
Mow Your Lawn or Lose Your House!

Segment Length: 4:31 minutes

Lesson Description:

When does a fine become excessive or even oppressive? Do local governments impose fines for the benefit of their communities or their budgets? In this segment, John Stossel reports that a person might lose his home because of a \$30,000 fine for long grass.

Concepts & Key Terms:

Eighth Amendment – included in the Bill of Rights in the U.S. Constitution. The amendment states: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

Public interest law firm – a law firm which works to advance a particular legal cause, such as adherence to the Eighth Amendment; these firms are often non-profit organizations that do not bill clients for their work.

Objectives:

Students will be able to:

- discuss the concern about local governments using fines as sources of revenue.
- identify reasons local governments have regulations on the appearance of people’s property.
- explain the Eighth Amendment and relate it to fines imposed by local governments.
- propose solutions to the problems caused by local government-imposed fines.

Preview Activity:

Use Think, Pair, Share to have students answer the preview questions. After a few minutes, poll the students. Ask the students to discuss their answers.

Why do local governments have laws requiring lawns to be mowed?

What enforcement options do they have?

Viewing Guide:

We recommend that teachers show the video segment twice: once to allow students to view the video and focus on the issues presented, and once to allow them time to complete the viewing guide. After they complete the viewing guide, allow students a few minutes to work in pairs sharing and verifying answers.

Answers to Viewing Guide

1. \$500
2. foreclose
3. media
4. lawn service
5. bullies
6. excessive fines

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Viewing Guide

Name _____

Date _____

Class _____

Teacher _____

Directions: As you watch the video, fill in the blanks with the correct words.

1. City officials then started fining Ficken \$ _____ a day because his grass had grown longer than ten inches.
2. Because Ficken doesn't have \$30,000, the city says it will _____ on his home to collect the fine.
3. Dunedin's politicians wouldn't talk to us. Instead, they paid \$25,000 to this public relations firm to speak to the _____.
4. They could have done what their own ordinances permit them to do, which is hire a _____ to come out and mow the grass, and send Jim a bill for 150 bucks, but they didn't do that.
5. The city is just a bunch of _____, and they expect people not to stand up to 'em because to stand up to 'em requires expensive legal help.
6. So we should be grateful for the Eighth Amendment. It protects us from _____ and what's more excessive than politicians taking your home because you didn't cut your grass?

Now, take a few moments to reflect on the video and answer the questions below:

The City of Dunedin has the authority to enforce its lawn ordinance by hiring groundskeepers and sending the bill to the homeowner. Why is this relevant to the story?

What if you lived next to a person whose front yard you considered an eyesore--grass a foot high or whose lawn was strewn with "stuff." Would you care? _____ Why / Why not? _____

What solutions could you suggest? _____

Discussion and Analysis:

1. Why might local governments have regulations on the appearance of people's property?
2. Why fine people for tall grass? To deter homeowners from letting their grass grow too long? To punish homeowners for creating an eyesore with their lawns? To compensate the community for the nuisance of long grass?
3. Without regard to being excessive, what enforcement mechanisms might be effective?
4. The Eight Amendment says excessive fines shall not be imposed. When does a fine become excessive?
5. Why might a city want to raise revenue through fines rather than raising taxes?
6. If people don't like their local government's regulations, why don't they just move?
7. Should Jim Ficken have to pay a fine? If so, how large a fine should he have to pay? Is forcing him to sell his house to pay his fines appropriate? Excessive?
8. Does it matter that Jim Ficken was a repeat offender?
9. In the video, there was a news clip about a church in North Carolina being fined \$100 a branch for excessive pruning. Is a fine of \$100 a branch excessive? Why / Why not?
10. Why would there be regulations on the number of branches people could cut from their trees?
11. If public interest law firms such as Institute for Justice didn't exist, how would regular people such as Jim Ficken or even us be able to fight back when our local governments impose excessive fines?
12. What lessons can we get from this video?

