



BETH DIN of AMERICA
בית דין דאמריקא

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The Beth Din of America takes confidentiality very seriously. Before publishing any case, we modify key details to protect the identities of all parties involved. Names, dates, locations, and other identifying information are changed or omitted, and certain unique facts may be altered. For example, the industry in which the dispute took place is often modified.

ח' אדר תשפ"ו

February 25, 2026

Psak Din

Silverman v. Cohen

The Beth Din of America (the “Beth Din”) was chosen by the parties as arbitrators pursuant to an arbitration agreement (the “Agreement”, attached hereto as Exhibit A) dated as of October 23, 2025, between Eitan and Shira Silverman, with an address at 336 3rd St, Brooklyn, NY 11215, and Noam and Talia Cohen, with an address at 338 3rd St, Brooklyn, NY 11215, to submit to the Beth Din of America for a binding decision with respect to differences and disputes in reference to a tree removal. The Beth Din, having heard extensive testimony from all the parties, having read their material submissions, and having given said matters due consideration, hereby decides as follows:

A Tree Falls in Brooklyn

The Silvermans and the Cohens are neighbors in the Park Slope neighborhood of Brooklyn, NY. The Silverman lot was home to a mature sycamore tree that was approximately seventy years old. Shira Silverman testified that this tree was of particular aesthetic and emotional value to her and her property, and one of the things they loved about the home when they purchased it several years ago. Trees are a scarce commodity in Brooklyn, and such distinguished trees are even rarer. This sycamore, according to her testimony, was part of a ring of similar septuagenarian trees that once surrounded the area.

The canopy of this sycamore extended into the airspace of the neighboring property, which was recently purchased by the Cohens. To the tree’s bad fortune, Noam Cohen did not share Shira Silverman’s affection for it, and shortly after acquiring the property, he expressed his intention to cut the limbs overhanging his lot. Mr. Cohen wanted sunlight which was blocked by the canopy of the Silvermans’ sycamore.

Concerned for the wellbeing of her tree, Mrs. Silverman offered to hire and cover the costs of a tree service to prune the branches that extended into Mr. Cohen’s airspace. Mr. Cohen declined this offer and specifically forbade her or any workers hired by the Silvermans from coming onto his property.

Later that summer, while the Silvermans were in Israel for a family simcha, Cohen arranged for several students from a local yeshiva to perform the work using rented equipment. None of the individuals involved held arborist certification or specialized training in mature tree pruning.

Claims

The Silvermans acknowledge that Cohen had a legal right under New York law to prune the branches that invaded his airspace. However, the Silvermans argue that Cohen's workers cut branches on the Silverman side of the property line, and that while Cohen had a duty to minimize damage to their tree, the tree was cut in a reckless manner that was contrary to industry standards and caused irreparable harm to the tree, which the Silvermans' ultimately had to take down, and damaged the Silverman backyard.

The Arborist Report

The Silvermans commissioned a report by a certified arborist detailing the damage to the tree. The report states that accepted arboricultural practice typically limits canopy removal to roughly one-quarter of live foliage in a single pruning, while the work performed here removed approximately one-half of the canopy. The report further states that "accepted arboricultural practice calls for reduction cuts to be made back to a suitable lateral branch, generally one that is at least one-third the diameter of the parent branch, so that the tree can properly compartmentalize and continue healthy growth. Cuts that leave "stubs," without an appropriate lateral branch to assume growth, are generally considered improper and may invite decay." According to the arborist, many of the cuts performed here did not conform to those practices and left significant stubs rather than proper reduction cuts.

The arborist further observed that the pruning removed substantial interior growth, leaving elongated branches with foliage concentrated at the ends. This practice, sometimes referred to in arboriculture as over-thinning, can increase wind loading, reduce structural integrity, and stress the tree's vascular system, thereby increasing the likelihood of disease and decline.

In addition, the report describes other damages associated with the Cohens' pruning. The individuals who performed the pruning "spiked" the tree trunk in order to climb it, puncturing holes into the trunk and limbs to hold the climber in place. This "damages the tree's cambium, and invites decay, disease, and insects."

The arborist further opined that "the cumulative effect of the canopy reduction, improper cut placement, and associated mechanical damage compromised the tree's structural integrity and long-term vitality." In his assessment, "these conditions materially increased the likelihood of limb failure and placed the tree at a high risk of significant limb failure and potential collapse."

The report concluded that the pruning practices employed were inconsistent with accepted arboricultural standards and that the resulting harm was unlikely to be reversible. According to the arborist, the tree's structural stability and overall health were substantially diminished, and it would not reasonably be expected to return to its prior condition. The arborist further advised that, given the extent of the structural compromise and the increased likelihood of failure, removal of the tree was a reasonable course of action to mitigate ongoing risk to persons and property and to avoid escalating remediation costs.

The report also identified collateral damage to the Silvermans' backyard, including harm to adjacent plantings and disturbance to the soil and landscaping in the area beneath the canopy where removed branches fell.

Damages

The Silvermans seek damages for the destroyed tree and for related damages to their property, including the cost of replacement shade, landscaping, and replacing some of the garden, shrubbery, and vines that were damaged by the felled tree limbs. The Silvermans claim that they have already spent \$6,331.25 to remove the remainder of the tree, which had become a high risk of falling, as well as \$3,500 to replace the sod, even out the lawn, and reseed. The Silvermans also seek an additional \$18,414 to replace the lost shade with *Nyssa* trees and to replace the bushes, plantings and vines. They submitted landscaping estimates from Four Seasons Landscaping Inc. as the basis for their costs of repair and replacement.

Cohen counters that he was entitled to cut any branch overhanging his property and that Silvermans' evaluation of damages is inflated. Cohen claims the true cost of replacing the shade and landscaping is closer to \$4,500 and submitted an estimate for these repairs. However, the gardener who provided the estimate declined to testify at the hearing in support of his estimate.

