

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

Appeal of  
RENEE YATES,

Appeal No. **21-025**

Appellant(s)

VS.

SAN FRANCISCO PUBLIC WORKS  
BUREAU OF URBAN FORESTRY,

Respondent

## NOTICE OF APPEAL

**NOTICE IS HEREBY GIVEN THAT** on March 29, 2021, 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 ISSUANCE on March 18, 2021, of an Order - Removal by Private Entity (denial of the request to remove the significant deodar cedar tree on the property and a recommendation that the property owner continue to follow the guidance of a Certified Arborist, and submit the required restructuring plan, as required of Order No. 201971) at 603-607 Congo Street.

**APPLICATION NO. 204492**

**FOR HEARING ON May 5, 2021**

Address of Appellant(s):

Address of Other Parties:

Renee Yates, Appellant(s)  
603-607 Congo Street  
San Francisco, CA 94131

N/A



Date Filed: March 29, 2021

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

**PRELIMINARY STATEMENT FOR APPEAL NO. 21-025**

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I / We, **Renee Yates**, hereby appeal the following departmental action: **ISSUANCE** of **Order No. 204492** by the **San Francisco Public Works, Bureau of Urban Forestry** which was issued or became effective on: **March 18, 2021**, for the property located at: **603-607 Congo Street** (denial of the property owner's request to remove the significant deodar cedar tree on her property).

**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: 4:30 p.m. on **April 15, 2021**, (**no later than three Thursdays prior to the hearing date**). The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org), [julie.rosenberg@sfgov.org](mailto:julie.rosenberg@sfgov.org) and [chris.buck@sfpw.org](mailto:chris.buck@sfpw.org). (Note: the appellant indicated that her preliminary statement (email dated 3/24/21) would suffice as her brief.)

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **April 29, 2021**, (**no later than one Thursday prior to hearing date**). The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org), [julie.rosenberg@sfgov.org](mailto:julie.rosenberg@sfgov.org) and [yatesrenee@sbcglobal.net](mailto:yatesrenee@sbcglobal.net).

The Board's physical office is closed to the public and hard copies of the brief do NOT need to be submitted.

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

Hearing Date: **Wednesday, May 5, 2021, 5:00 p.m.**, via Zoom. Information for access to the hearing will be provided before the hearing date.

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 email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org). 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 on the Board's website at [www.sfgov.org/boa](http://www.sfgov.org/boa). 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.

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**The reasons for this appeal are as follows:**

See attached statement.

Appellant: Renee Yates filed by telephone and email.

## Rosenberg, Julie (BOA)

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**From:** renee yates <yatesrenee@sbcglobal.net>  
**Sent:** Wednesday, March 24, 2021 1:15 PM  
**To:** BoardofAppeals (PAB)  
**Subject:** permit no.785319 Removal of Deodar Cedar Tree on 603-607 Congo St.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

To Whom it May Concern:

I am responding to the Appeals Board decision dated March 18, 2021 to deny removal of the above mentioned tree.

I feel like I am living in a dictatorship. The 80 plus year old tree continues to cause damage to sidewalk both in front and behind the fence and also will continue to destroy the fence and wall. The earlier virtual hearing in which Mr. Greggans and I were muted only stated that home owners can keep fixing the damage the tree continues to cause and made it sound like it was nothing. The expense is in the thousands of dollars and people (especially retired seniors on fixed incomes) should not be put in this situation. What are you people thinking?????????????

The Department of Public Works has been under scrutiny by the FBI because of the illegal action by the leadership for years and there are more departments being investigated. The Urban Forestry is under the Department of Public Works. I have to question what is happening in Urban Forestry?????????

The above tree needs to be removed to stop the continued and ongoing damage. The tree sits on private property yet Urban Forestry claims to have jurisdiction over what is done to the tree and yet the owner has no say in the damage it is causing, no say in getting the tree removed and yet is responsible for all repair of damage. AND THE DAMAGE WILL CONTINUE IF THE TREE IS NOT REMOVED!!!!!!!!!!!!!!!!!!!!!! What are you people thinking?????????

Regards,

Renee' Yates  
607 Congo St.  
San Francisco, Calif. 94131  
March 24, 2021



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](http://www.SFPublicWorks.org)

### **Public Works Order No: 204492**

The Director of Public Works held a Public Hearing on Wednesday, February 10<sup>th</sup> 2021, commencing at 10 a.m. via teleconference to consider several items related to tree removals. In accordance with Gov. Gavin Newsom's statewide order for all residents to shelter in place and the numerous local and state proclamations, the hearing was held through videoconferencing to allow remote public comment.

The hearing was to consider Order No. 204257 the removal of two (2) street trees and one (1) Significant tree at the following addresses within District 7:

- 607 Congo St. (removal of Deodar cedar tree on private property, with replacement)  
This tree is a Significant tree: located on private property behind fence, within 10' of a public right of-way. Staff denied the removal request and the property owner has appealed
- 177 Eucalyptus Dr: Two (2) street trees: tree #1 and #2 (with replacement)  
Staff approved the removal and the public has protested.

