

HOUSE No. 1849

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Rogers and Sean Garballey

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the protection of trees from interference by abutting property owners.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/18/2021</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/26/2021</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>2/26/2021</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>3/16/2021</i>

HOUSE No. 1849

By Messrs. Rogers of Cambridge and Garballey of Arlington, a petition (accompanied by bill, House, No. 1849) of David M. Rogers, Sean Garballey and others relative to the protection of trees from interference by abutting property owners. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to the protection of trees from interference by abutting property owners.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 7 of chapter 242 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by adding the following paragraph:-

3 When the roots or branches of a tree protrude or encroach onto abutting property,
4 creating a nuisance or causing property damage thereto, an abutting property owner who acts
5 reasonably in cutting, pruning or trimming the roots or branches to abate the nuisance or prevent
6 damage shall not be liable for monetary damages to the tree owner. A tree that straddles a
7 property boundary at its trunk shall be presumed to be jointly owned by the fee simple owners of
8 the properties on which the trunk is located, and said owners shall act reasonably with one
9 another in the cutting, pruning and trimming of the tree and its parts. There shall be a
10 presumption that an abutting property owner or a co-owner of a tree is not acting reasonably in
11 the cutting of the roots and branches of a tree if said cutting is caused by, or likely to be caused
12 by, excavation on the abutting property within the minimum front, side or rear yards set forth in

13 the zoning ordinances or by-laws of the municipality where the tree is located, whether said
14 ordinances or by-laws are waived or not, and said cutting has, or likely will, injure or destroy the
15 tree. The Superior Court and the Land Court for the county in which the damage to the tree is
16 occurring, or is about to occur, may, upon a civil action in which equitable or declaratory relief is
17 sought, determine whether such damage is occurring or is about to occur, and may, before the
18 final determination in the action, restrain the person causing or about to cause said damage.