Discuss These Lines from the Video:

1. Because Ficken doesn't have \$30,000, the city says it will foreclose on his home to collect the fine.
2. In every instance that the city asked him to do something, Jim did it.
3. The city has gone nuclear: \$500 per day for the violation of having tall grass, and now he's facing the loss of his home.
4. Dunedin's politicians wouldn't talk to us. Instead, they spent \$25,000 to this public relations firm to speak to the media.
5. The PR firms says Dunedin has "no desire to impose large fines" their goal is just to "ensure that Dunedin's a high-quality community"
6. Eleven years ago, Dunedin collected \$34,000 in fines...last year, \$1.3 million.
7. Private citizens are being, essentially, extorted by their governments, and fined incredible amounts of money for really, really small violations.

8. We should be grateful for the Eighth Amendment. It protects us from excessive fines. And what's more excessive than politicians taking your home because you didn't cut your grass?

Quotes for Discussion:

The fines kept accruing the entire time Jim was away—totaling about \$7,000 by the time he returned home. But because the city issued no notice, Jim still had no idea he was being fined. And, like his grass, the fines continued growing. – Ari Bargil

The City has had to intervene 12 times since 2007 to get the owner to properly maintain his property. Each time, the property was brought into compliance but only after intervention by the City. – City of Dunedin, FL

Fines are preferable to imprisonment and other types of punishment because they are more efficient. With a fine, the punishment to offenders is also revenue to the State. – Gary Becker

According to the Eighth Amendment, there can never be a legitimate government interest in imposing an excessive fine.... A government that could impose excessive fines would not be defending law and order, but instead would be a danger to the rule of law—able to ruin persons who do not deserve to be ruined. – David Kopel

The right against excessive fines traces its lineage back in English law nearly a millennium, and from the founding of our country, it has been consistently recognized as a core right worthy of constitutional protection. As a constitutionally enumerated right understood to be a privilege of American citizenship, the Eighth Amendment's prohibition on excessive fines applies in full to the States. – Justice Clarence Thomas

The Excessive Fines Clause traces its venerable lineage back to at least 1215, when Magna Carta...required that economic sanctions “be proportioned to the wrong” and “not be so large as to deprive [an offender] of his livelihood.” – Justice Ruth Bader Ginsburg

Activities:

1. Distribute copies of the Cloze Activity and have students complete in class or for homework.
2. Read and write a summary of one of the following articles:
 - A) “Minor Violations Lead to Massive Prosecution Fees in Two California Desert Towns” by Scott Shackford
<https://reason.com/2017/11/16/minor-violations-lead-to-massive-prosecu>
 - B) “This California City is Threatening a Family Over Property Fines Sent to a Dead Woman at the Wrong Address” by Scott Shackford
<https://reason.com/2018/01/18/this-california-city-is-threatening-a-fa/>
 - C) “She’s Allergic to Grass Pollen, and the Local Government is Forcing Her to Grow Turf Grass” by John-Michael Seibler and Jonathan Zalewski
<https://www.dailysignal.com/2018/09/04/shes-allergic-to-grass-pollen-and-the-local-government-is-forcing-her-to-grow-turf-grass/>

D) “Small Town Uses Code Enforcement Laws For Big Payoffs” by William R. Maurer
<https://ij.org/11/december-2015-volume-24-issue-6/small-town-uses-code-enforcement-laws-big-payoffs/>

E) “South Florida Cities Struggle to Collect Millions in Code Enforcement Fines” by Brian Ballou
<https://www.sun-sentinel.com/local/broward/fl-davie-lien-amnesty-program-20160710-story.html>

2. Write two short, persuasive essays in which you argue BOTH for and against expensive fines for long, unkempt lawns. Challenge yourself to make a convincing argument with which you disagree and be sure to address rebuttals in each essay.
3. Produce a “man-on-the-street” video in which you ask people how large a fine they think it is appropriate for a city to issue a homeowner in violation of a lawn ordinance. Then, share Jim Ficken’s story with them and ask for their reaction.
4. Pretend you work for the public relations firm representing the City of Dunedin. Create a written or video statement on behalf of the city to defend the fine imposed on Jim Ficken.
5. Research the Federalist vs. Anti-Federalist debate over the Bill of Rights and make an eye-catching poster to communicate the arguments of either side.
6. Research and write a report on the *Timbs v. Indiana* (2019) U.S. Supreme Court case and its significance for a lawsuit such as Jim Ficken’s.
7. Research and write a report on the Institute for Justice.
8. Research and create a slideshow presentation to explain the history of the Eighth Amendment and of Incorporation of the Bill of Rights, by which the Eighth Amendment is made to apply to state and local governments. (Hint: the 2019 U.S. Supreme Court case *Timbs v. Indiana* will prove useful.)
9. Conduct a classroom debate on whether city governments should use fines as revenue streams.
10. Present an oral argument supporting one of the following scenarios:
 - a. The City of Dunedin’s ordinance against long lawns and \$500 per day fine for repeat offenders is acceptable, but an exception should be made for Jim Ficken because he was away taking care of his mother’s estate.
 - b. The City of Dunedin should not have an ordinance against long lawns.
 - c. An ordinance against long lawns is acceptable, but the fine is excessive.
 - d. Jim Ficken ought to pay the fine in total.
 - e. A lesser fine would be acceptable, but no exceptions should be made.

