bushels per tree.

Among the thousands of apple varieties available, we strongly suggest you consider planting one or more of the following: Liberty, Red Tree, Nova Spy and Gold Rush, a

lovely late apple. These varieties are particularly disease-resistant and eliminate the need to treat for almost all diseases and likely only a few insect problems.

All in all, enjoying your own apple tree, or even an orchard, is eminently doable with a bit of time and study. As always, you can tap our knowledge with just a phone call. We're always ready to talk trees. 🍏



A dwarf apple tree, with a heavy load of fruit.

PHOTOGRAPH: JERRY A. PAYNE

PHOTOGRAPH: HOWARD F. SCHWARTZ

Don't Send a *Viburnum carlesii* to do the Job of a *Viburnum rhytidophyllum*

One of the first things that an arborist learns is that even the simplest planting decision involves practical, aesthetic and biological considerations.

Take something as seemingly mundane as planting shrubs in your yard. To get the greatest long-term value from your investment, you have to think carefully about what will do best where. There are significant differences between plants, even closely related ones.

You should also take into account what you want a given plant to accomplish. Objectives can range from enhancing the beauty of your property to screening a foundation or providing privacy. Finally, be sure to determine that the

requires full to moderate exposure to the sun and has spring flowers that are magnificently fragrant. The other viburnum does well in the shade, can grow eight to ten feet tall, and retains most of its foliage throughout the winter.

At Hartney Greymont, we commonly plant *viburnum carlesii*, or the Mayflower viburnum, near porches and under windows so that the seasonal fragrance will fill the room. We use the *viburnum rhytidophyllum*, or leather leaf viburnum, as a background or screening plant in shaded areas. Both plants thrive in this climate and constitute useful and attractive additions to the landscape—when employed in roles appropriate to each.

Now you have a better idea of how to choose shrubs for maximum effect and long-term success.

Of course, if you don't have the time or inclination to pursue the art of planting shrubs yourself, you can have it anyway. You know who to call. 🌿



shrub you have in mind is well suited to the climate. Just because it's sold at the local garden store, doesn't mean that it will flourish in New England.

For example, redwood trees can grow hundreds of feet tall but do well only in a narrow band along the Pacific Northwest coast. Mosses grow about an inch or so but can live happily almost anywhere in the country. Nature is nothing if not diverse—and it pays to study the differences.

Returning to your property and the shrub selection process, let's look at *Viburnum carlesii* and *Viburnum rhytidophyllum*.

These familiar landscape plants are cousins, but hardly similar. One grows to be about five feet tall, has deciduous leaves,



PHOTOGRAPH: THE DOW GARDENS ARCHIVE

The shade-loving leather leaf viburnum (viburnum rhytidophyllum) will grow well in many areas where the fragrant Mayflower viburnum (viburnum carlesii) may fail.



How Ted Wales, HG's turf specialist, cares for his lawn.

Leaflet: *What's the secret, Ted?*

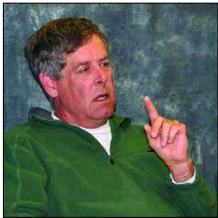
Ted: There are three factors to maintaining a healthy, good looking lawn. The first is mowing correctly. Adjust for about one-third of the grass blade. And only mow if your lawn is growing. Next, turn off those automatic sprinklers. Your lawn's water needs are variable. Finally, you've got to manage fertilizing and pest control properly.



"What takes a bit of thought is when to mow."

Leaflet: *You led off with mowing. Isn't that the easiest part?*

Ted: What takes a bit of thought is when to mow. It might be every five days in April when your grass is growing fast. You might not need to mow much at all during the summer. And use a mulching mower or return the clippings to the lawn. Grass in its natural state can be self-sustaining. The cut

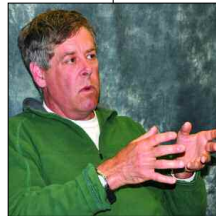


"I didn't water my lawn at all last summer;..."

grass actually provides nutrients to the lawn. It's good for the environment.

Leaflet: *And is there an ecologically sound way to water a lawn?*

Ted: What's best for your lawn and the environment as a whole is using only as much water as your lawn requires. That can't be automated unless you're using water and moisture sensors. I didn't water my lawn at all last summer;



"...many New Englanders don't know that the hot months are a dormant season for grass."

we were getting enough rain. If you're serious about doing it right, have HG install a WaterSmart system. It will guarantee that each species of plant in your yard, including the grass, gets just the amount of water it needs.

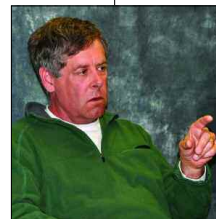
Leaflet: *How about fertilizers?*

Ted: Know what you're doing and don't overdo. Or get professional help to maintain the right balances. We've all seen yards

with alternating stripes of green and brown. Most people don't realize that brown grass signals a variety of problems, including grubs, watering errors and clumsy mowing. Another thing many New Englanders don't know is that the hot months are a dormant season for grass. Spring and fall are when your lawn is naturally primed for bright, green growth.

Leaflet: *Speaking of grubs...*

Ted: When it comes to lawns, the word "pest" covers everything from bugs to dandelions. Therefore, what you attack is really a question of personal preference. One trick I use to detect grubs is the tug test. Grab a tussock of grass and pull. If it comes up, that might mean grubs have consumed the root system. As for crab grass and dandelions, treat only when necessary. A healthy lawn is your best defense against pests.



"...you should rake up your leaves at least once a week in the fall."

EXPERIENCE OUR GUARANTEE

If you are not satisfied with any treatment or completed job, let us know. We will resolve the situation to your satisfaction, no questions asked. Our goal is not only to make sure your trees, shrubs, and lawn are as healthy as possible, but also to provide you with the peace of mind a satisfaction guarantee can bring.

Leaflet: *What else don't we know about our lawns?*

Ted: Here's one fact every homeowner should know: fallen leaves block photosynthesis. That means you should rake up your leaves at least once a week in the fall not just when all the leaves are down. Your lawn needs the sunlight to maintain its growth cycle and store carbohydrates.

Leaflet: *Some say maintaining lawns is ecologically wrong.*

Ted: Don't believe it. Grasslands are a key component of a sound ecosystem. Even your lawn has an important contribution to make. Grass is a water filter, a heat sink, an oxygen generator. And then there are the psychological benefits. We all need beautiful open spaces, especially in urban environments. The Park at Post Office Square in Boston is always crowded with people. There's plenty of asphalt around, but they prefer the green space. Who wouldn't? 🍃

PHOTOGRAPHY: SEYMOUR LEVY



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