



LAWYER ♦ AVOCAT

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### **“REAL NEWS!” Fall 2014 Issue**

Dear clients, friends and family,

It seems as quickly as the summer came, it has now gone. We are officially in the fall season. The leaves on the trees are falling; and there is a coolness in the air that foretells the weather soon to come. While we prepare for winter by pulling out the mittens and toques, there are a few things that you can do around your property to prepare your home for winter as well. Here is a list of a few things you might want to do to get your home ready:

- Check for gaps or drafts through doors and window to prevent heat loss;
- Close up or cover any openings to prevent small animals building their winter home;
- Turn off your outdoor water taps;
- Protect your air conditioners by covering the unit as instructed by your service provider;
- Schedule your furnace maintenance and inspection of your ducts, and fireplace;
- Check your fire detector and carbon monoxide detector;
- Make sure your winter things such as shovels, icemelter and firewood are close at hand.

In our past issue, we provided you with a summary of the Canadian Anti-Spam Legislation that came into effect on July 1, 2014. We hope that your transition period went as well as ours. We also finished our series on post-closing issues by looking at the meaning of vacant property and what to do when the property purchased was not left how you expected it to be when you moved in.

In this issue we will begin a series covering common issues experienced by neighbours. In this issue we will look at who owns and is responsible for the tree that is located between the properties?

Did you know that we post all our newsletters online? Yes, they are available on our website by clicking [here](#).

Sincerely,  
*Jacques & Jean*

## Who Owns the Tree?

Trees can become a costly expense to homeowners especially if a tree needs to be removed, maintained or treated for disease (as many homeowners have discovered with the recent explosion of the Emerald Ash Borer). Therefore, to understand which neighbours have to bear the potential cost of the tree on the property, the question is “who owns the tree?”

- Where the base of the tree lies is the determinative factor of who owns the tree.
  - A tree with a base completely located on a single property, is owned by the owner of that property;
  - A tree with a base growing on the boundary between two properties, is common property between the owners of the two properties.
- Whoever owns the tree is responsible for the maintenance of the tree. Therefore, if the tree is on the boundary and has two owners, both neighbours must agree to the maintenance of the tree.
- If you are not the owners of the tree and you wish to prune or maintain the tree, beware:
  - You could be found liable for trespassing if you do not have the written consent of the owner of the tree and you interfere with the tree.
  - You could be liable of an offence under the *Forestry Act* (s.10(3)) which states “Every person who injures or destroys a tree growing on the boundary between adjoining lands without consent of the land owners is guilty of an offence under this Act.”
  - Further you must be aware of the municipal by-laws that are in place in your area. Residents of the City of Ottawa must abide by the Urban Tree Conservation By-law.
- The Urban Tree Conservation By-Law (s.5) states “No person shall injure or destroy a tree or cause the injury or destruction of a tree unless a tree permit has been issued by the General Manager to permit the injury or destruction.”
- A tree permit will be required in all cases unless it falls into one of the exceptions. The most common exceptions include:
  - Pruning is necessary to maintain the health and condition of the tree and is carried out in accordance with good arboricultural practices;
  - The tree is an immediate threat to public health and safety;
  - The tree is not a distinctive tree and is located on a property one hectare or less in area.
    - The act defines a distinctive tree as any tree with a diameter at breast height of 50 centimeters or greater.

- A person who is convicted of an offence under the by-law is liable to a minimum fine of \$500.00 and a maximum fine of \$100,000.00.

## Community Events

**A list of community events taking place in Ottawa this summer include:**

- **Ottawa Food and Wine Festival:** November 6-9, 2014 @ Ottawa Convention Centre. For more information [click here.](#)
- **Signatures Show:** November 11-16, 2014 @ Ottawa Convention Centre. For more information [click here.](#)
- **European Union Film Festival:** November 13-30, 2014 @ Auditorium of the Library and Archives Canada, 395 Wellington Street. For more information [click here.](#)
- **100<sup>th</sup> Anniversary of the Beginning of WWI:** 2014 @ Canadian War Museum. The museum has several special exhibits throughout 2014-2015 to mark the centenary. For more information [click here.](#)

## Upcoming Events in Ottawa:

- For all upcoming events in Ottawa, please contact the Ottawa tourism website at: <http://www.ottawatourism.ca/en/visitors/plan-a-visit/event-calendar>
- Orleans Start Newspaper: <http://www.orleansstar.ca/>
- Ottawa Chamber of Commerce: [http://www.ottawachamber.ca/ottawa\\_events/upcoming\\_events.aspx](http://www.ottawachamber.ca/ottawa_events/upcoming_events.aspx)
- Ottawa Kiosk – events information: <http://www.ottawakiosk.com/events.html>
- Barrhaven Independent: <http://www.barrhavenindependent.on.ca/>

\*\* IMPORTANT: please note that information provided in this newsletter is not intended to be legal advice. There could be many factors unknown to us that could have an impact on your situation. Please do not hesitate to contact us if you require any further information on these issues.

## About the Jacques Robert Law Office

With the dynamic vision of its key player, Jacques Robert, our firm has grown to be one of the largest real estate law firms in the Ottawa area. To meet the changing face of Real Estate Law we are continually upgrading our systems and competitively adjusting our pricing structures.

Our highly trained legal team, consisting of Robin Goski (associate lawyer), Adriana Caruso (law clerk), Melanie McNeil (law clerk), Sonia D'Angelo (law clerk), Lynda Francoeur (receptionist/admin), and Milva Caruso (law clerk and office manager) are all well versed in the area of real estate law, wills and estates. We offer a fully bilingual service to our clientele - nos services sont également disponibles en français.

Our firm is on the recommended rosters for the Department of National Defense, RCMP as well as many corporate relocation firms. We are on the recommended list for all of the major builders in the region.

We have 5 locations for our clients signing convenience: the East, Central, West, South and South-West parts of the city. Our Central Administration is conducted at the East office which is located in Orleans just minutes from the Queensway, the main freeway through Ottawa from West to East. We are open daily from 9:00 am until 5:00 pm.

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Visit our website at [www.jacquesrobert.com](http://www.jacquesrobert.com) for more information.

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