

**BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO**

Appeal of  
LILY LOUIE, )  
 ) Appellant(s)  
 )  
 vs. )  
 )  
DEPARTMENT OF PUBLIC WORKS )  
BUREAU OF URBAN FORESTRY, )  
 Respondent

Appeal No. **14-157**

**NOTICE OF APPEAL**

**NOTICE IS HEREBY GIVEN THAT** on September 15, 2014, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the DENIAL on September 03, 2014, of a Tree Removal Permit (denial of request for removal with replacement of one (1) DPW maintained street tree) at 5525 Diamond Heights Blvd.

**ORDER NO. 182887**

**FOR HEARING ON November 19, 2014**

Address of Appellant(s):	Address of Other Parties:
Lily Louie, Appellant 5525 Diamond Heights Blvd. San Francisco, CA 94131	N/A



Date Filed:

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO  
BOARD OF APPEALS

SEP 15 2014

APPEAL # 14-157

**PRELIMINARY STATEMENT OF APPEAL**

I / We, Lily Louie, hereby appeal the following departmental action: **DENIAL of Tree Removal Permit ORDER NO. 182887** by the **Department of Public Works Bureau of Urban Forestry** which was issued or became effective on: **September 03, 2014**, for the property located at: **5525 Diamond Heights Blvd.**

**BRIEFING SCHEDULE:**

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: **October 30, 2014, (no later than three (3) Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

*DPW BUF*  
Respondent's and Other Parties' Briefs are due on or before: **November 13, 2014, (no later than one (1) Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

**Only photographs and drawings may be submitted by the parties at hearing.**

Hearing Date: **Wednesday, November 19, 2014, 5:00 p.m., City Hall, Room 416, One Dr. Carlton B. Goodlett Place.**

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should submit an original and 10 copies of all documents of support/opposition no later than one (1) Thursday prior to hearing date by 4:30 p.m. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

**Please note** that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection at the Board's office. You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

***If you have any questions please call the Board of Appeals at 415-575-6880***

**The reasons for this appeal are as follows:** I think the decision is very unfair. The tree removal was approved first by DPW staff and then it went to a hearing, and we won the case, and now DPW is going against their own decision.

**Appellant or Agent (Circle One):**

Signature: Lily Louie

Print Name: LILY LOUIE



Edwin M. Lee, Mayor  
Mohammed Nuru, Director

GENERAL - DIRECTOR'S OFFICE  
City Hall, Room 348  
1 Dr. Carlton B. Goodlett Place, S.F., CA 94102  
(415) 554-6920 ■ www.sfdpw.org



**DPW Order No: 182887**

**BOARD OF APPEALS**

**SEP 15 2014**

**APPEAL # 14-157**

This Order supersedes Order No. 182754

The Director of Public Works held a Public Hearing on Monday, June 23, 2014 commencing at 5:30 PM at City Hall, Room 416, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. The hearing was to consider Order No. 182,680 to consider the removal with replacement of one (1) DPW maintained street tree adjacent to 5525 Diamond Heights Blvd.

**Findings:**

- DPW Urban Forestry staff initiated the removal of one (1) DPW maintained New Zealand Christmas tree (*Metrosideros excelsus*) after reviewing the tree and site conditions and after reviewing the maintenance history of the tree.
- Urban Forestry staff testified that the tree is located near the front entrance to the property owner's house and that it did take the Department several years to address sidewalk damage that had been caused by the roots of the tree. The tree has good overall vigor with fair structure, but the main trunk of the tree has a pronounced lean that blocks the pathway to the entrance of the house and public right-of-way. Urban Forestry staff testified that the public safety concern is that someone might bump their head, not that the tree itself might experience a root failure.
- The property owner testified at the hearing that she has called DPW staff directly and placed requests into the 3-1-1 call center for sidewalk repair and tree canopy pruning requests over the years. The property owner is concerned that when the tree roots damage the sidewalk again, what will happen if the repairs take a long time to be made again -- that the tree is located at the front entrance to her home.
- A total of two written letters protesting against the removal were received, including a letter on behalf of the Diamond Heights Community Association Board and one letter included an arborist report also against the removal of the tree.
- At the hearing the President of the Diamond Heights Community Association testified against the removal of the tree and pointed out that the sidewalk repairs have been made and one of the reasons for the removal was erroneous -- that the sidewalk repairs will not destabilize the tree.



- A total of two members of the public testified at the hearing against the removal of the tree.
- One member of the public who had written a letter of protest could not attend the hearing and provided additional written testimony against the proposed removal.

**Recommendation:**

- After consideration of testimony presented at the hearing and all written testimony including letters and emails received, including a supplemental arborist report, the recommendation is to deny the removal of the tree.

**Appeal:**

This Order may be appealed to the Board of Appeals within 15 days of September 3, 2014.

