



CONTENTS

Pg	
1	Cover (this) 2022
2	2017 Letter from NYC Parks Dept
3	Cont'd Letter
4	2017 Rebuttal from MVR HLArb
5	Cont'd Rebuttal
6	Support Docs





NYC Parks

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City of New York
Parks & Recreation

The Arsenal
Central Park
New York, NY 10065
www.nyc.gov/parks

March 9, 2017

CERTIFIED MAIL/RRR

Homeowner
81-03 159th Avenue
Jamaica, New York 11414

Re: Illegal Tree Destruction
Location: 81-03 159th Avenue, Queens, New York

To Whom It May Concern:

This office has learned that on or about January 30, 2017, you, or agents working under your authority, did illegally destroyed two (2) City-owned street trees located adjacent to 81-03 159th Avenue, in the Borough of Queens, without seeking or obtaining a tree work permit from the City of New York Department of Parks and Recreation (the "Parks Department"). By this letter, we request that you plant replacement trees or pay for the cost of the replacement trees. See pictures hereto.

In cases of illegal tree injury rising to the level of destruction, the Rules of the City of New York mandate that the Parks Department seek damages equal to the cost of replacing the portion of the illegally destroyed tree. 56 RCNY § 5-01(c). The Rule further provides that those damages shall be calculated by determining the cost of the total number of replacement trees to be planted, which "shall equal the appraised value of the destroyed or removed tree." 56 RCNY § 5-02(d). The cost of the replacement trees to be planted is determined by multiplying the total number of replacement trees to be planted by the cost per tree, based on the City's average tree planting price as derived from City-wide tree planting contracts. 56 RCNY § 5-01(a) (6).

In this case, the Parks Department has determined that seventy (70) 3-inch caliper replacement trees must be planted in recompense for the two (2) trees illegally destroyed, at a cost of \$115,500.00. The basis for this determination is set out in the attached Tree Damage Reports. You have two options to rectify the illegal destruction of the trees. First, you may opt to plant the required replacement trees at locations that will be designated by the Parks Department. Second, if you do not opt to plant the replacement trees, you must pay the reimbursement amount of \$115,500.00, so that the City may plant the replacement trees.

Should you choose to reimburse the Parks Department for planting the required replacement trees, you must provide a certified check, money order or bank check in the amount of \$115,500.00, issued to *New York City Department of Parks & Recreation* by April 9, 2017, and mailed to:

Mrs. Karen Dugan
General Counsel's Office
New York City Department of Parks & Recreation
830 Fifth Avenue, 2nd Floor
New York City, NY 10065

If you choose the option of planting the replacement trees yourself, you will still have to provide a certified check, money order or bank check in the amount of \$115,500.00, or a guarantee bond naming the City of New York, acting by and through the New York City Department of Parks & Recreation as obligees, in said amount, to Parks. However, this sum will be returned within sixty days of confirmation by the Parks Department that such trees were properly planted.

Please respond to this letter by April 9, 2017 to make arrangements to pay the required reimbursement or to plant the replacement trees. Should you fail to respond by April 9, 2017, we intend to refer this matter to the New York City Law Department to take actions on behalf of the City to recover the \$115,500.00 owed, and we reserve all rights with respect to other legal remedies available to the City.

I look forward to hearing from you.

Regards,

Karen Dugan

Karen Dugan
General Counsel's Office

*

Att.:
Photographs
Tree Damage Report



TREE DAMAGED REPORT
Department of Parks & Recreation
NYC TREE RESTITUTION CALCULATOR
Variables: Tree Destroyed

Step 1: Calculate Base Area (BA)	Step 2: Assign Species Rating
Base Area (BA) = 25	Tree Species = LINDEN PLANTACEAE
Base Area (BA) = 25	Base Area (BA) = 100

Step 3: Calculate Location Factor (LF)

Base Area (BA) = 25	Base Area (BA) = 100
Base Area (BA) = 25	Base Area (BA) = 100