### **Findings:**

#### **603-607 Congo St. (removal of Deodar cedar tree on private property, with replacement)**

A fine was issued to the homeowner for excessively pruning the tree in 2019. This occurred while the home was owned by the applicant's mother. The fine of \$2,122 was waived on the condition that the property owner obtain a qualified arborist to submit a structuring plan (pruning plan) to Urban Forestry staff. If staff believed the tree was damaged to the point of requiring removal, staff would have recommended that the property owner obtain a permit to remove the tree, during that Administrative hearing process. Staff did not recommend removal at that time.

The subject tree is a mature tree, and staff believe that with care of a professional the tree can be maintained. It will require effort and expense from the homeowner to continue to maintain the tree. The tree may be impacting the wooden fence and walkway within the property, which is an additional expense to the homeowner. The property owner owns both parcels of property at 607 and 603 Congo St. From the street it looks like one lot with a side yard, where the tree is located. The address that is visible to the public is 607 Congo St.

At the hearing, the applicant provided testimony and two additional representatives for the property owner spoke in favor of removing the tree. Their primary concerns were the recommendations of their Certified Arborist, who noted the dead sections within the tree's canopy. However, staff believe that despite some of the dead branches, enough of the tree remains vigorous and can be maintained to monitor and reduce end weight, to reduce the likelihood of large branch failures. While the canopy is still filling in and providing fewer benefits had the tree not been topped, in time, the tree will fill out more and provide environmental benefits and visual enjoyment.



Members of the public spoke during public comment and noted the many benefits that mature trees provide, and that there are limited signs of damage to the property. Members of the public expressed concern that approving the tree for removal appeared to be rewarding the property owner for the excessive pruning of the tree that has occurred and had concerns that this was creating a road map for removal.

- The fine of \$2,122.00 was waived following the Administrative Hearing in 2019 on the basis that the property owner would retain the tree and hire a Certified Arborist to prune and monitor the tree's health
- Urban Forestry staff believes that the tree is still sustainable

**177 Eucalyptus Dr: (removal of two street trees with replacement)**

Urban Forestry staff explained that the two subject trees are blackwood acacia trees (*Acacia melanoxylon*). Both trees have caused a lot of sidewalk damage from the roots of the trees but the root pruning required to make these repairs will destabilize the trees. This species does not tolerate root pruning. Tree no. 1 also leans heavily towards and into the property owner's fence. There is the possibility of total root failure.

Tree no. 2 is dead. It was previously in severe decline. Both trees would be replaced within six months, with the species to be decided by Urban Forestry staff.

**Recommendation**

**603-607 Congo St:** After consideration of correspondence and testimony provided, the recommendation is to deny the property owner's request (permit no.785319) to remove the significant deodar cedar tree and recommend that the property owner continue to follow the guidance of a Certified Arborist, and submit the required restructuring plan, as required of Order No. 201971; and

**177 Eucalyptus Dr:**

After consideration of correspondence and testimony provided, the recommendation is to approve the two trees for removal with replacement. The replacement trees will be planted within six months following removal, species to be decided by Urban Forestry staff.

**Appeal:**

This Order may be appealed to Board of Appeals within 15 days of March 18<sup>th</sup> 2021.

Board of Appeals

49 South Van Ness Ave. suite 1475 (14<sup>th</sup> Floor)

San Francisco, CA 94103

Phone: 628.652.1150 Email: [Boardofappeals@sfgov.org](mailto: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](mailto: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:

Alain Degrafin

Degrafin, Alain  
Acting Director

# **BRIEF(S) SUBMITTED BY APPELLANT(S)**

Request for approval of permit application to  
remove Deodar cedar tree at:  
603/607 Congo Street,  
San Francisco, CA

Public Works Order No: 204257  
Property Owner: Renee Yates  
February 10, 2021

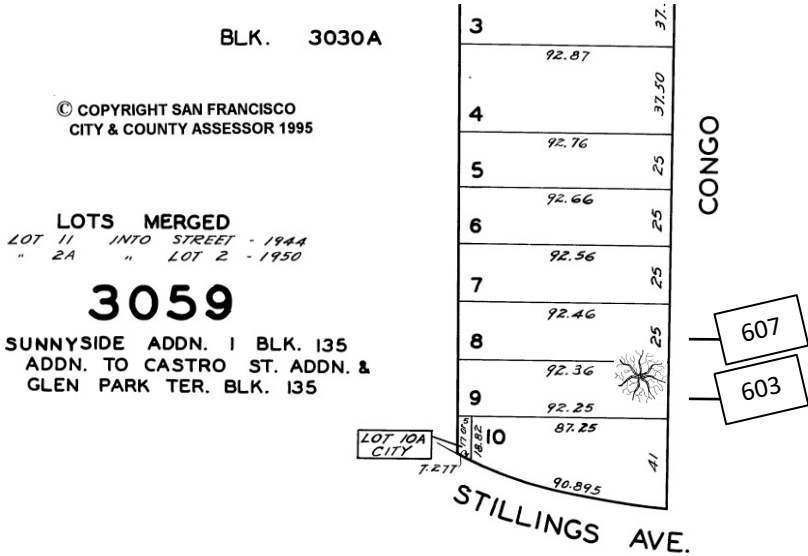
Street View – 607 Congo St.



