



Date Filed: September 8, 2022

City & County of San Francisco
BOARD OF APPEALS

JURISDICTION REQUEST No. 22-6

Date of request: **September 8, 2022.**

Victoria Cashman and Ryan Carroll hereby seeks a new appeal period for the following departmental action: **ISSUANCE of Public Works Order No. 206780 to William Gerhardt** for the property at **730 Pine Street**. This Order was issued or became effective on **July 6, 2022**, and for which the appeal period ended at close of business on **July 21, 2022**.

Your **Jurisdiction Request** will be considered by the Board of Appeals on Wednesday, **September 28, 2022** at **5:00 p.m.** and will be held in **Room 416 of San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place**. **The parties may also attend remotely via the Zoom video platform.**

Pursuant to Article V, § 10 of the Board Rules, the **RESPONSE** to the written request for jurisdiction must be submitted by the permit, variance, or determination holder(s) and/or department(s) **by 4:30 pm on September 19, 2022**, and must not exceed 6 pages in length (double-spaced), with unlimited exhibits. An electronic copy shall be submitted to the Board office via email to: boardofappeals@sfgov.org with additional copies delivered to the opposing parties the same day.

You or your representative **MUST** be present at the hearing. It is the general practice of the Board that only up to three minutes of testimony from the requestor, the permit holder, and the department(s) will be allowed. Your testimony should focus on the reason(s) you did not file on time, and why the Board should allow a late filing in your situation.

Based upon the evidence submitted and the testimony, the Board will make a decision to either grant or deny your Jurisdiction Request. Three votes are necessary to grant jurisdiction when there is a vacancy on the Board. If your request is denied, an appeal may not be filed and the decision of the department(s) is final. If your request is granted, **a new five (5) day appeal period shall be created which ends on the following Monday**, and an appeal may be filed during this time.

Name: Victoria Cashman and Ryan Carroll

Address: 730 Pine Street, San Francisco, CA 94108

Email: tori_cashman@yahoo.com

Via Email

Signature of Requestor or Agent

Ryan Carroll
Victoria Cashman
730 Pine Street
San Francisco, CA 94108

Board members,

We write to you to request permission to file a late appeal to public works order No. 206566, tree removal permit application no. 789244, the removal of two (2) street trees with replacement adjacent to 730 Pine Street, in which one tree was approved for removal with replacement.

The city inadvertently caused us to be late in filing the appeal, as the original hearing notice posted on the tree was damaged, so we were unaware that we could submit written testimony during the hearing that we were unable to attend due to lack of flexibility in our work schedules at the time. Ryan Carroll did call DPW and Department of Urban Forestry and left several messages to find out the resulting decision of the initial appeal and the messages were never returned. We were unaware of the findings and no notice was posted on the tree with the decision after the hearing closed and we were not notified in any way of the results or what actions we could take to submit an appeal by the deadline. We only found out the tree was to be removed by asking a DPW employee who was spray painting outside our residence.

Due to the various reasons we have explained above, we believe it is fair to approve our request to file a late appeal on this public works order.

The merits of our requested appeal are the following:

- The canopies provide privacy for residents from surrounding buildings.
- The canopies provide shade for residents and removing the tree will lead to increased energy usage from AC and fan units and result in more costly PG&E bills for residents and stress on the city power grid. Excessive heat warnings are becoming more prevalent

as climate change worsens and the power grid operator urges energy conservation to avoid blackouts.

- The canopies filter light and residents still receive ample natural lighting.

Thank you for your consideration,

Ryan Carroll & Victoria Cashman



San Francisco Public Works
General – Director’s Office
49 South Van Ness Ave., Suite 1600
San Francisco, CA 94103
(628) 271-3160 www.SFPublicWorks.org

Public Works Order No: 206780

The Director of Public Works held a Public Hearing on Wednesday, June 1, 2022, commencing at 10:00 AM via teleconference to consider several items related to tree removal. The hearing was held through videoconferencing to allow remote public comment.

