



CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

Date Filed:

BOARD OF APPEALS

JUL 17 2014

APPEAL # 14-136

PRELIMINARY STATEMENT OF APPEAL

I / We, **Michael Klestoff**, hereby appeal the following departmental action: **DENIAL** of **Tree Removal Permit ORDER NO. 182750** by the **Department of Public Works - Bureau of Urban Forestry** which was issued or became effective on: **July 09, 2014**, for the property located at: **1812 Noriega Street**.

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: **August 28, 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 BVF
Respondent's and Other Parties' Briefs are due on or before: **September 11, 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, September 17, 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: Tree is causing damage to the sidewalk and is causing a potential tripping hazard. There is no more room for a basin expansion.

Appellant or Agent (Circle One):

Signature: Michael Klestoff

Print Name: MICHAEL KLESTOFF



Edwin M. Lee, Mayor
Mohammed Nuru, Director

DPW Order No: 182750

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

BOARD OF APPEALS

JUL 17 2014

APPEAL # 14-136

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. 182,675 to consider the removal with replacement of one (1) privately maintained street tree adjacent to 1812 Noriega St.

Findings:

- The DPW Urban Forestry department received an application from the property owner to remove one (1) New Zealand Christmas tree (*Metrosideros excelsa*). The reasons for removal stated on the application were sidewalk damage from tree roots, damage to the property sewer line and damage by tree roots to the neighbor's sewer line. The application to remove the tree was denied by staff because the tree is healthy and sustainable.
- At the hearing the applicant testified that there were many reasons for removal. In addition to the sidewalk damage and damage to sewer lines, the owner is concerned about liability issues related to being responsible for maintaining the tree within the public right-of-way. The tree is located within a commercial district and the property owner would like to have a tree in front of the business, but would prefer a tree that is more appropriate for the site.
- Urban Forestry staff testified that the tree roots have damaged the sidewalk but the subject tree and species tolerance for root pruning should allow the tree to accommodate the root pruning.
- No letters of protest from the public or public testimony against the removal has been received.

Recommendation:

- After consideration of testimony presented at the hearing and a field visit, the recommendation is to deny the property owner's request to remove the tree. Urban Forestry staff are directed to follow-up with the property owner to determine what basin expansions options may be available based on the site conditions.



Appeal:

This Order may be appealed to the Board of Appeals within 15 days of July 9, 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

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7/7/2014

X Mohammed Nuru

Nuru, Mohammed
Approver 1

BOARD OF APPEALS

JUL 17 2014

APPEAL # 1436



BOARD OF APPEALS

AUG 28 2014

APPEAL # 14-136

Michael Klestoff
1812 Noriega Street
San Francisco, CA. 94122

August 28, 2014

City & County of San Francisco
Board of Permit Appeals
1650 Mission Street, room 304
San Francisco, CA.

Re: 1812 Noriega St. denial of tree removal , appeal #14-136

Dear members of the board of permit appeals,

Attached are photographs of the sidewalk around the tree located in front of 1812 Noriega St.

The tree is a private tree planted by the previous owner and I have done a variety of work around it, replaced some sidewalk squares, enlarged the open area around the tree, contributed to my neighbors sewer line replacement which was necessary because of tree root damage, and replaced my own sewer line because of tree root damage. I have been doing this for over 20 years and don't feel it is reasonable to be forced to continuously spend more money and take on liability.

The sidewalk is uneven and coming up in different areas as

you can see from the photos, including on the neighbors driveway. This is a continuing problem that will cause me and the City liability if someone trips and falls. This is a commercial area with a fair amount of foot traffic.

I have consulted with an arborist and landscape architect and they cannot give me any assurance that anything I do with enlarging the box or pruning the roots will stop this problem. The existing tree is a New Zealand Christmas tree which is prone to causing lots of damage around it.

I would like to cut down this tree and replace it with another, a Tristania Laurina, which has shallower roots and won't cause this kind of damage.

The neighbors around me don't have any objection to letting me replacing the tree.

Sincerely,


Michael Klestoff
(415) 699-3266





















Edwin M. Lee, Mayor
Mohammed Nuru, Director



Jerry Sanguinetti, Manager

Board of Appeals Case 14-136

September 11, 2014

1812 Noriega St.

Respondent's Brief

The appellant applied to remove one street tree (*Metrosiderous excelsus*) from the sidewalk adjacent to their property 1812 Noriega St. The reason given for removal was damage to the sidewalk caused by the roots of the tree and damage to the sewer lines to the property owner's building and the neighboring property owner's building. The Department denied the removal of the tree at the staff level on April 21, 2014 because the tree is healthy and sustainable.