Front of house



Neighborhood



## Situation Analysis

Current Status of Tree	Situation / Actions Required	Result
Tree is multi-trunked in what is referred to as a candelabra form	This form is undesirable because the vertical stem unions are weak and prone to failure	Large tributary trunks can break off during heavy winds potentially causing bodily harm and/or property damage
Several trunk stems of the tree are dead due to over aggressive pruning done by the previous owner	After pruning, many of the vertical trunks did not re-sprout and are now dead. These dead trunks need to be removed back to the main trunk.	This is crown cleaning will require major deadwood removal
After crown cleaning	Tree will be more compromised structurally and crown damping will be even further reduced. Shape will be further negatively impacted	Tree will not be sustainable over time and look even worse

Note: These determinations have been corroborated by Board Certified Master Arborist Stephen Howard



Pictures of Poor Health and Structure

Dead trunks



Dead trunks

Dead trunks



Dead trunks





## Pictures of Poor Health and Structure





Pictures from Front Yard



Roots damaging pathway  
(front of house)



Repair work and new damage  
(side of house)



Tree encroaching on front fence and retaining wall



## Addressing Tree Removal Factors (see next slide for table)

Excerpt from: "[public\\_works\\_code\\_groves\\_explanatory\\_documents\\_consolidated.pdf](#)"

### Article 16: URBAN FORESTRY ORDINANCE

#### **(c) As part of the Director's determination to authorize removal of a significant tree, the Director shall consider the following factors related to the tree:**

- (I) Size, age, and species**
- (II) Visual and aesthetic characteristics**, including the tree's form and whether it is a prominent landscape feature or part of a streetscape
- (III) Cultural or historic characteristics**, including whether the tree has significant ethnic appreciation or historical association or whether the tree was part of a historic planting program that defines neighborhood character
- (IV) Ecological characteristics**, including whether the tree provides important wildlife habitat, is part of a group of interdependent trees, provides erosion control, or acts as a wind or sound barrier
- (V) Locational characteristics**, including whether the tree is in a high traffic area or low tree density area, or provides shade or other public benefits
- (VI) Whether the tree constitutes a hazard tree** as set forth in Section 802(o)
- (VII) Whether the tree has been maintained** as set forth in Section 8020). (d) Zoning Administrator. The Zoning Administrator shall be required to identify significant tree(s) on proposed development or construction sites and to notify the Department. The Zoning Administrator and the Department shall be required to impose measures to protect such significant trees on a construction site against damage to trunk, roots, and branches in accordance with Section 808(c) of this Article. Removal of such trees shall be subject to the rules and procedures for removal of significant trees provided in this Section.

## Determinations to authorize removal of a significant tree (From Article 16)

Factor	Status
Size, Age, Species	Size & location qualifies tree as “Significant”, Approx. 80 years old, Non-native Deodar Cedar
<u>Visual &amp; aesthetic characteristics</u> <ul style="list-style-type: none"> <li>Tree’s form</li> <li>Prominent landscape feature or part of streetscape</li> </ul>	Unattractive, poor street appeal <ul style="list-style-type: none"> <li>Candelabra with many dead trucks</li> <li>No &amp; No</li> </ul>
Cultural or historic characteristics	None
<u>Ecological characteristics</u> <ul style="list-style-type: none"> <li>Important wildlife habitat</li> <li>Part of a group of interdependent trees</li> <li>Erosion control</li> <li>Acts as a wind or sound barrier</li> </ul>	<u>Ecological characteristics</u> <ul style="list-style-type: none"> <li>No</li> <li>No</li> <li>No</li> <li>No</li> </ul>
<u>Locational characteristics</u> <ul style="list-style-type: none"> <li>High traffic area</li> <li>Low tree density area</li> <li>Provides shade or other public benefits</li> </ul>	<u>Location characteristics</u> <ul style="list-style-type: none"> <li>No</li> <li>Subjective-Most home built to edge of sidewalk (GC Park, Melrose/Detroit Botanical Garden, Dorothy Erskin Park are all within approx. 1,000 ft.)</li> <li>No (Note: Casts significant shade on house-not a benefit in SF)</li> </ul>
Constitutes a hazard tree	Per <u>master arborists judgement</u> , not sustainable in near-mid term

**BACK-UP SLIDES**

## Check List for Tree Planting and Protection

### Why are existing trees protected and new trees required?

Trees are a vital component of the City's built and natural environments. They:

- Filter and contain storm water ← OK
- Lessen air pollution and greenhouse gasses ← OK, but not broad leafed
- Help save energy ← NO, actually shades house requiring more heat
- Provide wildlife habitat ← NO
- Increase property value ← ABSOLUTELY NOT

From SF Public Works publication: "Checklist for Tree Planting and Protection\_0.pdf"

## Damage to Sidewalk



Facing North



Facing South

## **BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)**





London N. Breed  
Mayor

Alaric Degrafinried  
Acting Director

Carla Short  
Superintendent

Urban Forestry  
49 South Van Ness Ave  
Suite 1000  
San Francisco CA 94103  
Tel 628-652-8733

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[twitter.com/sfpublicworks](https://twitter.com/sfpublicworks)

Appeal No. 21-025 Respondent's Brief

603-607 Congo St. / Tree Removal Permit No. 785319

RE: Removal with replacement of one (1) significant tree on private property

April 27, 2021

The subject tree is a Significant Deodar cedar tree (*Cedrus deodora*) located on private property at 603 Congo St., within 10' of the public right-of-way. A Significant tree is designated in San Francisco's Urban Forestry Ordinance, Article 16 of the Public Works Code, as any tree located within 10' of the public right-of-way that also meets one of the following three size criteria: height greater than 20', canopy width greater than 15' and a trunk diameter greater than 12" at 4.5' above grade.

