



MICHAEL N. FEUER
CITY ATTORNEY

March 3, 2016

The Honorable Public Works and Gang Reduction Committee
of the City of Los Angeles
City Hall, Room 395
200 North Spring Street
Los Angeles, California 90012

Re: Protecting City Trees on the Public Right of Way and on Private Property
(CF No. 15-0467-S4)

Honorable Members:

The Office of the City Attorney is a strong proponent of protecting the City's urban forest. Trees located on the public right of way and on private property deserve vigilant protection under existing City law. This Office has long encouraged law enforcement and regulatory agencies to refer cases of tree damage to our prosecutors. When cases have been referred, our prosecutors have a proven track record of successfully enforcing the law.

A number of existing City laws protect trees in our City. Los Angeles Municipal Code (LAMC) Section 46.00 is known as the City's Protected Tree Ordinance and it prohibits the destruction of certain native tree species on private property without a permit issued by the Bureau of Street Services (Bureau). Native trees include Oak, Black Walnut, California Bay and Western Sycamore. The ordinance authorizes the Bureau to investigate and take enforcement action against individuals and businesses that illegally harm protected native trees. The Bureau's Urban Forestry and Investigation and Enforcement Divisions are authorized to seek revocation of the building permit, if one was issued, and to withhold issuance of a new building permit for up to ten years for the most egregious circumstances. The Bureau is also empowered to refer protected native tree cases to this Office for consideration of filing misdemeanor charges. This Office has encouraged the Bureau to enforce this important ordinance,

but over the decade since the Ordinance was first enacted, few, if any, cases have been referred to our Office for consideration of criminal filing.

Another City law that protects our urban forest is LAMC Section 62.169. This code section prohibits a person from harming any tree on the public right of way without first obtaining a permit from the Bureau. LAMC Section 41.14(i) has a similar prohibition making it illegal to harm a tree on the public right of way. Violation of these laws is a misdemeanor subject to criminal prosecution. In addition to multiple sections in the LAMC that protect trees, the California Penal Code Section 384(a) also makes it a misdemeanor to harm any tree on public property or on private property without permission of the owner of the land.

Although the Bureau is the primary law enforcement agency charged with the duty to enforce these laws, historically only the Department of Building and Safety and the Los Angeles Police Department have referred cases for criminal filing. One of the cases referred by the Department of Building and Safety led to our prosecutor filing a criminal action ultimately leading to a conviction and restitution in the amount of \$581,025. Other criminal cases referred by LAPD allowed our prosecutors to bring charges against persons who harmed trees in the public right of way resulting in the imposition of fines and restitution.

Criminal prosecution can result in up to six months in jail or up to a \$1,000 fine, probation and restitution. Restitution can secure the cost to replace harmed trees and recover the cost of the City's investigation and enforcement in these cases. Moreover, the filing of a criminal misdemeanor prosecution in appropriate cases can make a difference, both in punishing those individuals and businesses that harm trees and creating a deterrent to others who today might think they can harm trees with impunity.

Recently, Councilmember O'Farrell introduced a motion instructing the Bureau to report back on the current protocols for inspection and enforcement of both permitted and unpermitted tree pruning and removal, funding and staffing levels within the Bureau needed to effectuate current and any proposed guidelines, as well as general recommendations to improve current practices. The motion also directs the Bureau, with the assistance of the City Attorney and any other relevant departments, to report back on recommendations for establishing monetary fines for illegal tree pruning and removals, including its inclusion within the Administrative Citation Enforcement Program.

Our Office is pleased to work with the Bureau and other City departments and offices to focus on long needed improvements to the way the City protects its urban forest. Adding a new enforcement tool of an administrative citation can legally be accomplished but this Office cautions against issuing citations instead of pursuing misdemeanor criminal violations in those cases where the facts demand tougher action. Such tougher action should not be made more elusive by the ease of issuing an

administrative citation – especially for those offenders who will consider an administrative citation nothing more than the cost of doing business.

If you have any questions regarding this matter, please contact the undersigned at (213) 978-7100.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

DM:pj

cc: Kevin James, President, Board of Public Works
Sharon Tso, Chief Legislative Analyst
Miguel Santana, Chief Administrative Officer
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