Board of Appeals  
1650 Mission, Room 304  
San Francisco, CA 94103  
(between Van Ness and Duboce Avenues)  
Phone: 415.575.6880  
Fax: 415.575.6885

BOARD OF APPEALS

SEP 15 2014

APPEAL # 14-157

Regular office hours of the Board of Appeals are Monday through Friday from 8am to 5pm. Appointments may be made for filing an appeal by calling 415-575-6880. All appeals must be filed in person. For additional information on the San Francisco Board of Appeals and to view the Appeal Process Overview, please visit their website at <http://www.sfgov3.org/index.aspx?page=763>

9/2/2014

**X** Mohammed Nuru

Nuru, Mohammed  
Approver 1



## Huang, Cecilia (PAB)

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**From:** Dodi Junk McElmurry <dodimcjunk13@gmail.com>  
**Sent:** Thursday, October 30, 2014 3:38 PM  
**To:** Board of Appeals (PAB)  
**Subject:** Fwd: Lily's Letter

October 30, 2014

Board of Appeals

1155 Market St 3<sup>rd</sup> Floor

San Francisco, CA 94103

My name is Lily Louie and I am an 80 year-old widow. In the past two years I have suffered from a major stroke and a hip fracture. I also have hypertension and I am afraid worrying about the tree in front of my house, may cause me to have another stroke.

I have repaired my sidewalk many times because the roots of my tree and my neighbor's tree erupted through the sidewalk. The city said it was our responsibility to repair the damage caused by the trees.

The last time it needed repairing, I protested and the city finally repaired it after two years. The sidewalk was a major hazard to pedestrians and my neighbor was afraid he was going to be sued.

In addition to this tree having very evasive roots which could also cause damage to the pipes under the sidewalk, I am afraid, in my condition that I cannot keep up with cleaning up the leaves that this tree deposits. I would suffer a serious fall trying to sweep them up. Plus the tree is getting so tall that the leaves are getting into the gutter.

Also, the tree is leaning so much in one direction, and the wind is so strong on Diamond Heights Boulevard, it could cause it to fall over.

In the past four years, two such cases have been reported. One in Laguna Honda killing a person. The other one was on Brotherhood Way near Lake Merced where a woman was killed by a perfectly healthy tree falling on her car as she was driving. The weather was perfectly normal.

I have been having bad luck because the tree is leaning in the direction of my front door.

the median in the middle of the boulevard which probably cost more money than the tree. The replanting took 5 days and over 5 workers to complete. These new plants didn't grow so they had to redo the whole project. In addition, the original plants had been growing quite well which meant that the project had been not been necessary.

I had tried to get this tree removed before and won my case. One of my neighbors protested and threatened me saying he would make sure I get fined if I cut down the tree without permission and filed a formal protest. Even though he is the nephew of [REDACTED] he was unsuccessful in getting the other neighbors to back him up. I think this is the first time anyone has ever protested the removal of a tree in Diamond Heights.

Lastly, I frequently ride a paratransit bus which picks me up right in front of my home. The leaning of this tree could cause damage to the bus which is taller than the average car.

A few months ago a large branch fell from my neighbors tree due to high winds in the area. Luckily it was at night and no one was hurt. The exact same thing happened to a tree across the street.

Respectfully yours,

Lily Louie



Edwin M. Lee  
Mayor

Mohammed Nuru  
Director

Jerry Sanguinetti  
Manager

Street Use and Mapping  
1155 Market St., 3rd floor  
San Francisco, CA 94103  
tel 415-554-5810

[sfpublicworks.org](http://sfpublicworks.org)  
[facebook.com/sfpublicworks](https://facebook.com/sfpublicworks)  
[twitter.com/sfpublicworks](https://twitter.com/sfpublicworks)

RECEIVED

By Chuang at 4:46 pm, 11/13/14

Board of Appeals Case 14-157

November 13, 2014

5525 Diamond Heights Blvd.

### Respondent's Brief

Urban Forestry staff had received calls from the property owner of 5525 Diamond Heights Blvd. regarding the sidewalk damage caused by the roots of the DPW-maintained New Zealand Christmas tree (*Metrosideros excelsus*) adjacent to her property. The sidewalk repairs were completed in early 2013.

However, the property owner was still concerned about the condition of the tree and if the roots of the tree damaged the sidewalk again, she was concerned that it would take Public Works a long time to repair the sidewalk. The tree is located near the pathway to the entrance of her home.

The tree has a lean over the sidewalk, parallel with the direction of the curb, not into the primary pedestrian through-zone. The property owner expressed concern that someone could hit their head when entering or exiting a car or when walking near the car to pass between the street and sidewalk. The property owner was also concerned that the lean of the tree could mean that the tree was unsafe and might fall over.

Urban Forestry staff assessing the tree and site conditions were sympathetic to the property owner's concerns because it had taken the Department a couple of years to make the sidewalk repairs. While the lean of the tree was not a public safety issue and the sidewalk repairs had been made, staff also felt that having a lean to the tree, directly opposite the entrance to the home, could present some potential safety issues with people walking by the tree between the sidewalk and the street. The current width of the pedestrian through-zone is 36".

Urban Forestry staff initiated the removal of the tree and posted the required 30-day removal notices on the tree and nearby utility poles from April 9, 2014 through May 8, 2014.


Two written letters protesting the removal of the tree were received and the proposed removal was heard at the departmental Tree Hearing on June 23, 2014.