The subject tree qualifies as a significant tree. Significant trees have the same permitting requirements as street trees.

The application for tree removal (785319) was submitted as 607 Congo St. The subject tree is located next door at 603 Congo St. Both properties are owned by the same property owner and 603 Congo St. appears to the public as a side yard to 607 Congo St.

The application for removal was denied at the staff level by the Bureau of Urban Forestry because the tree is sustainable and because the Bureau issued a fine in August 2019, to the previous property owner for excessively pruning the



subject tree. An administrative hearing was held in September 2019 and the \$2,122 fine was eliminated on the basis that the tree would be monitored and pruned as necessary.

The appellant Renee Yates is the daughter of the previous property owner and attended the administrative hearing in 2019 to address the fine for excessive pruning. Within one week of receiving the Administrative decision, Ms. Yates provided an arborist statement by a qualified tree care professional, Stephen Howard of the Davey Tree Expert Co., to create the maintenance plan for the tree, as required of the notice of violation. Our Bureau appreciates that Ms. Yates, though not responsible for hiring the contractor who damaged the tree, has been responsive to our Bureau to address the matter. Ms. Yates and our Bureau were not able to determine the identify of those hired, which led to the excessive pruning.

Within this report submitted on May 19, 2020 (Appendix C), Mr. Howard identified the damage done by the previous contractor and stated that the tree can be pruned and monitored (re-assessed) periodically.

The findings of Public Works Order 204492, which recommended denying the property owner's request to remove the tree stated that "If staff believed the tree was damaged to the point of requiring removal, staff would have recommended that the property owner obtain a permit to remove the tree, during that Administrative hearing process."

Neither the professional hired by the owner following the Administrative Hearing, nor Urban Forestry staff, after reviewing the condition of the tree, recommended that the tree be removed during the administrative hearing process in 2019. The fine was eliminated based on this course of action: that a qualified professional monitor the growth created from the tree's

stress response, and prune the tree to establish better structure. The property owner successfully had their fine eliminated on the condition of properly pruning and maintaining the tree, but now wants to remove the tree and not fulfill that requirement.

After reviewing the application for removal, staff denied the property owner's request to remove the tree. The property owner appealed that denial and the matter was scheduled for a Departmental tree hearing which took place on February 10<sup>th</sup>, 2021. The resulting hearing decision, Public Works Order No. 204492 upheld the staff decision to deny the applicant's request to remove the tree. At the hearing, members of the public expressed concern that approving the tree for removal would appear to reward the property owner for the illegal pruning that occurred, even if unintentional.

Although some upper branches of the tree that were excessively pruned and "topped" now appear dead, there are many branches of the canopy that are producing new growth which can be pruned and trained to help create the eventual replacement canopy.

Regarding concerns about property damage, the cracks in the sidewalk do not appear to be caused by the roots of the tree, and the fence and small wall near the sidewalk do not appear to be damaged. Within the yard there is a narrow walkway with limited damage from tree roots and these repairs should be considered routine maintenance associated with the care of trees on private property.

Public Works believes that the tree in its current condition can continue to remain an asset to the property and the neighborhood for years to come. Routine pruning every three to five years by a qualified arborist to restructure and guide the new growth of the canopy will

reduce potential branch failures and allow the tree to eventually regain some of its canopy size that was lost when the top half of the tree was indiscriminately removed.

Trees that have been excessively pruned in this way become more problematic over time because decay eventually spreads into the stems of the tree. The overall lifespan of the tree has been reduced, but removal at this point would be an over-reaction, much too soon, and it would remove what remains a considerable asset to the immediate community.

At the Public Works tree hearing in February 2021, representatives for the property owner disclosed that there is some interest in exploring potential development of the open lot at 603 Congo St. The subject permit under consideration is for removal with a replacement tree required to be planted on the property, within 10' of the public right-of-way, so that the replacement tree has the potential to become a significant tree in the future. The public sidewalk is too narrow to accommodate a street tree. To date, the application and discussion is to consider removal of the subject tree with a replacement tree being planted in the same general area.

Although the tree was excessively pruned our Department believes the Deodar cedar tree can be reasonably maintained for many years under the care of a qualified arborist, as agreed to at the administrative hearing in 2019. We ask that the commissioners deny the appeal and uphold the Public Works decision (Order No. 204492) to deny the applicant's request (permit 785319) to remove the subject tree.