In your argument, present a rebuttal for each of the other options. Consider what the purpose of such an ordinance might be, how each option would fulfill that purpose, and other considerations the City of Dunedin should take into account when writing ordinances.

Name _____

Date _____

Class _____

Teacher _____

Mow Your Lawn or Lose Your House!

Cloze Activity

Directions: Read the entire passage first. Then fill in the blanks with words from the box.

violations	nuclear	spending	protects
residents	incarceration	expensive	enforcement
grateful	foreclose	ordinances	estate

The city of Dunedin, Florida, wants Jim Ficken's home.

Ficken's mom died, so he went to South Carolina to take care of her _____ . He asked a friend to look after his house. But then the friend died, and no one cut Ficken's grass. When it grew to 10 inches, Dunedin officials started fining him \$500 a day. The fine is now about \$30,000. City officials say they will _____ on his home if he doesn't pay the fine.

"The city has gone _____!" complains his lawyer, Ari Bargil. They could have done what their own _____ permit them to do: hire a lawn service to come out and mow the grass, then send Jim a bill for 150 bucks. But they didn't do that." Why not? Bargil and Ficken say it's because Dunedin's officials want the money.

Dunedin's politicians have no problem _____ money, paying \$25,000 on a public relations firm to speak with the media about this very case.

Eleven years ago, Dunedin fined people \$34,000. Today, they want about that much from Ficken alone. Last year Dunedin collected \$1.3 million in fines from _____.

"It's pretty apparent that code _____ is a major cash cow for the city," says Bargil. Ficken adds, "The city is just a bunch of bullies, and they expect people not to stand up to 'em because to stand up to 'em requires _____ legal help."

All across the country, "private citizens are being essentially extorted by their governments and fined incredible amounts of money for really, really small _____," says Bargil. People have been fined for not trimming plants or for trimming too much. A city in North Carolina fined a local church \$4,000—\$100 per branch—for excessive tree-pruning.

And in places such as Dunedin, if you can't pay a fine, they'll take your home.

"The city attorney of Dunedin last year sought permission to foreclose on 18 properties," says Bargil.

These fines and foreclosures violate the Eighth Amendment, says the Institute for Justice. The Eighth Amendment not only _____ us from "cruel and unusual punishment" but also from "excessive fines."

The Founding Fathers, says Bargil, "recognized that the ability to fine is the ability to cripple. It's one of the ways, other than _____, that government can really oppress."

If governments can oppress, they usually will.

We should be _____ for the Eighth Amendment's protection against excessive fines.

And what's more excessive than politicians taking your home because you didn't cut your grass?

Name _____

Date _____

Class _____

Teacher _____

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Cloze Activity (Answer Sheet)

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Eleven years ago, Dunedin fined people \$34,000. Today, they want about that much from Ficken alone. Last year Dunedin collected \$1.3 million in fines from residents.

"It's pretty apparent that code enforcement is a major cash cow for the city," says Bargil. Ficken adds, "The city is just a bunch of bullies, and they expect people not to stand up to 'em because to stand up to 'em requires expensive legal help."

All across the country, "private citizens are being essentially extorted by their governments and fined incredible amounts of money for really, really small violations," says Bargil. People have been fined for not trimming plants or for trimming too much. A city in North Carolina fined a local church \$4,000—\$100 per branch—for excessive tree-pruning.

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