Public Works Order No. 182887 denies the removal of the tree. While Urban Forestry staff are understandably sympathetic to the concerns of the property owner, the tree is not in danger of falling and the sidewalk repairs have been made.

A copy of the supplemental arborist report that was provided by the neighbor confirms our assessment that although the tree has a slight lean, this lean occurred years ago when the tree was young and does not pose a public safety concern.

If the roots of the tree cause damage to the sidewalk again, the property owner has our commitment to make the repairs in a time sensitive manner. Public Works now has a sidewalk repair program called the Accelerated Sidewalk Abatement Program, or A.S.A.P., which allows us to refer high priority sidewalk repairs to a private contractor for immediate repair.

The Department asks that the Board of Appeals uphold Order No. 182887, which denies the request by Urban Forestry staff to remove the tree.



Chris Buck

Acting Urban Forester  
Department of Public Works

#### List of Exhibits

- A) DPW Tree evaluation sheet
- B) DPW Order No: 182887
- C) Copy of Arborist report from Davey Tree
- D) Photos of the tree





Edwin M. Lee, Mayor  
Mohammed Nuru, Director

GENERAL - DIRECTOR'S OFFICE  
City Hall, Room 348  
1 Dr. Carlton B. Goodlett Place, S.F., CA 94102  
(415) 554-6920 ■ www.sfdpw.org



**DPW Order No: 182887**

This Order supersedes Order No. 182754

The Director of Public Works held a Public Hearing on Monday, June 23, 2014 commencing at 5:30 PM at City Hall, Room 416, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. The hearing was to consider Order No. 182,680 to consider the removal with replacement of one (1) DPW maintained street tree adjacent to 5525 Diamond Heights Blvd.

**Findings:**

- DPW Urban Forestry staff initiated the removal of one (1) DPW maintained New Zealand Christmas tree (*Metrosideros excelsus*) after reviewing the tree and site conditions and after reviewing the maintenance history of the tree.
- Urban Forestry staff testified that the tree is located near the front entrance to the property owner's house and that it did take the Department several years to address sidewalk damage that had been caused by the roots of the tree. The tree has good overall vigor with fair structure, but the main trunk of the tree has a pronounced lean that blocks the pathway to the entrance of the house and public right-of-way. Urban Forestry staff testified that the public safety concern is that someone might bump their head, not that the tree itself might experience a root failure.
- The property owner testified at the hearing that she has called DPW staff directly and placed requests into the 3-1-1 call center for sidewalk repair and tree canopy pruning requests over the years. The property owner is concerned that when the tree roots damage the sidewalk again, what will happen if the repairs take a long time to be made again -- that the tree is located at the front entrance to her home.
- A total of two written letters protesting against the removal were received, including a letter on behalf of the Diamond Heights Community Association Board and one letter included an arborist report also against the removal of the tree.
- At the hearing the President of the Diamond Heights Community Association testified against the removal of the tree and pointed out that the sidewalk repairs have been made and one of the reasons for the removal was erroneous – that the sidewalk repairs will not destabilize the tree.



- A total of two members of the public testified at the hearing against the removal of the tree.
- One member of the public who had written a letter of protest could not attend the hearing and provided additional written testimony against the proposed removal.

**Recommendation:**

- After consideration of testimony presented at the hearing and all written testimony including letters and emails received, including a supplemental arborist report, the recommendation is to deny the removal of the tree.

**Appeal:**

This Order may be appealed to the Board of Appeals within 15 days of September 3, 2014.

Board of Appeals  
1650 Mission, Room 304  
San Francisco, CA 94103  
(between Van Ness and Duboce Avenues)  
Phone: 415.575.6880  
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9/2/2014

X Mohammed Nuru

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Nuru, Mohammed  
Approver 1



**CCSF / DPW / BUF - TREE EVALUATION SHEET** Permit #

City Maintained Tree(s)  
  Privately Maintained Tree(s)  
  Significant Tree(s)  
  Emergency  
 Article 16 Violation  
  Rec Park  
  SFUSD  
  SF PORT  
  Other:

Street Cleaning Times: 10-12   Sun  Mon  Tue  Wed  Thu  Fri  Sat

Application is:  APPROVED    DENIED   INSPECTOR: Sally Bentz

TODAY'S DATE: 4/4/14   POSTING PERIOD: 30 DAYS   FROM: 4/4/14 THRU: 5/9/14

LOCATION: 5525 Diamond Heights

CROSS STREET: \_\_\_\_\_   Tree Order: \_\_\_\_\_

SPECIES NAME/TYPE: Metrosideros

NUMBER OF SPECIES: 1   HEIGHT: 20 (ft)   DBH: 8 (in)

TREE(S) CONDITION:    GOOD    FAIR    POOR    DEAD

**DEFICIENCIES OR CONCERNS:**   4/7/14: CB - took DPW several years to repair sidewalk - at entrance to home. Narrow sidewalk for this species.

lean  
Branch attachment

4/7/14 CB feedback: lean - established, but does lean over sidewalk at entrance to house - customer concerned about this.

