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Couple to pay \$555K after clearing neighbor's lot without permission

By KRISTINA SMITH Staff writer

PORT CLINTON -- A Johnson's Island couple must pay their neighbors \$555,000 for removing the neighbors' trees to enhance the couple's view of the Sandusky Bay, a jury decided.

Edward and Judy Gerhart, who live on Baycliffs Drive in the Baycliffs Subdivision, hired a contractor to clear the lot next to theirs in 2004 without permission from owners John and Sandra Frey of Marietta, Ga., the jury ruled last week after a four-day civil trial in Ottawa County Common Pleas Court.

"That's the largest jury verdict I've ever had," Judge Paul Moon said. "My sense of things is that the jury was just simply outraged."

The jury also exonerated the contractor the Gerharts hired to cut down the trees, East Harbor Excavating owner Todd Harris, who was a co-defendant in the case. The Gerharts blamed Harris, saying he should have known which trees were on the Freys' property and her empty lot, court records show.

"We argued to the jury (Judy Gerhart) knew what she was doing," said Harris' attorney, Thomas DeBacco of Port Clinton. "She set him up."

The Gerharts' attorney, Shannon George of Toledo, and the Freys' attorney, Patrick Murray of Sandusky, were not available for comment.

Johnson's Island is part of the village of Marblehead and can be accessed by a causeway off the Marblehead Peninsula.

The Gerharts have a home on one lot and own an empty lot on Baycliffs Drive, court records show. The Freys' empty lot is located between the Gerharts' properties.

After Harris removed the trees, Judy Gerhart, a Realtor in the Cleveland area whose permanent residence is in Bay Village, put the lot on the market and advertised it as having a "million-dollar view," DeBacco said.

The view from the Gerharts' patio also was enhanced after the tree removal, court records show.

The Freys are Ohio natives who spent vacations on Catawba, according to court records. They bought the Johnson's Island property in 2000 but never made any plans to build there, Sandra Frey testified during a March deposition hearing.

Several trees, many of them buckeyes, attracted her to the land. So she and her husband were shocked

when they arrived on the island July 4, 2004, and found many of the trees were gone, she testified.

"It looked like somebody put a bomb in our lot," she said. "It just absolutely devastated me."

The Freys visit their property for about two weeks a year, DeBacco said. They maintain it and picnic there, court records show.

During her March deposition, Judy Gerhart said she marked the property lines and told Harris not to cut down anything on the Freys' land.

"I relied on him," she said. "That's his job."

Although the case concerning the Freys is decided, the court must still decide Harris' lawsuit against the Gerharts for attorney fees and damages, DeBacco said.

The Gerharts also have a case pending against Harris, he said.

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