Respectfully

*Chris Buck*

Chris Buck

Urban Forester

(Appendix follows)

# Appendix

- Appendix A: Order No. 204492 (Tree Removal Hearing Decision)
- Appendix B: Staff denial letter and appeal from property owner
- Appendix C: Administrative Fine / Appeal / Decision / Arborist Statement
- Appendix D: Photos of the subject tree

## Appendix A: Order No. 204492 (Public Works Hearing Decision 1/28/21)

### Public Works Order No: 204492

The Director of Public Works held a Public Hearing on Wednesday, February 10<sup>th</sup> 2021, commencing at 10 a.m. via teleconference to consider several items related to tree removals. In accordance with Gov. Gavin Newsom's statewide order for all residents to shelter in place and the numerous local and state proclamations, the hearing was held through videoconferencing to allow remote public comment.

The hearing was to consider Order No. 204257 the removal of two (2) street trees and one (1) Significant tree at the following addresses within District 7:

- 607 Congo St. (removal of Deodar cedar tree on private property, with replacement)  
This tree is a Significant tree: located on private property behind fence, within 10' of a public right of-way. Staff denied the removal request and the property owner has appealed
- 177 Eucalyptus Dr: Two (2) street trees: tree #1 and #2 (with replacement)  
Staff approved the removal and the public has protested.

#### Findings:

603-607 Congo St. (removal of Deodar cedar tree on private property, with replacement)

A fine was issued to the homeowner for excessively pruning the tree in 2019. This occurred while the home was owned by the applicant's mother. The fine of \$2,122 was waived on the condition that the property owner obtain a qualified arborist to submit a structuring plan (pruning plan) to Urban Forestry staff. If staff believed the tree was damaged to the point of requiring removal, staff would have recommended that the property owner obtain a permit to remove the tree, during that Administrative hearing process. Staff did not recommend removal at that time.

The subject tree is a mature tree, and staff believe that with care of a professional the tree can be maintained. It will require effort and expense from the homeowner to continue to maintain the tree. The tree may be impacting the wooden fence and walkway within the property, which is an additional expense to the homeowner. The property owner owns both parcels of property at 607 and 603 Congo St. From the street it looks like one lot with a side yard, where the tree is located. The address that is visible to the public is 607 Congo St.

At the hearing, the applicant provided testimony and two additional representatives for the property owner spoke in favor of removing the tree. Their primary concerns were the recommendations of their Certified Arborist, who noted the dead sections within the tree's canopy. However, staff believe that despite some of the dead branches, enough of the tree remains vigorous and can be maintained to monitor and reduce end weight, to reduce the likelihood of large branch failures. While the canopy is still filling in and providing fewer benefits had the tree not been topped, in time, the tree will fill out more and provide environmental benefits and visual enjoyment.

## Appendix A: Order No. 204492 (Public Works Hearing Decision – continued)

Members of the public spoke during public comment and noted the many benefits that mature trees provide, and that there are limited signs of damage to the property. Members of the public expressed concern that approving the tree for removal appeared to be rewarding the property owner for the excessive pruning of the tree that has occurred and had concerns that this was creating a road map for removal.

- The fine of \$2,122.00 was waived following the Administrative Hearing in 2019 on the basis that the property owner would retain the tree and hire a Certified Arborist to prune and monitor the tree's health
- Urban Forestry staff believes that the tree is still sustainable

### 177 Eucalyptus Dr: (removal of two street trees with replacement)

Urban Forestry staff explained that the two subject trees are blackwood acacia trees (*Acacia melanoxylon*). Both trees have caused a lot of sidewalk damage from the roots of the trees but the root pruning required to make these repairs will destabilize the trees. This species does not tolerate root pruning. Tree no. 1 also leans heavily towards and into the property owner's fence. There is the possibility of total root failure.

Tree no. 2 is dead. It was previously in severe decline. Both trees would be replaced within six months, with the species to be decided by Urban Forestry staff.

### Recommendation

603-607 Congo St: After consideration of correspondence and testimony provided, the recommendation is to deny the property owner's request (permit no.785319) to remove the significant deodar cedar tree and recommend that the property owner continue to follow the guidance of a Certified Arborist, and submit the required restructuring plan, as required of Order No. 201971; and

### 177 Eucalyptus Dr:

After consideration of correspondence and testimony provided, the recommendation is to approve the two trees for removal with replacement. The replacement trees will be planted within six months following removal, species to be decided by Urban Forestry staff.

### Appeal:

This Order may be appealed to Board of Appeals within 15 days of March 18<sup>th</sup> 2021.

Appendix B: Staff denial letter and appeal from property owner



London N. Breed  
Mayor

Alaric Degrafinried  
Acting Director

Carla Short  
Superintendent

Urban Forestry  
1155 Market St., 3rd Floor  
San Francisco, CA 94103  
tel 415-554-6700

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

June 3, 2020

Renee Yates  
607 Congo Street  
San Francisco, CA 94131

**Re: Denial letter regarding tree removal application for 607 Congo Street**

**Dear Property Owner:**

We have received your application requesting the removal of one (1) significant tree(s), Deodar cedar (*Cedrus deodara*), adjacent to 607 Congo Street. Based on our evaluation, your removal application has been denied for the following reason(s):

- The tree is healthy and sustainable.
- It appears to have recovered from the initial pruning and the vigor is improved when compared to the initial photos taken.

You have 30 days from the date of this letter to protest this decision. If you decide to protest this decision (in writing, mailed, faxed or emailed), there will be a public hearing scheduled, usually held on the fourth Monday of the following month. We are currently holding remote hearings as we are performing administrative work remotely due to COVID-19. If you wish to appeal this decision, please appeal via email.