SIDEWALK WIDTH OR # OF FLAGS: 2   SIZE OF TREE BASIN(S): 4x3   BASIN(S) ENLARGED? no   BASIN SHIFTED? \_\_\_\_\_

SIDEWALK CONDITION:    Good    Fair    Hazardous   # OF DAMAGED SQUARES: curb 1   PROPERTY SETBACK: \_\_\_\_\_

TREES TO BE REMOVED: 1   TREES TO BE REPLACED: 1

**PROXIMITY OF INFRASTRUCTURE:**

Sewer (5):	Utility Pole (6):	Traffic Signal / Stop Sign (25):	High Voltage (10):
Water (3):	Streetlight (9):	Parking Sign (3):	Low Voltage/Service:
Gas (3):	Fire Hydrant (5):	Fire Escape (10):	Other Trees (12-15):

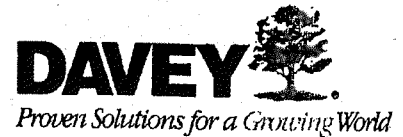
**COMMENTS**   CB: currently 3' P.T.Z.

**RECOMMENDATIONS**   Remove & replant - maybe add back sidewalk, 2x3'

**Signature and Date**   [Signature] 4/4/14

**Species suggestions**   SLT, Olive, Pnmrose

**Other species on block**   Metro



April 18, 2014

5527 Diamond Heights Blvd.  
San Francisco, CA 94131  
(415) 334-7628

Dear :

This letter is regarding the New Zealand Christmas tree located in a sidewalk tree basin at 5525 Diamond Heights Blvd. The tree is currently posted with a 30 day tree removal notice. According to the notice, the Bureau of Urban Forestry staff has determined that the tree requires root pruning that would destabilize the tree and that it possesses a lean. This letter will assess the health and safety of the tree and provide a response to both of the items listed on the notice.

The tree is 25-30 feet tall with a trunk diameter at breast height (DBH) of approximately 9 inches. The tree does not possess any indications of decay or weakness in the trunk. The canopy demonstrates healthy new growth. Due to the tree's history as a city-maintained street tree, it has no low structural or scaffold branches that would obstruct the roadway. There are 2-3 pendulous branches that overhang the roadway, but they can be corrected through maintenance pruning.

The tree is leaning uphill to a degree, but the tree has corrected the lean and is growing upright. The lean was likely caused by some kind of event in the tree's history, at least 10 years ago based on the amount of upright growth since then. The lean does not cause the tree to enter the roadway nor the driveway. Over time, it will not worsen or become a future obstruction because of the direction of the lean. By itself, a lean does not indicate instability, particularly a slight lean such as this one and the fact that the canopy has balanced out very well since whatever event caused it to lean. If the lean were coupled with decay or a grossly unbalanced canopy, it could become a concern, but neither of those factors exists in conjunction with the lean.

With regard to the potential root pruning, there is no indication that sidewalk repair is needed because of the recent (approximately 1 year ago) sidewalk repair and accompanying root pruning. Since then, the tree has maintained and put on new growth. The past root pruning's impact on the tree was negligible and with no future root pruning on the horizon, it's unclear why that would be a factor in a tree removal permit. Normally, the tree inspectors will require a very clear demonstration of what roots would be removed (either because of large surface roots or by removing concrete to show the roots to be pruned) to make a case for destabilizing a tree by root pruning. In this case, there are no roots to be pruned at all.

Considering the only slight lean of the tree that is not blocking a driveway and not blocking a roadway and considering the lack of any concrete repair and accompanying root pruning, this tree is not a candidate for removal. While a large enough truck could knock the tree over and while a branch may snap off in a windstorm, those are possibilities that could be applied to any tree in the city and do not justify classifying the tree as one qualified for a tree removal permit.

Sincerely,

Nicholas Crawford  
ISA Board Certified Master Arborist WI-0562B





March, 2011  
5525 Diamond Heights Blvd  
Before the sidewalk repairs were made

November 7, 2014

San Francisco Board of Appeals  
1650 Mission Street, Suite 304  
San Francisco, CA 94103

Re: Appeal #14-157, letter in support of retaining tree at 5525 Diamond Heights Blvd.

My name is Paul Matalucci, and I'm a 22-year resident of San Francisco and a 10-year resident of Diamond Heights. I serve as a volunteer steward for the Diamond Heights Blvd. median from Duncan St. to Berkeley Way. Together with neighbors and local businesses, I launched a community effort called The Diamond Heights Blvd. Median Project, which has cultivated a foundation of support both within and adjacent to Diamond Heights.

I'm moved today to join a group of concerned residents and express my desire to prevent the needless removal of a tree along Diamond Heights Blvd. that's directly connected to our median project. The tree is one of an attractive line of mature New Zealand Christmas Trees (*Metrosideros excelsa*) that run parallel to the median islands included in our project.

To complete Phase I of our project, which fronts Ms. Louie's address, neighbors removed root-bound *agapanthus* and weeds, amended and mulched the soil, and installed new drought-tolerant plants with gopher-proof root cages. The effort required more than 200 volunteer hours over three weekends.

Working closely with DPW, the SF Parks Alliance, and Friends of the Urban Forest, we are developing a landscaping plan for the median islands that envisions the neighborhood's appearance for several decades to come.