Decision

As a self help remedy, Jewish law allows a neighbor to cut branches overhanging his property where they interfere with the use and enjoyment of his land.¹ But a self-help remedy requires one to mitigate damage

¹ See Bava Batra 27b, and Shulchan Arukh Choshen Mishpat 155:26:

מי שהיה אילן חבירו נוטה לתוך שדהו, קוצץ כמלא מרדע ע"ג המחרשה ובחרוב ובשקמה כל הנוטה עד שיהיה שקול כנגד המצר.

For the requirement that the tree interfere with the use and enjoyment of the land, see *Pitchei Choshen Nezikin* 13:43:

וכן כל אילן חבירו שענפיו נוטים לתוך שלו, קוצץ מה שמפריע לו.

And note 90 therein:

אם אינם מפריעים לו אסור לו לקצוץ.

These authorities acknowledge that interference with use of airspace or blocking sunlight constitutes interference and thus a legitimate ground for cutting back the tree. See note 91 therein:

ונראה דה"ה אם הענפים נוטים לחצרו ומפריעים לאויר ואורה, יכול לקצוץ.

For the characterization of the pruning right as a self help remedy assigned to the injured party as opposed to an obligation on the tree owner, see Responsa *Chelkas Yaakov*, *Choshen Mishpat* no. 10:

רשאי הניזק בעצמו להרחיק נזקו אבל אין חיוב על בעל האילן.

For further discussion, see Rabbi Yona Reiss, *Kanfei Yona* (2018), chapter 6.

to the other party to the greatest extent possible.² Furthermore, this right is limited to pruning branches back to the property line, not beyond it.³

Silverman offered to have the tree pruned by her preferred tree removal company, in a manner that would have preserved the health and longevity of the tree. She even offered to cover the costs. Instead, as the arborist concluded, Cohen had the limbs cut in a manner that was harmful to the health of the tree. The arborist report also detailed how several of the tree limbs were cut on the Silverman side of the property line.

Jewish law often incorporates the local law of the jurisdiction, either through the principle of *dina de-malkhuta dina* or *minhag ha-medinah*.⁴ New York law provides that an adjoining landowner may resort to self help to remove branches that extend into his property.⁵ Yet New York courts have held that “the right to self help extends to ordinary trimming and clipping, and does not extend to the destruction of, or injury to, the main support systems of the tree; nor does it extend past the adjoining landowner’s property line.”⁶

In general, a mature tree can add significant value to a property.⁷ In addition, the Silvermans incurred substantial costs in removing the tree after it became a risk of falling. They also incurred costs to repair the landscaping in the backyard. After reviewing both parties’ estimates for the costs of repair and replacement, we award the Silvermans \$15,000 in damages for the tree and remediation.

While the Silvermans seek a higher award for damages, we note that (i) as claimants, the Silvermans bear the halakhic burden of proof, (ii) there are uncertainties regarding the state of the Silvermans’ landscaping prior to the cutting of the tree, (iii) the Cohens’ lower estimate, while incomplete in certain respects, contained credible components, particularly with respect to market pricing for comparable replacement trees and landscaping work, which we have taken into account in determining a reasonable damages figure.

² See Bava Kamma 28a, Rashi s.v. *ke-sheyekholah* and Tosafot s.v. *lo*, both holding that a self-help remedy becomes wrongful when an alternative remedy is available that will impose less damage on the opposing party (כיון דיכולה להציל על ידי דבר אחר אפילו דין אינו).

In the context of cutting back trees, the Tur limits the pruning right to “*kedei hezeko*”—to the extent necessary to redress the harm—not beyond. See Tur Choshen Mishpat 155:

תשובה לגאון ראובן יש לו תאנה ושרשיה בתוך כותלו של לוי נופו נוטה על גבי עלייתו ומעכבו מלהטיח את גגו ורוצה לוי לקוץ
נוף המעכבו הדין עמו שהתורה נתנה רשות לניזק לקוץ כדי היזקו.

³ See Shulchan Arukh Choshen Mishpat 155:26, above, note 1:

מי שהיה אילן חבירו נוטה לתוך שדהו, קוצץ... עד שיהיה שקול כנגד המצר.

See also Rambam Commentary on the Mishnah Bava Batra 2:13:

שנקצצין הענפים כנגד הגבול שבין שתי השדות.

⁴ See Rabbi Itamar Rosensweig, “[Jewish Law and Commercial Custom](#),” *Jewishprudence* (June 2020).

⁵ See 1 N.Y. Jur. 2d Adjoining Landowners § 65.

⁶ Turner v. Coppola, 102 Misc. 2d 1043 (Sup. Ct. 1980), aff’d, 78 A.D.2d 781 (2d Dep’t 1980).

⁷ See, e.g., <https://www.homesandgardens.com/news/trees-that-increase-property-value> and <https://www.naturewithin.info/Policy/Hedonics.pdf>.

Order

The Cohens are ordered to pay \$15,000 to the Silvermans within thirty (30) days following the issuance of this psak.

All other claims are denied. Any request for modification of this award by the arbitration panel shall be in accordance with the rules and procedures of the Beth Din of America, the provisions set forth herein, and the arbitration agreement of the parties. The obligations set forth herein shall be enforceable in any court of competent jurisdiction, in accordance with the rules and procedures of the Beth Din of America and the arbitration agreement. Any provision of this agreement may be modified with the written consent of both parties. Except as otherwise indicated, all of the provisions of this decision shall take effect immediately.

IN WITNESS WHEREOF, we hereby sign and affirm this decision as of the date written above.

Rabbi AA

Professor BB, Esq.

Rabbi CC