

- A. *No. Provided the branches are causing no real nuisance, they are your responsibility if they are growing on your side of the fence.*
- Q. You remove a large branch from a neighbour's plum tree that is growing over your property. This is quite legal, but unfortunately the result of this "amputation" is that the neighbour's tree dies. Can your neighbour demand compensation?
- A. *No. You were within your rights when you cut off the branch on your side of the boundary. It could be argued that any resulting damage to the tree was the neighbour's fault because he did not prune the branch when it was young and the life of the tree was less likely to be affected.*

### Sunlight

- Q. Trees on a neighbour's property are blocking sunlight from your house and garden. Is this a good enough reason to insist they be cut back?
- A. *Yes. If neighbourly sweet reason fails, then you can take legal action. You will have to convince a court that the trees are having an adverse effect on your property and your enjoyment. If the court agrees, the neighbour will have to cut those trees back.*

### Views

- Q. When you bought your home 10 years ago you had a great view from your lounge window. But now a line of trees has grown high enough to block your view completely. The trees are not on your immediate neighbour's property but on a property further down the street. Can you do anything about having them cut back?
- A. *You would have to approach your local city or*

*district council with your complaint. If the council has a Bylaw or provision in its district scheme, it may accept your argument and order the trees to be cut back. If not, you could take the case to court, but this would be costly and you may not win.*

### Fruit

- Q. Fruit trees growing on your property branch out over your neighbour's. The neighbour picks all the fruit growing on her side of the fence. Can you do anything about it?
- A. *Yes. A neighbour must not take your property. Even if the branches are hanging well over your neighbour's section, the fruit on them still belongs to you. But the neighbour could exercise her right to cut off the branches which are "intruding" on her property.*

### Disclaimer

This brochure has been developed as a general guide only. The information has been supplied from Consumer Home & Garden magazine.

The Ruapehu District Council **does not** administer the Property Law Act 1952. For further advice or information please contact your lawyer.



# Tree and Your Neighbours

## Your Legal Rights



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The Property Law Amendment Act 1975 says property owners are responsible for any nuisance or damage their trees cause to neighbours, even if the trees were planted before they bought the property.

But decide first whether the nuisance is worth the risk of souring relationships with your neighbour. You need to decide too whether the problem outweighs the benefits the trees give you both—such as beauty, privacy, shelter and shade. Try to work out a solution tactfully. Give neighbours time to think about what you are suggesting. They may be quite happy to help you with any work caused by their trees if it means saving them. It's better to talk over the fence than in a court.

If you reach an impasse, you may need to take legal action. If you do, tell your neighbour—how would you feel if you received a court order in the name of your neighbour without warning? Your neighbour may co-operate if there is a legal obligation to do so.

If you go ahead with legal action, ask your lawyer to organise a court order. The District Court will then send a notice to your neighbour ordering action to be taken within a set time—or appear in court.

## Roots

- Q. A willow tree's roots on a neighbour's property continually block your drains. Twice in 18 months you have to get a plumber to clear them. He warns you that this will be a regular exercise—and expense—unless the cause of the problem is completely removed. Even worse, it could eventually cost you new drains. You approach your neighbour about having the tree removed. He indignantly points out that the tree was well established

on his property long before you bought the one next door and he has no intention of removing his tree for you and your drains.

- A. *The law does not accept that a tree planted 30 years ago cannot be "a nuisance" today. If all the facts in this situation were presented in court, the neighbour would probably be ordered to remove the tree.*
- Q. Some roots of your neighbour's macrocarpa tree start pushing up your carefully manicured lawn. You ask your neighbour to do something about it, but she says there is nothing she can do. You then ask her to have the tree removed. She is not prepared to do that. You decide to solve the problem by poisoning the roots on your side of the fence. Unfortunately the poison kills the tree and your neighbour threatens to take you to court for damaging her property. Can she do this?
- A. *Yes. You should have dug up/cut off the roots, or taken court action rather than use the poison that would lead to the death of the tree. You are allowed to remove any part of a neighbour's property that intrudes into yours. But your right to take action stops at the boundary line between your property and your neighbour's. Using poison that would have an effect beyond your side of the boundary is illegal.*



## Leaves

- Q. A neighbour's oak tree continually drops leaves in the guttering of your house, forcing you to climb a ladder every few weeks to get the leaves out. Do you have to suffer this inconvenience?
- A. *If the branches causing the problem are growing over your side of the fence you are allowed to prune them back to the fence. If not, you can ask your neighbour to cut back the trees or remove them. If the neighbour disagrees, you could get a court order to solve the problem.*
- Q. A large conifer growing on the other side of your back fence is obviously dying. You are concerned that at any time the tree, or part of it, could fall on your house. You ask your neighbour to do something about it. He tells you to mind your own business, as the tree is doing no harm and, in his opinion, is unlikely to fall down on you or your house. But you are not convinced. Can you have the tree chopped down?
- A. *Ask your lawyer to apply for a court order to have the tree removed. If the court agrees that the tree is likely to damage your house, the neighbour will have no choice but to cut it down.*

## Branches

- Q. You buy a section. There is a large chestnut tree growing on the next door property, with branches growing over onto your side of the boundary fence. The law allows you to cut off the branches on your side, but they are long and thick, making it a major operation. Is your neighbour obliged to do the work or pay for it to be done?