We will retain your application for one year in case the tree condition declines thus avoiding a second application.

Please contact our office if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Nawbary".

Susan Nawbary  
Urban Forestry Inspector  
(415) 554-6700 main  
Susan.Nawbary@sfdpw.org



Appendix B: Staff denial letter and appeal from property owner

June 14, 2020

San Francisco Public Works  
Urban Forestry  
1155 Market St. 3rd Floor  
San Francisco, California 94103

Attention: Susan Nawbary

I received your letter of denial to remove the Deodar Cedar from the front part of my yard which sits behind the front fence. The tree is very old, has cracks in the trunk, has had major tree droppings for years which creates a problem etc. etc. The tree sits back on private property and your department should not have any say in this, yet you state that you do. As you should be aware when the tree was pruned, I had nothing to do with it. My mother was still alive and the property was not in my name. At that hearing you stated the tree was crying and now you state it appears to be recovering!!!!!!! Even Davey Tree Expert Co. agrees with removal of the tree.

The sidewalk is cracking both inside the yard and outside from the tree creating another problem.

I want the tree removed and will await a date and time from the department when the next protest hearing is.

Sincerely,

  
Renee Yates  
607 Congo St.  
San Francisco, California 94131

## Appendix C: Administrative Fine / Appeal / Decision



London N. Breed  
Mayor

Mohammed Nuru  
Director

Carla Short  
Superintendent

Urban Forestry  
1155 Market St., 3rd Floor  
San Francisco, CA 94103  
tel 415-554-6700

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August 2, 2019

Renee Theresa Yates  
607 Congo Street  
San Francisco, CA 94131

**Re: Illegal Pruning at 603- 607 Congo Street**

Dear Property Owner:

The San Francisco Department of Public Works confirmed the illegal pruning of number Deodar cedar (*Cedrus deodara*) significant trees at the property of 603- 607 Congo Street in San Francisco. A significant tree is any tree within 10' of the public right of way measuring 20' in height, or 15' in width, or has a 12" diameter trunk. Significant trees are protected and require a removal permit.

The citizens of San Francisco value the Urban Forest, and have mandated the protection of trees. Article 16, Section 808 (a) states, " It shall be unlawful for any person to intentionally, maliciously, or through gross negligence injure or destroy a Street Tree, any Tree on City property, a Significant Tree, or a Landmark Tree. Section 811(c) states, "the Director may require any person who removes, injures, or destroys a tree in violation of the provisions of this Article to pay a sum of money equal to the tree's replacement value." Due to the severity of the damage, you are required to pay \$2,122.00 per tree for the illegal pruning. The Bureau supports this mandate and your fine of \$2,122.00 will be deposited into the Adopt-A-Tree Fund and used for future street tree plantings.

Payment for the violation must be payable to CCSF/DPW/BUF and mailed to:  
Urban Forestry  
1155 Market Street, 3<sup>rd</sup> Floor  
San Francisco, CA 94103

The fine is considered outstanding if not received by 10/2/2019, 60 days from the date of this letter.

Article 16 (Urban Forestry Ordinance) of the San Francisco Public Works Code can be found online at: <http://www.amlegal.com>. Search by City and find Public Works Code.

Tree Pruning Standards for the City and County of San Francisco can be found online at: <http://www.sfpublicworks.org/services/tree-pruning>

Department information can be found also at: <http://sfpublicworks.org/trees>

Appendix C: Administrative **Fine** / Appeal / Decision

Public Works fine letter, continued

If you have information regarding this matter or would like to appeal the fine, please send a detailed letter explaining why you feel this fine has been issued in error. Appeals must be sent within 60 days of receipt of this letter to the Bureau of Urban Forestry, 1155 Market St 3rd<sup>rd</sup> Floor, San Francisco, CA 94103.

Appealed fines will be scheduled for the next available Administrative Hearing.

Sincerely,

Susan Nawbary

Urban Forestry Inspector

*Enclosures: (1) Photograph(s) of tree(s) at 603- 607 Congo Street*

Appendix C: Administrative Fine / **Appeal** / Decision

August 12, 2019

Susan Nawbay  
Urban Forestry  
1155 Market St., 3rd Floor  
San Francisco, California 94103

Attn: Susan Nawbay

I am in receipt of your pruning letter dated 8/2/19 concerning the Deodar Cedar at 603-607 Congo St. in San Francisco.

I am appealing the fine for pruning the Deodar Cedar. I strongly feel it was issued in error. The referenced tree is a privately maintained tree. It is my understanding and always has been that no permit is required to prune this tree. The tree was not removed. The tree was not damaged. The tree was pruned by a qualified person for obvious reasons. The tree continues to grow and regenerate just fine.

Therefore, based on the reasons stated above, the tree was not illegally pruned, no damage to the tree exists and so there should be no fine.