Tree selection is a vital part of our plan. The current Monterey Pines were chosen by the original city planners because they're fast-growing, and windbreaks were urgently needed. The downside, however, is that Monterey Pines have a short life expectancy. Planted when Diamond Heights was developed in the 60s, many will soon to perish and require removal.

For that reason, it's of utmost urgency that we retain the established trees that are currently healthy, including the New Zealand Christmas Tree that Ms. Louie wishes to cut down. CalPoly's Urban Forest Ecosystems Institute states the life expectancy of *Metrosideros excelsa* to be "50 to 150 years."\*

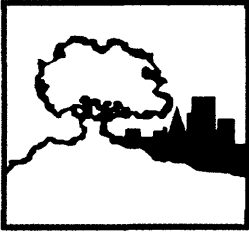
I'm proud of my neighborhood and the teamwork of our volunteers. I would be extremely disappointed to see our boulevard lose the aesthetic appeal of a uniform row of mature trees, which are enjoyed by visitors and residents alike.

Respectfully,



Paul Matalucci  
DHB Median Project Lead

\*<http://selectree.calpoly.edu/treedetail.lasso?rid=939>



**Diamond Heights Community Association**  
**P.O. Box 31529, San Francisco, CA 94131**

November 12, 2014

Ann Lazarus, President  
Board of Appeals  
1650 Mission Street, Suite 304  
San Francisco, CA, 94103



**Re: Appeal #14-157 to Support Retaining Tree at 5525 Diamond Heights Blvd.**

**Officers**

**President**  
Betsy Eddy

**Vice President**  
Lee Ann Prifti

**Treasurer**  
Jack Lenk

**Board Members**  
Patrick Carroll  
Bob Dockendorff  
Jeanette Oliver  
Betty Peskin  
Zefania Preza  
John Schlenke  
Annie Shynebaugh  
Jim Stelly

Dear Ms. Lazarus,

The Diamond Heights Community Association (DHCA) Board urges you and the Board of Appeals to vote to save the City owned and maintained tree that the adjacent property owner wants the City to cut down. The DHCA Board filed an appeal when the Bureau of Urban Forestry recommended removal of the tree. Our 25 page brief helped convince the BUF to reverse its decision to remove the tree so that the appeals hearing was not necessary. Attachments to this letter include an arborist report on the health of the tree, photos of the tree and support letters from neighbors written for the prior brief who appreciate seeing this lovely tree that adds to the attractive appearance of our neighborhood.

A summary of reasons to retain the tree are:

- The appellant's fear that the tree will fall is unfounded. Both DPW and an arborist have found the tree to be healthy. DPW pruned the tree roots and replaced the sidewalk approximately a year ago so that any root damage to the sidewalk is unlikely for a long time. The concerns about leaves and that the tree may be bad luck does not warrant removing a healthy tree.
- Replacing the tree with a 24" box size replacement tree would disrupt the beauty of the current row of mature trees.
- With limited funds to care for City trees, it does not seem appropriate for DPW to spend tax payers' funds on removing a healthy tree.

Thank you for consideration of the materials presented to you and the Board of Appeals. We urge you to vote for saving a healthy, beautiful tree.

Sincerely,

*Betsy Eddy*  
Betsy Eddy  
DHCA, President





April 18, 2014

Carol Buffett  
5527 Diamond Heights Blvd.  
San Francisco, CA 94131  
(415) 334 7628

Dear Carol,

This letter is regarding the New Zealand Christmas tree located in a sidewalk tree basin at 5525 Diamond Heights Blvd. The tree is currently posted with a 30 day tree removal notice. According to the notice, the Bureau of Urban Forestry staff has determined that the tree requires root pruning that would destabilize the tree and that it possesses a lean. This letter will assess the health and safety of the tree and provide a response to both of the items listed on the notice.

The tree is 25-30 feet tall with a trunk diameter at breast height (DBH) of approximately 9 inches. The tree does not possess any indications of decay or weakness in the trunk. The canopy demonstrates healthy new growth. Due to the tree's history as a city-maintained street tree, it has no low structural or scaffold branches that would obstruct the roadway. There are 2-3 pendulous branches that overhang the roadway, but they can be corrected through maintenance pruning.

The tree is leaning uphill to a degree, but the tree has corrected the lean and is growing upright. The lean was likely caused by some kind of event in the tree's history, at least 10 years ago based on the amount of upright growth since then. The lean does not cause the tree to enter the roadway nor the driveway. Over time, it will not worsen or become a future obstruction because of the direction of the lean. By itself, a lean does not indicate instability, particularly a slight lean such as this one and the fact that the canopy has balanced out very well since whatever event caused it to lean. If the lean were coupled with decay or a grossly unbalanced canopy, it could become a concern, but neither of those factors exists in conjunction with the lean.

With regard to the potential root pruning, there is no indication that sidewalk repair is needed because of the recent (approximately 1 year ago) sidewalk repair and accompanying root pruning. Since then, the tree has maintained and put on new growth. The past root pruning's impact on the tree was negligible and with no future root pruning on the horizon, it's unclear why that would be a factor in a tree removal permit. Normally, the tree inspectors will require a very clear demonstration of what roots would be removed (either because of large surface roots or by removing concrete to show the roots to be pruned) to make a case for destabilizing a tree by root pruning. In this case, there are no roots to be pruned at all.