The hearing was to consider Order No. **206566**, tree removal permit application no. 789244, the removal of two (2) street trees with replacement adjacent to 730 Pine Street. Urban Forestry staff denied the removal and the applicant appealed.

Findings:

Application submitted to remove two Ficus street trees with replacement.

BUF testified that the two relatively smaller size Ficus trees, approximately 25’ in height, are both in fair condition. Staff acknowledged some occurrences of past limb failures over the street side and pointed to some of the weak branch attachments common to the species and present in both of these trees. However, staff explained that due to the smaller size of the stems and overall stature of tree, the risk of failure is lower and department would recommend pruning in order to mitigate risk of failure and preserve these Ficus trees as long as it can reasonably. Contractor completed block pruning in 2021 as part of scheduled maintenance. Both trees have surrounding sidewalk damage that the City is responsible for repairing. In a lot of cases, repairs can be completed without requiring tree removal. Staff testified that Tree 1 may not be able to be replaced because of utility conflicts marked by Underground Service Alert.

Applicant testified:

- Trees are healthy but grow very quickly despite being pruned by private contractor.
- The canopies are very dense and block natural light from residents.
- The roots clogged the sewer and repairs were very costly.
- Branches have also fallen off in the past on cars.

Department received written public comments emphasizing that the City should prune trees as way to manage risk in lieu of removal. This approach is both fiscally and environmentally the best approach for managing the City’s Urban Forest. “According to a June 2021 report from the Mayor’s Budget and Legislative Analyst’s Office, “the City’s 10-year average of 2,154 street trees planted annually is less than half of the 5,000 street trees that need to be planted annually to ensure that the City’s street tree population does not shrink”. In a 2020 meeting regarding the proposed ficus removals along 24th Street, Department officials admitted that it is more cost effective to prune a ficus tree than to remove it. Additionally, see above, the Department has neither the budget nor resources to even come close to matching replantings with the current rate of removals.

Recommendation:

After consideration of correspondence and testimony provided, the recommendation is to approve one tree for removal and replacement. Tree 1 that cannot be replaced is denied at this time. Tree site, #2 is approved for removal with replacement.

Appeal:

This Order and tree removal permit application no. 789244 may be appealed to the Board of Appeals within 15 days of July 6, 2022.

Board of Appeals

49 South Van Ness Ave. suite 1475 (14th Floor)

San Francisco, CA 94103

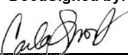
Phone: 628.652.1150 Email: Boardofappeals@sfgov.org

NOTE: Board of Appeals office is closed until further notice, due to COVID-19

Due to COVID-19 social distancing measures, more information about how to file an appeal can be obtained by calling 628-652-1150 or by emailing the Board of Appeals at Boardofappeals@sfgov.org. For additional information on the San Francisco Board of Appeals and to view the Appeal Process Overview, please visit their website at <http://sfgov.org/bdappeal/>

X

DocuSigned by:



Short, Carla -073CF73A4EA6486...

Interim Director

RESPONSE BRIEF SUBMITTED BY THE PERMIT HOLDER(S)

September 18, 2022

RESPONSE FROM PERMIT HOLDER

Tree Removal Permit Application No.: 789244

William Gerhardt

Re: Jurisdiction Request 22-6

730 Pine Street

Order No. : 206780

Type: Tree Removal by Private Entity

I'm writing in response to the Jurisdiction Request filed on September 8, 2022. This request was made 64 days after Public Works Order No. 206780 was issued on July 6, 2022 and 48 days beyond the 15 day appeal period ending July 21, 2022 established by the City of San Francisco.

I received notice of this request last week, on Thursday September 8, 2022. This corresponds with the date that the request was actually filed by Victoria Cashman and Ryan Carroll, who rent an apartment from me at 730 Pine Street on the first floor of 730-736 Pine Street. The building includes four rented condominium units above a garage at street level.