Sincerely,

  
Renee Yates

## Appendix C: Administrative Fine / Appeal / Decision



London N. Breed  
Mayor

Mohammed Nuru  
Director

San Francisco Public Works  
1 Dr. Carlton B. Goodlett Pl.  
Room 348  
San Francisco, CA 94102  
tel. 415-554-6920

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### Public Works Order No.: 201971

The Director of Public Works held a Public Hearing on Wednesday, September 18, 2019 at 9:00 a.m., in Hearing Room 400 of City Hall. The Hearing was to consider Order 201841 an appeal for the fine issued for illegal pruning of one (1) significant tree adjacent to the property at 603 Congo Street. The fine issued is \$2,122.00.

#### Findings:

The Department's presentation was made by Sara Stacy, Bureau of Urban Forestry (BUF) Inspector.

BUF testified that the tree was excessively pruned and stub cuts left. Staff explained the measurements and classification criteria for the Significant tree.

Staff testified in the opening presentation that removing more than 25% of the canopy from a tree is extremely damaging. Trees store energy in their branch tips, and when this stored energy is removed from the tree, the tree draws upon energy reserves within the trunk and roots to help produce new leaves. If trees are excessively pruned repeatedly, the tree runs out of stored energy and the tree dies.

The tree pruning standards in the arboriculture industry are established within the American National Standards Institute (ANSI) A300 tree pruning standards. The International Society of Arboriculture (ISA) also has established the best management practices for tree pruning, associated with the ANSI A300 tree pruning standards. The pruning standards for trees have established that no more than 25% of a tree's living canopy should be removed within a single growing season. Pruning cuts to thin the tree should be made at lateral branches that are at least one-third the diameter of the stem at their union. Topping and heading cuts result in the development of epicormic sprouts, or in the death of the cut branch. These epicormic sprouts are weakly attached to the stem and are susceptible to decay.

Property owner stated that her deceased mother trimmed the tree and that she recently inherited the property. Property owner said she had no knowledge of how her mother trimmed the tree.

#### Recommendation:

After consideration of the facts and testimony presented at the hearing, the decision of the Director is to waive the fine and require that the property owner work with an arborist to manage the tree. A restructuring plan must be submitted to the Department from a Certified Arborist. This can be a one to three page document outlining the schedule of care for the tree.

## Appendix C: Administrative Fine / Appeal / **Decision**

Please notify the Department about who pruned the tree if this can be determined from a receipt or past correspondence. A claim is made that the tree was pruned by a professional; however, as explained in the presentation a qualified professional would not have made such cuts and left stubs.

Tree contractors who perform tree work need to be properly licensed with the State of California Contractors State License Board and should also be ISA Certified Arborists, and adhere to the tree removal permit process within the municipalities where they perform tree work. Complaints against contractors can be placed at:

[www.cslb.ca.gov](http://www.cslb.ca.gov).

Per Section 811(b)(1)(2) of the Public Works Code, the department will follow the procedures of Section 706.5 and 706.6 and impose a lien on the property at 603 Congo Street for the fine amount of \$2,122.00 if the property owner does not submit a Restructuring/ Management plan for the tree within 90 days of this order. This order is final and may not be appealed.

X DocuSigned by:  
*Nuru, Mohammed*  
Nuru, Mohammed  
Director



Appendix C: Administrative Fine / Appeal / Decision / **Arborist Statement**



**ARBORIST STATEMENT**

**Tree Condition Assessment • October 9, 2019**

*Prepared by:*

**Stephen Howard**

**Davey Tree Expert Company • San Francisco**

**Assistant District Manager**

**ISA Certified Arborist #WE-10380A**

**ISA Tree Risk Assessment Qualified**

*Prepared for:*

**Renee Yates**

**607 Congo St**

**San Francisco, CA 94131**

1400 Mission Rd • South San Francisco, CA 94080  
Office 415-468-9180 • Field 415-818-3463 • [stephen.howard@davey.com](mailto:stephen.howard@davey.com)

### Scope of Work and Limitations

Arborists are tree specialists who use their education, knowledge, training, and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk associated with living trees. Clients may choose to accept or disregard the recommendations of the arborist or to seek additional advice. The opinions in this assessment are given based on observations made and using generally accepted professional judgment; however, because trees are living organisms and subject to change, damage and disease, the results, observations, recommendations, and analysis as set out in this assessment are valid only at the date any such observations and analysis took place and no guarantee, warranty, representation or opinion is offered or made by Davey as to the length of the validity of the results, observations, recommendations and analysis contained within this assessment. Conditions can be obscured within trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specific period of time. As a result the client shall not rely upon this Assessment, save and except for representing the circumstances and observations, analysis and recommendations that were made as at the date of such inspections. It is recommended that trees be re-assessed periodically.

### Analysis and Recommendations

On October 9<sup>th</sup>, 2019 I visited 607 Congo St to assess a mature deodar cedar (*Cedrus deodara*). It is believed to have been pruned in May of 2018 by an unknown company or individual. The tree is within 10ft of the public right of way and thus qualifies as a "significant tree". Pruning or removal is regulated under the PRUNING STANDARDS FOR TREES - CITY AND COUNTY OF SAN FRANCISCO (adopted JUNE 27, 2008). The City of San Francisco recognizes the most current editions of the following benchmark standards for tree pruning (see References):

1. American National Standards Institute (ANSI) A300 Pruning Standards
2. ANSI Z133.1 Safety Standards
3. ISA Best Management Practices: Tree Pruning

The pruning that was done did not adhere to numerous standards:

-All pruning cuts shall conform to ANSI A300 standards (Part 1: Pruning).  
Do not make flush cuts or leave branch stubs.