Considering the only slight lean of the tree that is not blocking a driveway and not blocking a roadway and considering the lack of any concrete repair and accompanying root pruning, this tree is not a candidate for removal. While a large enough truck could knock the tree over and while a branch may snap off in a windstorm, those are possibilities that could be applied to any tree in the city and do not justify classifying the tree as one qualified for a tree removal permit.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas Crawford".

Nicholas Crawford  
ISA Board Certified Master Arborist WI-05828

**(Note added 11-12-14: This is the summary brief submitted to the Board of Appeals on August 27, 2014 to protest the original BUF decision to remove the tree at the request of the adjacent property owner. The brief provided information that helped BUF to ultimately recommend retaining the tree so that the appeal did not go to a Board hearing. Betsy Eddy.)**

**Date: August 27, 2014**

**To: Board of Appeals**

**From: Betsy Eddy, President, Diamond Heights Community Association**

**Re: Brief for Appeal # 14 -137 to protest the removal of the City owned and maintained tree at 5525 Diamond Heights Blvd.**

## **Background**

The Diamond Heights Community Association Board filed Appeal #14-137 to request that the Board overturn DPW's decision to cut down the New England Christmas tree, a City owned and maintained tree, in the sidewalk in front of 5525 Diamond Heights Blvd. The home owner who lives at this address has called the Bureau of Urban Forestry DPW many times to request that the tree be removed because she is afraid the tree will fall on her since it leans. A notice to remove the tree was posted and a hearing held on June 23. Betsy Eddy, President of the DHCA spoke in support of saving the tree at the hearing. After the hearing, DPW issued a decision that the tree will be cut down because the tree leans and someone might bump his or her head on it. To people who have visited the tree, it seems unlikely that anyone

would hit his or her head on the tree. The DHCA Board is protesting the removal of a healthy, beautiful tree.

The DHCA Board has supported the removal of trees found to be diseased and of danger to the public as certified by licensed arborists. According to the DPW hearing decision report, “the tree has good overall vigor with fair structure.”

### **Justifications to Retain the Tree**

- In DPW Order No: 182754, DPW Urban Forestry staff indicated that “the tree has good overall vigor with fair structure.” The DHCA protests the removal of a healthy tree. Nicholas Crawford, ISA Board Certified Master Arborist from the Davey Tree Expert Company hired by a neighbor, stated in a lengthy and thorough report dated April 18, 2014 that the tree “is not a candidate for removal,” has put on new growth since the roots were pruned, and “the tree has corrected the lean and is growing upright.”
- The public notice attached to the tree states that a reason for removal is, “Root pruning required to fix sidewalk will destabilize tree.” Tree roots were pruned a year ago and new sidewalk was placed around the base of the tree by DPW. The certified arborist, Nicholas Crawford, indicated in his report that there is no indication that root pruning is needed. Mr. Crawford stated that “in this case, there are no roots to be pruned at all” visible above ground. Please see the Davey Tree Report in the brief exhibits.

- The reason indicated by DPW for removal was that “the main trunk of the tree has a pronounced lean that blocks the pathway to the entrance of the house and the public right-of-way.” “Urban Forestry staff testified that the public safety concern is that someone might bump their head, not that the tree itself might experience a root failure.” The tree does not lean over the path of travel for people walking on the sidewalk. Nor does the tree block the pathway to the entrance to the house any more than any other tree planted near a front door. The lean of the tree is uphill parallel with the street where people would not generally walk. A person stepping from the street toward the lean of the tree would be unlikely to hit his or her head. Please see photos of the tree.
- Replacing the tree with a 24” box size replacement tree of 8 - 15 feet would disrupt the beauty of the current row of mature trees that are approximately 30 feet tall.
- Removing a healthy tree and its roots and purchasing and planting a replacement tree is an unnecessary expense for tax payers.
- Many sidewalk trees on Diamond Height Blvd and in the City lean. In the block of Diamond Heights Blvd. from Gold Mine Drive to Diamond Street, 8 of the 10 trees on the West side of the street lean.
- The reasons that the owner of the home at 5525 Diamond Heights Blvd wants the tree removed do not constitute justification to remove a healthy tree. The owner of the home has lived at the address for 43 years. A tree has been present in the sidewalk for most of those years. The current tree

is at least 22 years old. It was replaced by the City when a car hit the tree approximately 22 years ago.

The owner of the home called the DHCA to learn why the Association wants to save the tree. An amicable phone conversation took place on August 6, 2014 between the owner of the home and Betsy Eddy, President of the DHCA. The owner indicated that she called DPW many times to request that the tree be removed for the following reasons:

- The home owner is afraid the wind will cause the tree to fall on her.
- The home owner wants a less invasive tree that will not disrupt the sidewalk with root growth.
- The home owner says she cannot sweep the leaves from the front of her home nor can she remove the leaves in the home gutters.