Their primary argument is that "the original hearing notice posted on the tree was damaged" so "the city inadvertently caused us to be late in filing the appeal". They are claiming notification of the hearing was not properly posted on site or that it was not legible due to damage.

After SF Public Works posted the notices on the trees in front of 730 Pine Street prior to the hearing, I heard from two of the four other residents in the building who reached out directly to me with questions about the notifications they had seen posted on the trees. These two residents in the building asked some questions about the trees and if I needed any of their assistance with the hearing.

I have attached a photo taken and texted to me by the resident in 734 Pine on May 25, 2022. **(Exhibit 1)** The photo shows the notice posted on the tree wrapped in shrink wrap to protect it from weather and other conditions. The notice indicates that the hearing would be via teleconference on Wednesday, June 1st and that persons unable to participate in the video conference were encouraged to submit written comments that would be included in the hearing.

I also personally viewed the postings on two separate visits to the property prior to the hearing, but I do not have the exact dates of these visits. In both cases, the posting was still covered in plastic and clearly visible.

Given my personal experience, I'm confident the notices were properly posted and viewable by the residents at 730-736 Pine Street and the general public. I contacted the SF Public Works and spoke with Chris Buck on September 16th, 2022 who confirmed that the notifications were posted as required per the applicable process. I was also told by Chris Buck that postings were hung on the adjacent corners to provide notice to the community that may not have walked down Pine Street.

After the public hearing via teleconference, permission was granted for me to remove **one** of the two ficus trees that I had originally requested to remove and replace it with a more appropriate species in

front of my property. While the current appeal is regarding the proper posting of the notification, I would also like to include the rationale to my original permit request.

There have been ongoing issues with roots from these two trees including intrusion into the building's main sewer line (the segment owned and maintained by the property owners, not the city) and damage to the concrete sidewalk that has been lifted by the roots repeatedly. (see **Exhibit 2**) As the owner, I have been responsible for removing and replacing these concrete sections multiple times during my ownership. Since the city assumed responsibility for maintaining the sidewalk, it has been left uneven and potentially hazardous for longer periods of time. (**See Exhibit 3 taken on 7/3/20**)

In addition, two large tree branches have broken off and fallen on cars and delivery trucks have routinely broken off large branches hanging over Pine Street. Most importantly, the size and density of these trees have blocked almost all natural light from entering the apartments. The windows of three of these apartments have been almost completely blocked for several years by these two large ficus trees (**Exhibit 4**). For two of these units, these are the only windows providing natural light.

While Victoria and Ryan are concerned about increased utility bills in their unit from the additional natural light from removing these trees, I believe the additional light will reduce power consumption. Less artificial light will be required during daylight hours and, more importantly, less heating will be required during the majority of the year due to the cooler weather in the city. In fact, none of the units in the building have air conditioning (only heating) so utility bills would likely be reduced. I understand that there was an unusual heat wave last week, but as a percentage of days in a year, it tends to be mostly cool in this part of San Francisco, not hot. In addition, this building has high quality double pane windows that are very energy efficient.

We followed the prescribed process by the city required to obtain the permit and are confident the procedure was followed by Public Works. Based on my experience with the city during the application and appeal process and the experience with other residents described above, I'm confident the process was followed and that the appeal should be denied. Furthermore, the argument put forward by Ryan Carroll and Victoria Cashman does not appear to meet the strict requirements and standards for a Jurisdiction Request as described by Julie Rosenberg at the Board of Appeals and Chris Buck at the SF Public Works.

Lastly, please note that immediately after the permit was issued, I contracted with AAA Tree Service to remove the tree and plant the replacement tree. Due to a slight delay in the permit actually being issued by the city, the contractor's busy schedule, and further coordination with the city, the work had been scheduled for Thursday, September 15th. I was informed by Julie Rosenberg that despite the late appeal, the tree permit was still active and work was not required to stop. AAA Tree Service also checked with the SF Public Works department to confirm that the permit was active and the work could continue. While aware of the appeal, we elected to move forward with the work and the tree has been removed.