-Not more than 25% of the crown shall be removed within an annual growing season.

1405 Mission Rd. • South San Francisco, CA 94080  
Office 415-468-9180 • Field 415-818-3463 • [stephen.howard@davey.com](mailto:stephen.howard@davey.com)



-Topping is the reduction of a tree's size using heading cuts that shorten limbs or branches back to a predetermined crown limit. Topping is not an acceptable pruning practice (see ANSI A300 Standards).

The pruning done so far qualifies as topping and is not a recommended pruning method. Topping is defined as Reduction of tree size by cutting live branches and leaders to stubs, without regard to long-term tree health or structural integrity. Removal of live branches and associated leaf area can have a negative impact on the health of trees. When relatively large amounts of leaf area are removed, the capacity of a tree to produce energy for growth and pest resistance is diminished. Pruning should be limited to that amount needed to accomplish the pruning objective. In some cases, it may best to complete pruning over a two- or three-year period rather than do all that is needed in one year. In addition, excessive pruning or overthinning stimulates watersprout development in many species. Watersprouts are usually weakly attached and prone to breaking at the point of attachment. Crown density can increase substantially due to watersprout production, resulting in a loss of tree form and reduction in light penetration. Also, excessive pruning can lead to sunburn injury to bark tissue of branches and the trunk.

Pruning is a wounding process that causes some level of injury to trees. It is important to make pruning cuts that minimize injury or the potential for injury. For instance, cuts should be made on branches in a manner that ensures rapid and complete wound closure, thus reducing the potential for decay. Topping cuts increase the likelihood of wood decay development in the cut branch or stem. Often, decay extends well into the branch or stem and reduces its structural strength. This increases failure potential. Information on appropriate branch removal practices and the size and location of cuts is found in *ANSI A300 Part 1 (Pruning)* and *Best Management Practices: Tree Pruning* (see References).

Restorative crown clean pruning is recommended in late spring of 2020. Any bare stubs at that point are not expected to grow back and should be removed along with deadwood. Removal of foliage should be kept to a minimum while the crown continues to regenerate.

Annual fertilization with a slow release fertilizer is recommended to provide essential nutrients and help replenish crown.

Deep watering is recommended during the hottest months of the year. Run a soaker hose under the drip line of the tree and no closer than 2-4ft from the base of the tree. Leave the water pressure on low for a few hours until soil is saturated. Allow soil to fully dry before repeating.

Pruning beyond 2020 is recommended in 3-5 year intervals. The recommended course for future pruning of these street trees should include:

- Shape and balance canopy overall.
- Thin crowns to decrease wind resistance, remove excess sucker growth, and improve branch spacing.
- Reduce end weight at the tips to improve the stability of branches.
- Target the removal of no more than 25% of the total foliage, in accordance with the industry's ANSI A300 pruning standard.
- Reduce crown height and size by pruning back to lateral stem at least 1/3 the size of the parent stem.
- Heading cuts should be avoided. If necessary limit size of heading cuts to 1-2" diameter.
- Remove dead stems and dead wood 1" diameter and larger. Remove old stubs.
- Remove stems with narrow or weak angles of attachment that may be prone to failure.







































Appendix D: Photos of the subject tree

**February 9, 2021**







# PUBLIC COMMENT



Joshua Klipp  
884 Kansas Street  
San Francisco, California 94107  
(415) 265-0901; [joshuaklipp@gmail.com](mailto:joshuaklipp@gmail.com)

May 3, 2021

Re: Appeal No. 21-025 (@ 603-607 Congo Street)

**Letter in Support of the Department of Public Works, Bureau of Urban Forestry**

Commissioners,

I respectfully submit this letter in support of the Department of Public Works, Bureau of Urban Forestry, in the above listed appeal. Given the Appellant's treatment of this particular tree, anything short of a full denial would only serve to encourage future illegal behavior, to the detriment of our City, ecology, and environment. From the underlying decision:

"A fine was issued to the homeowner for excessively pruning the tree in 2019. This occurred while the home was owned by the applicant's mother. *The fine of \$2,122 was waived on the condition that the property owner obtain a qualified arborist to submit a structuring plan (pruning plan) to Urban Forestry staff.* If staff believed the tree was damaged to the point of requiring removal, staff would have recommended that the property owner obtain a permit to remove the tree, during that Administrative hearing process. Staff did not recommend removal at that time. The subject tree is a mature tree, and staff believe that with care of a professional the tree can be maintained. It will require effort and expense from the homeowner to continue to maintain the tree." [Emphasis added].

Appellant seems primarily concerned about the cost of maintenance, but less than two years ago was willing to accept a waiver of the \$2,000+ fine on the condition that the tree be maintained. It is disingenuous to return to the same Department that waived her fine - money that would have gone to planting more trees in San Francisco had she paid it - and now complain that maintenance is too expensive. "Significant Trees", as defined by Article 16, may be on private property, but they are public, environmental resources. Accordingly, I respectfully request that the Department's well-reasoned decision be upheld in its entirety.

Sincerely,

/s/

Joshua Klipp