The owner's fear that the tree will fall on her is unfounded. Both DPW and an arborist have found the tree to be healthy. DPW pruned the tree roots and replaced the sidewalk approximately a year ago so that any root damage to the sidewalk is unlikely for a long time. The concern about leaves does not warrant removing the tree. The DPW's decision to remove the tree includes the replacement of the tree with a tree of the same species. The owner will still have leaves that fall from the new tree.











5527 Diamond Heights Blvd. ("DHB")  
San Francisco, CA 04131  
August 22, 2014

To: Ann Lazarus, President  
Board of Appeals  
1650 Mission Street, Room 304  
San Francisco, CA 94103

Subject: Appeal of Order #14-137  
Against removing the tree in front of 5525 Diamond Heights Blvd.

This tree is the second in a row of six beautiful New Zealand Christmas trees along our street. And, its within a couple of feet of my property line. It does lean slightly, but I have had it's good health and stability certified in writing (attached) by Davy the Tree Experts. And, I am sure the City's agronomists would have concurred with this had they been able to spend the time to more fully check out this tree's condition among the many others in their care.

All these trees (I'd guess some are 40 years old) were originally selected, planted, and (occasionally) trimmed and watered by the City. However, after these many years, their stabilizing spread root structure, growing just beneath the sidewalk, did uplift some walkway sections dangerously. As a result, the City finally pruned all the offending roots and replaced the damaged sidewalk sections all along the street.

But, the City condemned only one of the six trees - that at 5525. I believe this came about as a consequence of my neighbor's several requests to get her badly heaved sidewalk, blocking the entrance to her home, repaired. And, the person that issued the removal order #14-137 is unaware that it should be revoked since the conditions prompting it have since been corrected or are of no import.

The "Findings" of the June 23 Public Hearing at City Hall declared that the tree blocks the pathway to the entrance of the house and the public-right-of-way" as well as that the public could "bump their head on the tree". These statements are quite a stretch of reasoning since all the homes have short double-wide driveway ramps ending at the sidewalk to allow access to each home's two-car side-by-side garage. Any reasoning person, entering or exiting the roadway, would do so via these driveways where there is nothing to impede them.

In summary. This row of trees and is mature and beautiful. Their roots have been pruned and the sidewalk replaced. Cutting down this tree and replacing it would leave a jarring interruption to this currently unbroken row of lovely evergreen trees . . . and most particularly, if a spindly young sapling of the same or another species were to be put in its place!

S. M. Buffett  
*S. M. Buffett*  
5527 DIAMOND  
HEIGHTS BLVD.

Steve Hawkins  
*Anthony S. Hawkins*  
5529 Diamond Heights Blvd

Anthony F Ramirez  
*Anthony Ramirez*  
5541 Diamond Hts Blvd.

5526 Diamond Hts Blvd  
San Francisco, CA 94131

To Whom It Concerns:

I oppose the removal of the tree at  
5525 Diamond Heights Blvd. I support  
my neighbors who oppose the removal.

I like looking at the tree, a mature  
tree, in conformity with other trees  
on the boulevard. Removal will change  
the character of the neighborhood.

Judith Garvey

470 Day Street  
San Francisco, CA 94131  
August 14, 2014

Ann Lazarus, President  
Board of Appeals  
1650 Mission Street, Room 304  
San Francisco, CA 94103

Dear Ms. Lazarus,

I am writing in support of the Diamond Heights Community Association's appeal #14 - 137 requesting that the Board overturn DPW's decision to cut down the New England Christmas tree, a City owned and maintained tree, in the sidewalk in front of 5525 Diamond Heights Blvd.

I have been a community gardener in San Francisco since 2006 when I moved to the City. I garden at the Little Red Hen garden in Diamond Heights, at St. Aidan's church, and at St. Mark's Lutheran Church, growing food that is given away to those in need. I was a founder of the Free Farm, which operated at the corner of Gough and Eddy streets for 3 years.

The trees in our city are an important part of the ecosystem for birds and pollinators, and they add beauty and shade to our neighborhoods. The tree at 5525 Diamond Heights Blvd. is healthy and is not a hazard in any way. It would be a shame to lose the tree for no reason. I hope that the Board of Appeals will overturn the decision to eliminate the tree.

Thank you.



Margaret Dyer-Chamberlain

Karen Goodman  
297 Addison Street  
San Francisco, California 94131

August 20, 2014

Ann Lazarus, President  
Board of Appeals  
1650 Mission Street  
San Francisco, CA 94103

Re: Appeal 14-137 to retain tree at 5525 Diamond Heights Blvd.

To whom it May Concern:

I am writing in support of the appeal to **SAVE THE HEALTHY, BEAUTIFUL TREE**  
At 5525 Diamond Heights Blvd.

I live only one block away from this tree and pass it often. It is a healthy tree. There is no reasonable reason to remove the tree. It poses no hazard, either to people (unless someone were over seven feet tall, perhaps) or property. It obstructs neither the sidewalk nor parking.

The tree is also beautiful and similar (in type and height) to the neighboring trees.

Thank you for considering saving this tree.

