



Donald Zouras
837 Francine Dr.
Bartlett, IL 60103

September 15, 2007

Mr. James G. Wiard
53 West Jackson Boulevard - Suite 1025
Chicago, IL 60604

Dear Mr. Wiard:

I was saddened by the receipt of your letter. It is a shame that your clients, Mr. and Mrs. Janisch, are so ignorant about trees that they refer to pollen and seeds as “effluent”. Pollen and seeds from a tree are not pollutants. Pollen is a natural substance discharged from the male part of a flower and contains a male gamete that can fertilize the female ovule. A seed is a flowering plant's unit of reproduction, capable of developing into another such plant. The tree that your clients have maligned is a river birch (*Betula nigra*). It is commonly admired for its outstanding ornamental bark and highly symmetrical branching that yields an upright oval growth habit. This makes it valuable in the home landscape as a visually appealing specimen as well as a useful provider of shade.

It is unfortunate that your client believes that this tree is a nuisance. It is a healthy living thing and shows no sign of disease or dead limbs. The life cycle of a tree naturally results in dropped branches, leaves, seeds and pollen. The attempt to eliminate these things from our environment is a foolish endeavor, which shows contempt and ignorance of the natural processes that make life on this planet possible. I question the magnitude of the nuisance claimed by your client. The photo you provided that shows the seeds next to the downspout only proves that the gutter was not clogged. The seeds were obviously washed out of the gutter with sufficient force to leave them a significant distance from the end of the downspout. There are three specimens of this species of tree in close proximity to my house. Despite that fact, my gutters are never clogged. I have no gutter guards of any type installed. In fact, my research has found that gutter guards are rarely as effective as the advertisements would lead one to believe. In the end, they simply make it more difficult to clean out the debris which will inevitably find its way into the gutter. Nature is messy and we all must learn to live with it, because we cannot live without it.

I have reviewed the pamphlet provided by the Village of Bartlett. Please refer to the section that states: “Some people see trees as an asset; they provide a wonderful backdrop for your home, screening from some bad views, a wind break, shade from the

hot blistering sun...” As you may have determined, I am one of those people who sees trees as an asset rather than a nuisance. It further states: “The common sense rationale is that if the courts were to decide that the adjoining landowners were absolute owners of that part of the tree standing over their land, that they could cut that part of the tree leading to impractical results.” This directly relates to your threat of “radical defoliation” which clearly falls into the category of impractical results. The pamphlet suggests that the rights of the landowner “must be balanced against injuring, damaging or destroying the tree.”

While your clients are within their legal rights to cut off any encroachment, what is legal only represents the lowest threshold of acceptable behavior. The intimidating tone of your letter does not affect my position on the value of the tree nor my belief that it does not represent a significant nuisance. I therefore must decline your suggestion that I should take action to have the tree trimmed. If your clients want the tree to be trimmed, I strongly recommend that they hire a professional. The pamphlet suggests that they should “have a certified arborist look at the tree and give a written opinion. If the tree is going to be cut back, make sure it will not harm the tree.” This is especially valuable advice as *Betula nigra* should only be pruned during specific times of the year to avoid disease and insect infestation. I am confident that your clients would not want to be held liable for causing the death of my valuable tree, so they will surely take every precaution to ensure its continued health.

While I found the tone of your correspondence anything but neighborly, I chose to respond in the hope that Mr. and Mrs. Janisch will carefully consider any action they choose to take against my tree. I hope they do not feel it necessary to ruin the aesthetic appeal of the tree, but if they do, they must not overstep their legal rights while doing it.

Sincerely,

Donald Zouras