We respectfully ask that the request for Jurisdiction be denied at this time.

Thank you,

Bill Gerhardt

Exhibit 1

Signage Posted (Photo received from tenant on 5/5/22)

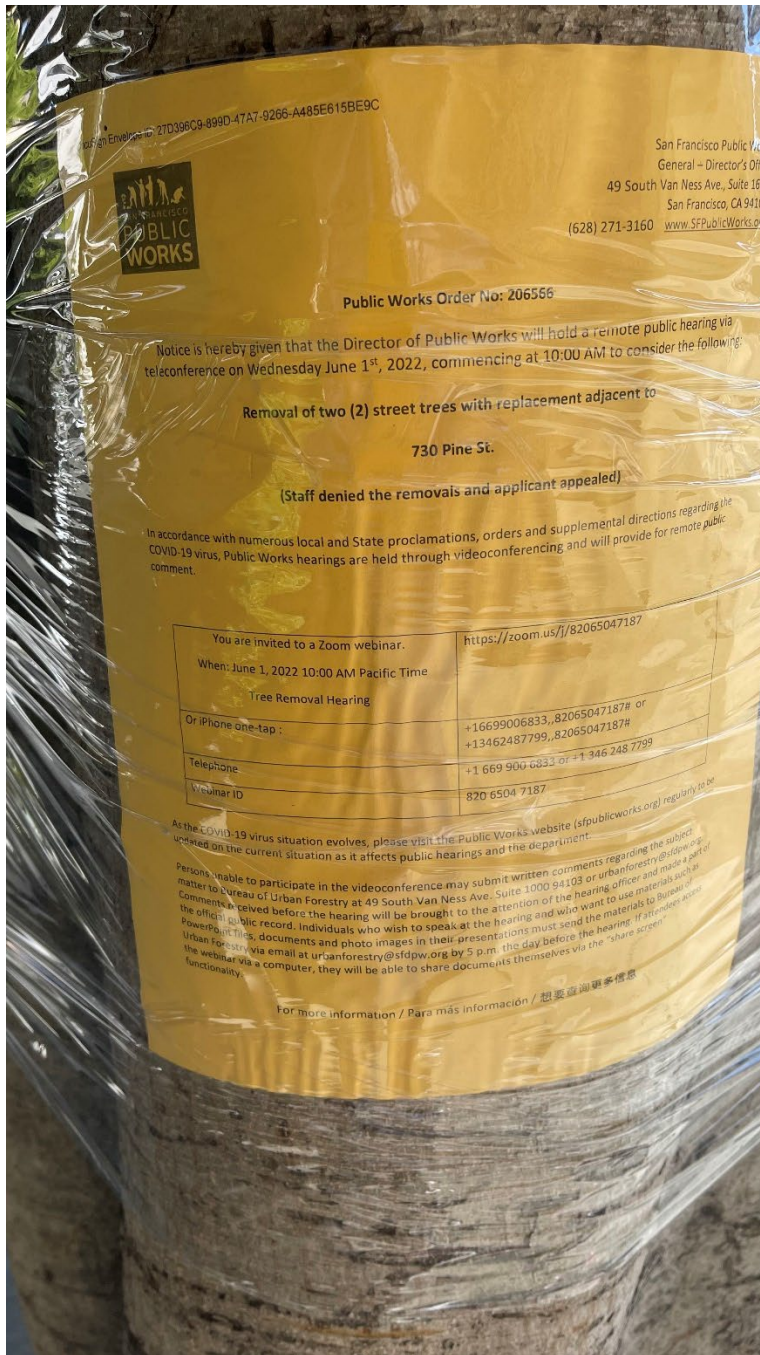


Exhibit 2

Current Condition of Sidewalk Due to Root Damage



Exhibit 3

Photo Taken 7/3/2020 After City Markings for Sidewalk Repairs. Repairs not made to date.



Exhibit 4

Two Ficus Trees Blocking Nearly 100% of Natural Light in Lower Three Apartments