*Karen R. Goodman*  
Karen Goodman

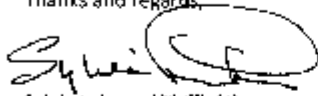
August 22, 2014

Attn: Board of Appeals

Re: Appeal #14-137

I've heard that a perfectly healthy and lovely tree on 5525 Diamond Heights Blvd is scheduled to be removed. It's very upsetting news – the tree creates absolutely no hazard, in any way. I wanted to register my protest of that action and urge you to reconsider.

Thanks and regards,



Sylvia Lehnen (31 Elk St)

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August 22, 2014

Ann Lazarus, President  
Board of Appeals  
1650 Mission Street  
San Francisco, CA 94103

Dear Ms. Lazarus:

I am writing today to support the continued survival of the tree in the sidewalk space in front of 5525 Diamond Heights Boulevard, San Francisco.

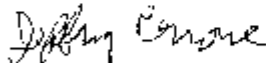
The tree has been judged healthy and in the process of straightening out, and has been deemed not to constitute a danger to the property owner or other residents.

It would be a shame and a waste of City funds to cut down this attractive tree due to the exaggerated fears of the property owner.

Please see to it that this tree is preserved in its current state.

Thank you for your consideration.

Yours truly,



Jeffrey Perrone

August 21, 2014

Ann Lazarus, President  
Board of Appeals  
1650 Mission Street, Room 304  
San Francisco, CA 94103

Re: Appeal 14-137 to retain tree at 5525 Diamond Heights Blvd.

Dear President Lazarus,

I am writing to voice my support for the appeal to save the tree at 5525 Diamond Heights Blvd in my neighborhood. The work and expense to remove and replace this tree seems unnecessary to me.

Thank you,

Jan Sheffner

970 Duncan Street  
San Francisco, CA 94131



To : Ann Lazarus, President  
Board of Appeals  
1650 Mission Street" Room 304  
San Francisco, CA 94103

Re: Appeal 14 -L37 to retain tree at 5525 Diamond Heights Blvd

My name is Scott Stawicki and I live at 2510 Diamond St. I am an active member of both the Diamond Heights and Glen Park communities in which I live. I am responding to the DPW notification of the removal of the New England Christmas Tree at 5525 Diamond Heights Blvd. I walk past this tree every day, and am outraged that DPW has decided to cut down this healthy tree. I firmly support Appeal number 74-137 from the Diamond Heights Community Association and would petition the DPW to reject the request to kill this tree.

There is no reason that I can understand that merits the removal of this city & community owned tree. The DPW Urban Forestry staff has indicated in their report (No. 182754) that " the tree has good overall vigor with fair structure " - ie. It is a healthy tree. An independent arborist from the Davey Tree Company has also confirmed the good health of this tree, and that it is growing upright. This tree is an asset to the community, - one which the city and neighbors have invested in for the last 2 decades - why would we decide to throw this tree away?

The complaint that calls for the removal of the tree is without clear merit. The tree does have a slight lean. ALMOST EVERY TREE GROWING ON DIAMOND HEIGHTS HAS SOME LEAN CAUSED BY THE VIGOR OF THE WIND IN OUR NEIGHBORHOOD. If we removed every tree with a slight lean in our community, we would be living on a mostly barren hill top.

But the slight lean does not block nor impede the entrance to the private property or the public right-of-way in any way. I am a 6'1" male and have never had a issue with walking under this tree- though I have done so almost every day for 2 years. As this tree is healthy (" good overall vigor") there is no more danger for this tree of falling than any other tree in the community. And as this slight lean is toward the street - away from the private property and public sidewalk -- there is almost no chance of the tree falling on a pedestrian.

My tax dollars contribute to the well being of the trees across this city. The DPW records show the this tree was maintained recently, with root pruning completed and new sidewalk placed by DPW.- Please refer to letter by Nicholas Crawford 4/18 /2014. Why would DPW decide to cut down a healthy tree that they have just spent public resources to maintain? Furthermore, the city has reduced our resources for tree maintenance markedly over the last decade, to a point where most trees don't even get proper attention. This is

a " lucky" tree that actually has been pruned and is thriving - why would we waste this effort & precious tax dollars?

Finally, there has been an active community effort to improve the green space along Diamond Heights B lvd. this year . The community is engaged in improving our environment along this street by planting and maintaining our trees, medians and plant boxes. Cutting down this tree sets our community's effort back by decades. Please honor the Appeal and do not kill this community-owned resource.

Thank you.

Scott Stawichi  
2510 Diamond Street 8/19/14

To: The San Francisco Board of Appeals

From: Mary Betlach  
2530 Diamond Street  
San Francisco, Ca 94131

August 21, 2014

I am writing to protest the proposed removal of a tree at 5525 Diamond Heights Blvd. I am a long term resident of Glen Park and live just around the corner on Diamond Street. I frequently pass by this tree on my walks through the neighborhood. This tree is lovely and is perfectly healthy. It presents no dangers to people walking by on the sidewalk. Its branches are much higher than pedestrian's heads. Also it has not cracked or damaged the sidewalk in any way. It is one of a lovely row of trees that adds beauty to our neighborhood. San Francisco needs more trees like this and not less!

Thus I request that you leave the tree where it is and NOT remove it.

Thank you,

Mary Betlach

A handwritten signature in black ink that reads "Mary Betlach". The signature is written in a cursive, flowing style.