Step 4: Final Restitution (Number of Replacement Trees) = 4

TREE DAMAGED REPORT
Department of Parks & Recreation
NYC TREE RESTITUTION CALCULATOR
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Base Area (BA) = 25	Base Area (BA) = 100

Step 4: Final Restitution (Number of Replacement Trees) = 4



Michael Victor Ruggiero, RLA, CA
H Line Arborist – ISA-Certified Arborist NY-5409A
5545 Netherland Ave Suite 3F
Riverdale, NY 10471

July 12, 2017

Mrs. Karen Dugan
General Counsel's Office
New York City Department of Parks & Recreation
830 Fifth Avenue, 2nd Floor
New York City, NY 10065

Re: Illegal Tree Destruction
Location: 8103 159th Avenue, Queens, New York 11414

Dear Mrs. Karen Dugan,

For consideration in the New York City Parks Department case of alleged Tree Destruction at 81-03 159th Avenue in the Borough of Queens, I am an ISA-Certified Arborist writing on behalf of Mr. Louis Queijo and his wife Gina Grillo, owners and residents of the involved property. In response to a NYC Parks Letter that identifies findings of illegal tree destruction in action by them and ensuing legal action, both described in the Letter dated March 9, 2017, they contacted me for a final (3rd) professional opinion. Being quite persistent in their communications, they were able to convey the great duress, anxiety, and disruption that the allegations have caused.

For legitimate assessment of the situation, recently on Monday, July 3, 2017, I inspected current site conditions. Foremost to convey, is that the two involved 22" diameter London Planetrees, contrary to findings and assessment of 'destroyed trees' in Parks Letter, were trees in sound health and structural stability. In visual terms, the canopies of both trees are well-structured and all branches are fully-foliated their entire length. In support of this current state of the trees and my assessment that they are still of sound health, structure, and vigor, I submit the accompanying Photos 1 and 2, *both time-stamped*, for review by your office. See Support Documents (SP) Page 1.

Clearly, as is evident in Photos 1 and 2, cutting the roots (as seen in Parks Photos on SP 3) during sidewalk replacement had little or no impact to the canopies of these valuable large shade trees. Their level of environmental function and aesthetic value now are as high, if not greater than, before the roots were cut. (Irrigation installed by owners facilitated this condition.) In all fairness then to the property owners, the question that must be asked, and in turn answered substantively *and unequivocally* by Parks, is this one: on what basis does Parks deem the trees as 'destroyed'?

Germane Timeline Facts in Assessing Tree Structural Stability

The first observations of 'vandalism' by NYC Parks staff were made in the *middle of wintertime* on January 30, when the trees were dormant, with no leaves on them. Visually, in comparison to summer full-foliation, like all deciduous trees, they *looked* dead. By March 9 (still winter), the official date of the letter to Mr. Queijo, within a month's time, the official Tree Damaged Reports were rushed to completion by Parks staff, whose name and qualification are unidentified. See Annotated Tree Report on SP 2 .

The Reports announce the trees as 'Destroyed by Vandalism', despite Parks personnel having not observed tree vigor in spring and summer, understood universally by Arborists as seasons superior to winter to determine authoritatively 1) levels of tree decline, if any, and more importantly, 2) whether the tree is indeed dead or 'destroyed'. To declare death of the Planetrees in early March, that is without a greatest degree of certainty possible, is alarming.

In the discussion and measurement of actual impacts of cut roots, within the Letter and in the remarks in the Tree Reports, Parks assumes that Planetree buttress roots had just been cut, and asserts that these cuts have 'severely reduced the stability of the trees.' The support photographs on Page 5 in the Report,



on the other hand, show no ground upheaval or exposed roots in vicinity of the tree trunk -- the first signs of structural instability, or, anything at all that indicate that the stability of either tree has been truly compromised by removed root segments. (See SP 3 for analysis on tree root patterns within sidewalk contextual conditions.)

