
tresspass timbering of trees

Posted by treetopper - 02/05/2008 02:45pm

Hello fellow tree lovers, I have a general question and favor to ask of anyone that has been in my situation:

I have a beautiful plot of land (16 acres) in WV. There is a creek going thru it, and there was once a grist mill where the 15 foot waterfall is. It washed away around 1910. My plan when I purchased the property was to put the grist mill back, produce electricity and live off the grid...it still is the plan, but this is where the other part of my plan was ruined.

My neighbors whom have 125 acres timbered their land and encroched onto my land and cut down 33 oak and poplar trees that were on my land. These trees were all at least 75-100 years old. The way the land sits in the steep valley, this was the only place where hardwoods grew...every where else there are pines, sycamores, ect. I had plans in putting in a treesort, where the treehouses would have a view of the waterfall. The only way to get to that part of my property is to hike across the creek...there are no roads on that side. Along with the treesort a climbing grove would have been established. Of all the trees on my 16 acres the ones that were timbered were the ones that provided great climbing...I don't find climbing hemlock's that much fun...no branch walking !

I do have a lawyer and a court date...late Sept.of 08. I just wanted to put my situation out there to see if anyone had any ideas or experience with such a problem, that could help in some way.?

also, if anyone needs a place to camp when going thru WV, drop me line...I will continue working on the land in hopes of a climbing grove, but my best trees are gone. I am working with the local forest to establish a climbing tree (kanawha state forest) we should have one going by the spring.

thanks for any suggestions,
be well,
rob

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Posted by oldtimer - 02/05/2008 05:42pm

That sounds like a typical case for an arborist or forester to determine the value of trees removed and ask for the repayment but I imagine the court in that part of the country will allow you to charge only for the value of the "timber" and disregard any of your plans for future development as pure fantasy. Sadly enough. IMHO.

Pretty sad situation and it is a bad way to start living in a place with a lawsuit pending on the neighbors that you will have to tolerate for the rest of your life or until they drive you crazy and leave. If they already did this damage and cause all that mess I imagine the kind of people they are. More concerned with making a quick buck even if it is plain stealing it from the neighbor's land! :angry:

Peter may know more about his kind of stuff with his many years of work in forestry in Atlanta, but he will probably reserve his opinion since he probably could be ask to testify as an expert witness for whatever he says here.

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Posted by sadams - 02/06/2008 12:01am

Treetopper,
Check out the American Society of Consulting Arborists website. You should be able to search and find an arborist local to you who can help. If not contact Jim Cortese,BCMA in Knoxville, TN at jim@cortesetree.com. He has experience with timber vs. replacement value et. al.

Meanwhile,
Best regards,
sadams

Re:tresspass timbering of trees

Posted by Oxman - 02/22/2008 03:09am

I'm not a lawyer, and I can't give legal advise, but the courts are there for you to ask to be compensated for the value of the lost trees. The documentation that you present will be all that the judge, jury, arbitor, insurance adjuster, etc. can use to determine the value of the lost trees. The neighbor will not be presenting any information about tree value, so you must assemble that data yourself.

One appraisal involved trees lost when an orchard ranch was logged off by one of the parties in a hostile divorce division of community property. Several methods were used to determine the value of the loss.

The loggers accidently started a brush fire when disposing of tree branches. The fire department log established the date, participant identities & location of the incident. The date was used to query the mills purchase records of the wood bought from the logger, establishing a baseline value of the claim.

The amenity tree value was arrived at by using the Basic Value formula developed by the Council of Tree & Landscape Appraisers. The irrigation system to the orchard was shut off during escrow, and the trees died in the summer heat, triggering lost Crop Value computations from previous years harvest income.

Keep in mind that the diminution of value in your land is actually a war of words. The only way a court can truely assess the market value is by a sale record showing how much the property sold for. The trees are merely improvements on that real estate.

Since comparing the sale price before and after tree loss is impossible, an estimate attempts to convince the judge how much the value would be if the property was sold with the trees still intact. Important values in your case can be determined by a real estate appraiser and a tree appraiser working in conjunction with an attorney.

If you value your trees, bet the cost of hiring these professionals against the risk of losing their fees if you lose in court. If you sue, expect to pay at least \$15,000 in costs, which the court may elect to add to the dollar amount of the judgement in your favor.

If you collect for the value of the lost trees, the lawsuit overhead may still make you a loser if the judge decides to require each party in the lawsuit pay their own attorneys fees.

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