The Tree Hearing was held on June 23, 2014. At the hearing the applicant testified that there were several reasons for removal. In addition to the sidewalk damage, and damage to the sewer lines, the property owner is concerned about being liable for a tree within the public right-of-way (RoW). The tree is located within a commercial district and the property owner stated that they would like to have a tree in front of the business, but would prefer to have a tree that is more suitable to the site. The applicant also stated that they are receiving pressure from a neighbor to remove the tree.

The structural condition of the tree is good and the vigor of the canopy is excellent. The amount of sidewalk damage caused by the roots of the tree is average, and the repairs to the sidewalk should have very little impact to the health of the tree – the species can tolerate a lot of root disturbance. The sidewalk is very old and has not been repaired recently, as evidenced by the older, faded color of the

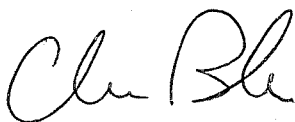


sidewalk. A recent repair has been made in proximity to the water line, and the brighter, lighter color of the sidewalk concrete in this section is evident. The current tree basin size is approximately 5' x 5' and it is strongly recommend that the tree basin be increased in size (expanded) to 6' or 7' x 9' when the sidewalk repairs are being made. This will reduce the impact to the tree's root system and help reduce the likelihood of damage in these same sections. There is a red zone along the curb adjacent to the tree, which will help accommodate the basin expansion.

When tree roots get into a domestic sewer line it is typically the case that there is already a crack or leak in the sewer line, and the tree roots make the problem worse. Once a sewer line has been repaired and upgraded to current code, that issue has then been addressed. The two sewer lines in question are far from the tree and repairs to the sewer lines would not destabilize the tree.

The New Zealand Christmas tree has received bad press because of their invasive roots. However, this tree on Noriega is planted along a very windy corridor, and the tree has very good vigor, and good structure. There are many species of trees that would not tolerate these windy conditions and microclimate, and the New Zealand Christmas tree is a resilient species able to thrive in even the worst climatic conditions.

We request that you uphold DPW's permit.



Chris Buck

Acting Urban Forester

- Appendices:
- A) Director's order 182,750
 - B) Tree Evaluation Sheet
 - C) Photos





GENERAL - DIRECTOR'S OFFICE

City Hall, Room 348

1 Dr. Carlton B. Goodlett Place, S.F., CA 94102

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Edwin M. Lee, Mayor
Mohammed Nuru, Director

DPW Order No: 182750

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7/7/2014

X Mohammed Nuru

Nuru, Mohammed
Approver 1



CCSF / DPW / BUF - TREE EVALUATION SHEET Permit # 772838

<input type="checkbox"/> City Maintained Tree(s)	<input checked="" type="checkbox"/> Privately Maintained Tree(s)	<input type="checkbox"/> Significant Tree(s)	<input type="checkbox"/> Emergency
<input type="checkbox"/> Article 16 Violation	<input type="checkbox"/> Rec Park	<input type="checkbox"/> SFUSD	<input type="checkbox"/> SF PORT
<input type="checkbox"/> Other:			

Street Cleaning Times: Sun Mon Tue Wed Thu Fri Sat

Application is: APPROVED DENIED INSPECTOR: John Hawkridge

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

LOCATION: **1812 Noriega St**

CROSS STREET: 25th Ave Tree Order: 1

SPECIES NAME/TYPE: **Metrosideros excelsus**

NUMBER OF SPECIES: 1	HEIGHT: 21 (ft)	DBH: 15 (in)
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TREE(S) CONDITION: GOOD FAIR POOR DEAD

