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## The Morality of Tree Ordinances

On Christmas Eve, 2017, owners of a parcel of land in Victoria, Texas, had several oak trees removed from their property. The owner's actions renewed a debate that has been raging across Texas: Should property owners be allowed to remove trees on their land whenever they desire? Or should government regulate tree removal?

As the trees were being removed, one Victoria resident expressed her opinion, telling the *Victoria Advocate*, "These oak trees are an integral part of our history. And for them to do this the morning before Christmas, it's morally wrong."<sup>1</sup>

There is a moral issue involved, but what is it? Is it immoral to remove trees? Or is it just immoral to do so on Christmas Eve? To answer this, we must look at the full context. Only then can we reach an informed decision.

Advocates of preservation ordinances, whether of buildings or trees, argue that protecting historical relics is crucial to preserving our heritage. As an example, a few days after the controversy in Victoria erupted, the local paper reported,

[Bernard] Klimist, who has run a law firm from a historic building he renovated on Santa Rosa Street since 1991, said the property owner's rights must be tempered by where the property is.

"When you buy in Old Victoria, you need to have the same love as everyone else and respect the historic qualities of it. It's as simple as that," he said.<sup>2</sup>

To Klimist, the issue is clear: If you buy property in certain areas you must share the values of your neighbors. And if you don't, your property rights will be "tempered." Your right to use your property will be restricted by your neighbors. This reveals the moral issue involved in tree ordinances (and many other land-use ordinances).

The advocates of tree ordinances believe that individuals are subordinate to the values and desires of the community. If enough individuals want to preserve old trees (or old buildings or ban short-term rentals), then they should be able to prohibit others from using their property as they

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1. Ismael Perez, "Tree removal from downtown Victoria upsets residents," *The Victoria Advocate*, December 25, 2017, <https://www.victoriaadvocate.com/news/2017/dec/25/trees-removed-from-historic-downtown-victoria-upse/>, accessed February 21, 2018.

2. Jessica Priest, "Preservation, property rights at odds again," *The Victoria Advocate*, December 30, 2017, <https://www.victoriaadvocate.com/news/2017/dec/30/preservation-property-rights-at-odds-again/>, accessed February 21, 2018.

choose. The community should be able to dictate to the individual. According to the preservationists, the individual should sacrifice his values to the community.

The morality underlying preservation ordinances is that of subservience and sacrifice. The individual should subjugate his own self-interest to the “public interest.” And if he refuses to do so “voluntarily,” he will be fined or thrown into jail. Individuals cannot act as they think best, but only as their neighbors will allow.

Preservationists value trees and old buildings more than individual human beings. They want to preserve the past while destroying the lives of those living in the present. In truth, they aren’t trying to preserve the past. They are trying to return to it.

The American Revolution was fought for the principles of individual rights, including property rights. The founding of America was a break from the past, a declaration that individuals—each individual should be free to live his life as he chooses, so long as he respects the freedom of others to do the same. The Constitution was written to protect this freedom. As James Madison wrote in the Federalist Papers, the Constitution would protect individuals from the passions of factions. Fundamentally, the American Revolution wasn’t about America’s independence from Great Britain; it was about the individual’s independence from the group.

Preservationists want to return to a time when the passions of factions—the community—can be imposed on individuals. They want to return to a time when individuals could not live as they deemed best, but had to live as the tribe dictated.

Neighborhoods and communities are the modern-day tribe.

In tribes, the individual is subordinate to the alleged well-being of the group. He cannot live for his own benefit and self-interest. Instead, he must live for the benefit of the “tribe interest.” He cannot act on his own judgment, but only as the tribal leaders deem appropriate.

The modern tribe holds that the individual is subordinate to the alleged well-being of the group. He cannot live for his own benefit and self-interest. Instead, he must live for the benefit of the “public interest.” He cannot act on his own judgment, but only as the community leaders—politicians and bureaucrats—deem appropriate.

Fundamentally, the debate over tree ordinances isn’t political: preservation versus property rights. Fundamentally, the debate is moral: subordination to the group versus individual liberty.

If we want the freedom to live our lives as we choose, then we must accept the fact that some people may choose to live their lives, and use their property, in ways that we don’t like. If we don’t accept that fact, and we try to force them to conform to our values, then we have rejected individual liberty. And we have opened the door for those who don’t like how we live our lives.



The Texas Institute for Property Rights provides analysis, training, and resources for legislators, businesses, organizations, and property owners.

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