

FORMERLY Cottage MAGAZINE

WEST

Cottage Life

CABINS / COTTAGES / CHALETS

The Sunshine

COAST

WRITER JOHN GRAY'S SEASIDE SANCTUARY

COOL
EXPANDING
CABINS

TIPS FOR
BETTER
IPHONE
PHOTOS

SULLIVAN
BAY'S
UNIQUE
FLOATING
COTTAGES

5 HIKES
FOR YOUR
BUCKET
LIST

APR16
2224 WE001
XX43(N)

OUR RAFT is out on the lake through the summer months (and it is a fair ways out). Am I liable if my neighbours use the raft, even though I didn't give them permission and I wasn't there?

—LEERY ABOUT LIABILITY

We really hate to say this (because swim rafts are common at cottages), but possibly. In most cases, your premises—including water, land, outbuildings, vessels and, in this scenario, a swim raft—fall under your province's version of an *Occupiers' Liability Act*. And as an "occupier," you have a duty of care to those who come on the premises to keep them reasonably safe by minimizing unnecessary risks. The raft can also be considered an "allurement," says Paul Mitchell, a personal injury lawyer with Pushor Mitchell in Kelowna, BC. An allurement is anything that will entice someone to act. If you've got something that looks like fun, says Mitchell, and you aren't preventing people from using it, you could be held liable if they do and they get hurt. So, you have to do whatever you can to make sure this doesn't happen. Post signs, such as "Private Dock" or "No Diving," on the raft, tell your neighbours to stay off it (if you haven't already), and keep it in good repair. If it's unsafe—it has rotten boards, poorly secured ladders, or structural defects, or it's anchored incorrectly—this could amount to "reckless disregard" for a swimmer, even if you didn't give this person permission to use the raft. An injured trespasser could have the right to a claim, warns Roderic Ferguson, a civil litigation specialist with Ferguson Barristers in Midland, Ont.

Make sure your insurer knows about the raft and that you have enough coverage. "You can't always be there. You can't prevent people from using it. But you can minimize liability," says Mitchell. »

But there's more (and it's not good): How far is "a fair ways out"? You can't just stick a swim raft anywhere you like. It has to comply with local, provincial, and federal laws, and may require markers, reflectors, or lights. The risk with a raft is that "a boater would collide with it at night or in periods of poor visibility and suffer injury," says Ferguson.

"Some people would argue that you shouldn't even have a swim raft," says Mitchell. "But that's what we do at recreational properties. We go swimming."