It is true that instability caused by certain actions or events may not manifest themselves until a period of time afterwards. This truism however diminishes in relevance in the case against the owners, because sidewalk replacement was, in actuality, **nearly 3 years ago**, in **October of 2014**, not in January 2017 as assumed in the letter.

That no sign of instability occurred in 3 years is of enormous consequence in determining tree stability: given the mature height of the trees, related canopy mass, and the high oceanic winds to which the sheer weight of the canopies are routinely subjected, the likelihood that any instability would have already manifested itself in 3 years is *extremely* high. In other words, tree instability, alleged as a certainty due to cutting the roots, would have already been made clear via tree toppling in the three years since 2014. If toppling has not happened yet, it's not going to. Moreover, SP 3 photos indicate in 3 years there has been no loss in tree structural stability at all. Acknowledging that, having labeled them as 'destroyed' was evidently made on a theoretical basis only, prematurely, and without thorough investigation. The trees, in fact, stand tall with the same leans, and firmly as ever.

That the involved trees are measurably in sound health, and, have demonstrated long-term structural stability are reasons enough to alleviate, by great measure, the strong penalty or restitution measures outlined in the letter against the owners, Mr. Queijo and Gina Grillo.

Mandatory Repairs Were Reason for Sidewalk Replacement

What must be taken into consideration further, is that repair of hazardous sidewalk conditions mandated sidewalk replacement in the first place. SP 4 photos show the dilapidated conditions of the sidewalk in October 3, 2014, taken, as time stamped, just prior to demolition of the sidewalk. This pre-existing sidewalk presented numerous trip hazards to neighborhood residents, and many were succumbing to these hazardous conditions by falling in increasing numbers.

So, instead of living with the grave liability associated with the sidewalk, they elected to repair it for the health and safety of many. Noble citizens indeed, who also had the best intentions **not** to harm community trees either. In light of their sincerity in doing public good, and hearing them just once explain things and tell their full story, I as well as anyone else, can understand why they are in a state of total shock and disbelief in reaction to allegations waged against them in 2017 by Parks, and feel blindsided by the strong penalties outlined to rectify actions -- presumed by Parks to be destructive -- but which this letter explains and attached Support Documents show, are otherwise.

In conclusion, as a public servant myself and a landscape professional with longstanding interest and record in creating environments that serve the public good, and thus one who can claim weight, authority, and technical expertise in such matters, I uphold and stand beside the actions of Mr Luis Queijo and Gina Grillo, who, through my own observation and assessments, have ensured public safety and admirably improved both their daily environment and the neighborhood surrounding it. Therefore, I firmly believe penalties should be alleviated to the greatest extent possible and that consideration of full relief is perhaps in order.

I, as well as the owners, thank you for your attention and consideration of all expressed herein.

Yours truly,

A handwritten signature in black ink that reads "Michael Victor Ruggiero". The signature is fluid and cursive, written in a professional style.

Michael Victor Ruggiero, CA, RLA
Certified Arborist – ISA NY #5409A RLA NYS 01681-1
Attached: Support Documents (SP) 1-4



**PLANETREE
CANOPIES
JULY 3, 2017**

PHOTO 1



PHOTO 2

Support Documents SP 1
Case: NYC Parks Findings of Illegal Tree Destruction
Location: 8103 159th Avenue, Queens, New York 11414 July 2017

ANNOTATED TREE DAMAGED REPORT

TREE DAMAGED REPORT
 Department of Parks & Recreation
NYC TREE RESTITUTION CALCULATOR
Vandalism: Tree Destroyed

