



Trees and Fences

GETTING ALONG WITH THE NEIGHBOURS



éducaloi

INFORMATION EMPOWERS

Setting the Scene

Your neighbour just planted a new tree. It blocks your sunlight and, to top it all off, the branches are damaging your house.

Can you force him to take down the tree? If he refuses, can you trim the branches yourself?

In this article, Éducaloi explains rights and obligations between neighbours.



Also at educaloi.qc.ca:

- Hiring Contractors for Renovations
 - Hidden Defects: Rights of Buyers and Sellers
 - The Ins and Outs of Insurance
- and much more...

Can I cut branches or roots on my neighbour's tree if they are bothering me?

No. Just because the branches or roots are on your property doesn't mean you can take matters into your own hands.

You can discuss your concerns with your neighbour and ask him to cut them. If your neighbour refuses, you can ask a court to order him to cut them.

But to get a court order, you must prove the branches or roots are seriously interfering with your use of your property. Your complaint must be based on a serious problem. Common inconveniences, like a neighbour's tree shading your property, or your dislike for a particular kind of tree, are not enough.

Can I force my neighbour to cut down his tree if it risks falling onto my property?

You can ask your neighbour to either prop up the tree or chop it down. Your neighbour has a legal responsibility to prevent his tree from falling onto your property.

If you and your neighbour cannot reach an agreement, you can submit the dispute to a court and get an order to have the tree straightened or chopped down.

Do my neighbour's trees have to be a certain distance from my house?

Quebec law does not specify a precise distance. However, the law does require property owners to behave as "good neighbours".

This means that trees should be planted far enough from a neighbour's property to avoid harming that property. This distance will depend on the type of tree.

For example, it could be considered un-neighbourly to plant a weeping willow close to the property line, since this tree has branches that spread out and roots that could damage the property next door.

What if my neighbour's tree branches or roots damage my property?

The owner of a tree is responsible for any damage. You can ask him to pay money to compensate you. If he refuses, you can take him to court.

An example of a tree owner being found responsible is a case of a large pine tree that dripped sap onto the vehicles of three neighbours.

But what if a violent storm caused your neighbour's branches to damage your property? Your neighbour might blame the damage on an "act of God" to avoid paying for it. Sometimes the law considers severe weather, such as a very violent storm, to be an act of God and beyond the control of a tree owner.

On the other hand, if the tree is unhealthy, the law assumes that the poor state of the tree, and not the violent storm, is the main reason for falling branches.

Did you know?

A common fence is one built on the dividing line between properties. It belongs equally to the two owners. This means both owners must share the costs of construction and maintenance.

Can I plant any kind of tree on my property?

Some cities and towns have by-laws against tree species that can damage roads and water systems with their invasive roots. Contact your city or town to find out more.

Who owns the fence between me and my neighbour?

If you install a fence completely on your side of the dividing line - also called the "property line" - this fence is yours. You are the only owner and you must pay for it.

But if the fence is on the dividing line, you and your neighbour are legally equal partners. You must share the costs of construction and maintenance.

It is important to speak to your neighbour before building a fence on the dividing line. You can't just build a fence on the dividing line and then force him to pay for half.

Can I build any kind of fence on my property?

No. You must follow standards that apply in your city or town about height, the type of materials, etc.

If you respect these standards and build your fence on your property and not on the dividing line, you have a lot of flexibility.

But if you want to build a common fence on the dividing line, you must try to reach an agreement with your neighbour about the type of fence.

Before taking my neighbour to court over a tree or fence issue, is there something I need to do?

Yes. Before starting legal action, it is very important to send a demand letter telling your neighbour what you want him to do and your intentions, if he refuses.

For more information about demand letters, consult the video and articles on demand letters on Éducaloi's website.





Educaloï.qc.ca has over 2,000 answers to legal questions touching the daily lives of Quebecers.

Businesses and non-profits

Health
Housing Work

CRIMES, TICKETS AND FINES

Couples and families

Death and wills
Consumers

HUMAN RIGHTS

The legal system

Follow us on:



facebook.com/educaloï



twitter@educaloï

PARTNER MEMBERS

Barreau
du Québec



Chambre
des notaires
du Québec



Société québécoise
d'information juridique

Éducaloï also realizes its mission with support from



Ministère de la Justice
Canada

Department of Justice
Canada

Justice
Québec

The legal information in this pamphlet is up to date to the time of printing. The information is for general information purposes only. If you need legal advice on a specific problem, consult a lawyer or a notary. (09-2012)