DEFICIENCIES OR CONCERNS: owner concerned about sidewalk and sewer line

SIDEWALK WIDTH OR # OF FLAGS: 5	SIZE OF TREE BASIN(S): 5x4	BASIN(S) ENLARGED?	BASIN SHIFTED?
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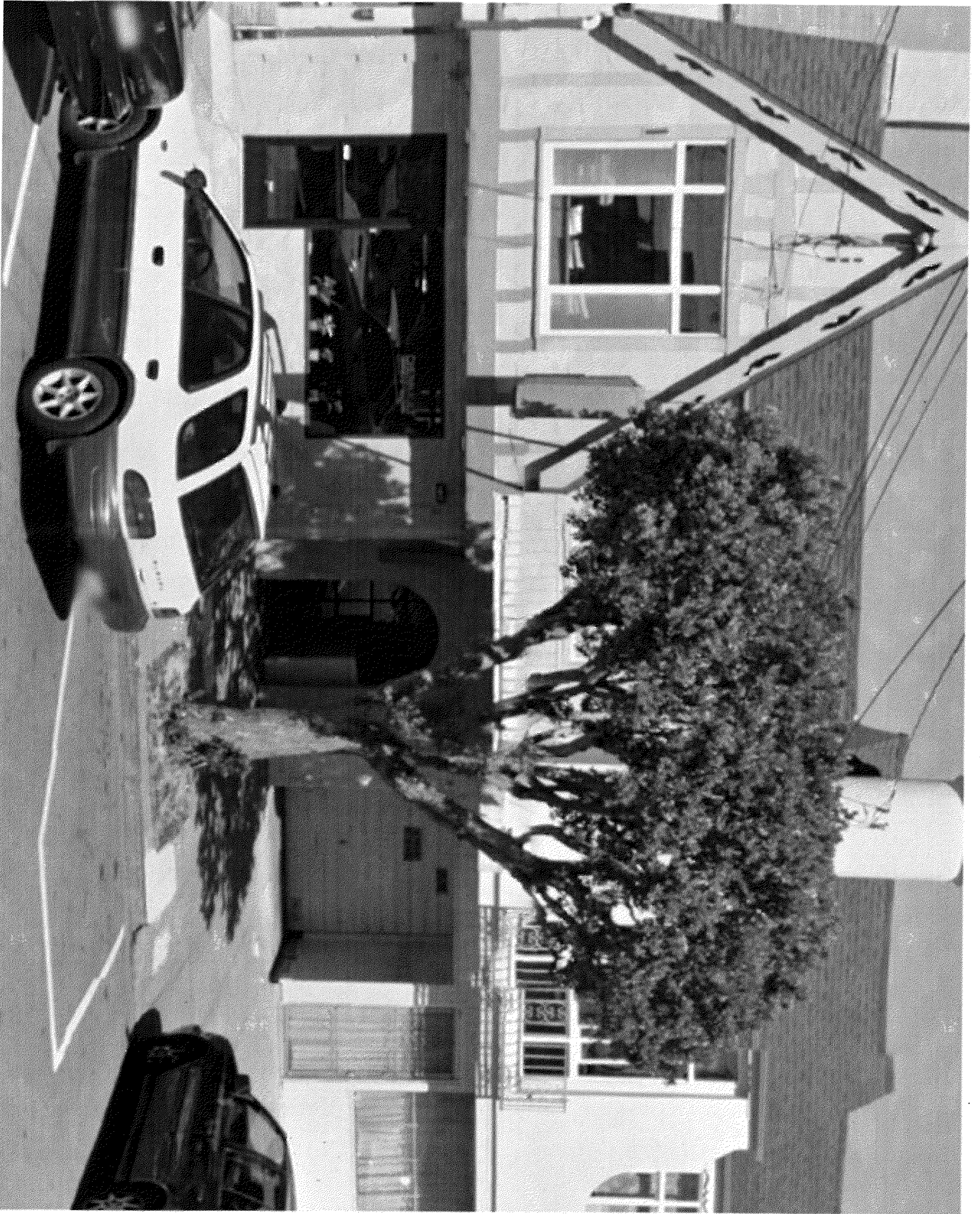
SIDEWALK CONDITION: <input checked="" type="checkbox"/> Good <input checked="" type="checkbox"/> Fair <input type="checkbox"/> Hazardous	# OF DAMAGED SQUARES:	PROPERTY SETBACK:
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TREES TO BE REMOVED: 0	TREES TO BE REPLACED: 0
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PROXIMITY OF INFRASTRUCTURE:

Sewer (5): -	Utility Pole (6): -	Traffic Signal / Stop Sign (25): -	High Voltage (10): no
Water (3): 3	Streetlight (9): -	Parking Sign (3): -	Low Voltage/Service: svc
Gas (3): 4	Fire Hydrant (5): -	Fire Escape (10): -	Other Trees (12-15): -

COMMENTS	Tree is healthy and sustainable. Only mild sidewalk lifting. No evidence of sewer damage.
RECOMMENDATIONS	deny removal
Signature and Date	<i>JH. John Hawkridge.</i>
Species suggestions	-
Other species on block	-



04/09/2014 13:45:44