Step 1: Calculate Basal Area (BA)		Step 3: Assign Species Rating	
Insert DBH of Tree	22	Tree Species:	LONDON PLANETREE
Insert Area (sq")	379.9	Insert Species Rating (SR) %	100
Step 2: Tree Condition prior Vandalism		Step 4: Calculate Location Factor (LF)	
SCORING SYSTEM		Insert Site Rating (SR) %	90
No. adjacent problems	4	Insert Placement Rating (PR) %	85
Minor problems	3	Location Factor (LF) %	87.5
Major problems	2		
Extreme problems	1		
Factor 1: Roots		Step 5: Required Restitution Area (RA)	
Root anchorage Collar Bare surroundings		Species Rating (SR) %	100
Mechanical injury Grinding/kindred roots		Condition Rating (CR) %	75
On-ground/underground roots		Location Factor (LF) %	87.5
Roots passed electrical systems		Required Replacement Area (sq")	249.3
Presence of insects or diseases mushrooms			
3 + = 1 = 4			
Structure	Health	Subtotal	
(1-4)	(1-4)	(2-8)	
Factor 2: Trunk		Step 6: Final Restitution (Number of 3-inch-caliper trees) 3.4.5	
Round bark and wood Girdling Mechanical injury		No. of 3" Replacement Trees RA/(RA7.1)	35
Checks (hoop or other) Section or surker area			
Wilting of insects or disease Corks			
4 + = 4 = 8			
Structure	Health	Subtotal	
(1-4)	(1-4)	(2-8)	
Factor 3: Significant Branches		Step 7: Final Replacement Area (RA) 3.4.5	
Strong attachments		Final Replacement Area (RA)	249.3
Stem diameter that sticks where attached			
Unusual branch distribution			
Free of included bark Free of decay and cavities			
Well pruned Well proportional/proper taper			
Wound closure Deadwood or fire injury			
Presence of insects or disease			
3 + = 3 = 6			
Structure	Health	Subtotal	
(1-4)	(1-4)	(2-8)	
Factor 4: Small Branches and Twigs		Step 8: Final Replacement Area (RA) 3.4.5	
Sign of current decay (compare previous growing)		Final Replacement Area (RA)	249.3
Well distributed through canopy			
Appearance of buds (color, shape, size)			
Wilting or dead leaves Dry-buds			
Presence of insects or disease			
Presence of weak or dead twigs			
3 + = 3 = 6			
Health	Subtotal		
(1-4)	(2-8)		
Factor 5: Foliage and/or Buds		Step 9: Final Replacement Area (RA) 3.4.5	
Sign of dieback (Coloration of foliage)		Final Replacement Area (RA)	249.3
Nutrient status Herbicide, chemical, pollution injury			
Wilting or dead leaves Dry-buds			
Presence of insects or disease			
3 + = 3 = 6			
Health	Subtotal		
(1-4)	(2-8)		
Total points assessed (0-35)		Condition Rating (CR) (25-100%)	
	24		75

Support Documents SP 2
Case: NYC Parks Findings of Illegal Tree Destruction
Location: 8103 159th Avenue, Queens, New York 11414 July 2017

ANNOTATED TREE DAMAGED REPORT



Tree roots take the path of least resistance, where there is more air and water.

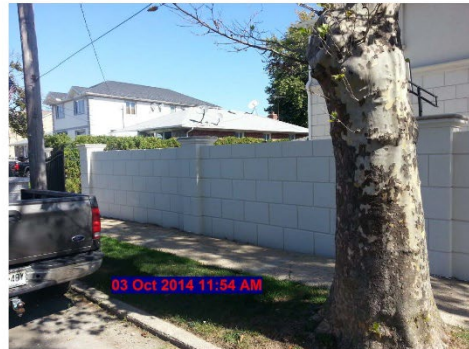
In a Planting Lawn Strip context such as here, the great majority of tree roots anchoring and feeding these trees are in the Lawn Strip – the major reason the trees are still stable after the 2 root cuts, shown below.

The other reason trees maintained their stability is that the lengths of the roots that grow beneath sidewalk are greatly stunted in comparison to roots growing in the lawn, and thus less consequential in anchoring the trees.



Support Documents SP 3
Case: NYC Parks Findings of Illegal Tree Destruction
Location: 8103 159th Avenue, Queens, New York 11414 July 2017

**SIDEWALK
CONDITIONS
October 2014**



Support Documents SP 4
Case: NYC Parks Findings of Illegal Tree Destruction
Location: 8103 159th Avenue, Queens, New York 11414 July 2017