

## PROPERTY RIGHTS

### FACTS:

Indiana's Constitution states, "No person's property shall be taken by law without just compensation; nor except in case of the state, without such compensation first assessed and tendered." - *Article 1, Section 21*

These property rights are guaranteed not only by our State's Constitution but also by our Nation's Constitution.

### QUESTIONS:

Should the Indiana State Legislature affirm the property rights of Landowners by prohibiting any state agency from creating or approving any rule or regulation which denies these property rights? Should a Utility be permitted to circumvent constitutional rights?

Brave men and women have given their lives to defend these principles. Honor their memory - write your letter today.

## PRIOR NOTIFICATION

### FACTS:

Utilities rarely identify the exact day when trimming is scheduled. Therefore, the Landowner is frequently not present. Utilities sometimes notify anyone on the property who may or may not be the owner.

### QUESTIONS:

Should a Landowner be provided prior notification including the exact date and time of any tree work affecting their property (tree trimming or removal) with a statement of what is to be trimmed or removed? Should the Utilities be required to obtain verification from the Landowner – that the legal Landowner actually received advanced notice?

## TRESPASS

### FACTS:

Utilities have brought heavy equipment on or through one property to service a neighbor's even though, within a few houses distance, a proper access route to the neighbor was available.

#### QUESTIONS:

Should a Utility be allowed unrestricted access to your private property for their convenience to reach another property? Even when there is an alternate route nearby?

### DAMAGES

#### FACTS:

During the course of tree trimming fences, flower beds and bushes are sometimes damaged. Also, debris, tree trunks and stumps may be left and not removed.

#### QUESTIONS:

Should a Utility be accountable when they or their contractor damages your property, leave debris for you to clean up or leave stumps and trunks for you to remove? Should they be required to remediate damages within a fixed period of time [like two weeks]? Should a Utility pay a Landowner a penalty for failure to meet these obligations - both as to the remediation and the time to achieve it?

### COMPENSATION

#### FACTS:

Currently, a Utility may offer a tree voucher from a nearby nursery, usually worth \$100 to \$200, to buy a new, young tree sapling as compensation for an old-growth tree worth many \$1,000s. The old-growth tree performs shading for buildings and blocks out wind saving energy and reducing the use of fossil fuels. The old-growth tree also has aesthetic benefits and has demonstrated increases in home resale prices. The old-growth tree also performs vital sound absorption, carbon sink and pollution reduction functions for your local neighborhood.

#### QUESTIONS:

If a Utility severely damages your tree, such as cutting off a whole side of your tree or destroying a tree, should the Utility be held to the constitutional standard of "just compensation" as dictated in Article 1, Section 21 of the Indiana State Constitution?

### DISPUTE RESOLUTIONS

#### FACTS:

The Utility rarely reveals its tree trimming or removal plans. Objections by a Landowner to a Utility's trimming or removal plans, if these plans are revealed, are often ignored.

#### QUESTIONS:

Is it OK for a Utility to not reveal their plans? Should Utilities have full, unchallenged discretion to trim or remove any tree by any means they deem appropriate? Is it OK for Utilities to ignore a Landowner's objections? Should disputes between a Landowner and the Utility be resolved prior to the commencement of any trimming work?

Remember once a tree has been cut down it is too late to act. Write your letter today – take action now before damages happen again.

## RESPONSIBILITIES OF IURC & OUCC

FACTS:

**The History** The Indiana Utility Regulatory Commission (IURC) was created many years ago by the Indiana State Legislature to represent the interests and rights of both the Utilities and the Consumers. Each utility was given exclusive geographic areas. The Office of the Utility Consumer Counselor (OUCC) was then created. The OUCC represents Hoosiers as the peoples' attorney in all cases tried before the IURC. In cases before the IURC, there is an administrative judge with up to five commissioners who function as the jury.

When these two agencies were created, tree trimming practices were not the problem they are today. The state legislature never gave the IURC the statutory authority to award damages. Neither the OUCC nor the IURC have uniform vegetation standards in place or the staff specifically trained to handle wide ranging vegetation management issues. And, for many years both the IURC and the OUCC have not wanted to be involved in tree trimming complaints. Consequently, they would advise anyone with a tree trimming complaint involving damage to take their dispute to court. Individual Landowners have no protection at the IURC or representation at the OUCC for such tree complaints today unless the law is changed.

**The Result** The OUCC's lack of statutory authority to award damages is a problem in that the Utilities have all the power. This lack of authority by the IURC is, of course, highly supported by the Utilities. The Utilities know most families could never afford the legal option to battle the ultra-well financed Utilities and their high-priced attorneys in courts of law. With their economic power, the Utilities would win handily nearly every time.

QUESTIONS:

Should the Legislature amend current law to give the IURC the necessary authority to award damages or to fine Utilities when abusive trimming has taken place? Should laws be amended to direct the OUCC to represent individual Hoosiers in tree related matters before the IURC? Should the IURC be compelled to create uniform statewide vegetation standards that balance the needs of Landowners and Utilities? Respond today – write your letter.

## INCENTIVES

### FACTS:

Tree trimming was historically performed in house by the Utility as part of their business. Now Utilities typically contract tree trimming to large, private, multistate contractors on a bid basis. These contractors are often paid on a “unit basis,” not a time and materials basis. The contractors often get paid the same whether a unit takes ten minutes or ten hours. Thus, speed and efficiency are rewarded while aesthetics, detail and Landowners’ priorities are not.

The lucrative tree trimming business in Indiana is a \$60+ million business for just a few. The private contractor has a huge financial stake in maintaining a relationship with the government protected Utility and none with the on-off contact they have with the individual Landowner. The contractor becomes cozy with the Utility, and the Landowner is on the outside with no leverage and no government oversight for this quasi-governmental activity.

### QUESTIONS:

Should contractors’ incentives be balanced to reflect Landowner priorities too? Should the legislature require tree trimming bids and contracts be made available for anyone to view on the Internet? Should there be a transparent, Internet viewable process for tree trimming complaints to be tracked (much like the Better Business Bureau)?