

# STAFF REPORT



## PARKS AND RECREATION

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**DATE:** July 15, 2025

**TO:** Justin Hess, City Manager

**FROM:** Marisa Garcia, Park, Recreation, and Community Services Director  
VIA: Michael del Campo, Park, Recreation and Community Services  
Assistant Director  
BY: Lupe Santarriaga, Administrative Analyst I

**SUBJECT:** Consideration of an Appeal of a Decision of the Permit Appeals Panel to Uphold a Fine Due to Violation of Burbank Municipal Code, Section 7-4-104 Illegal Pruning of City Tree at 1083 East Harvard Road, Burbank 91501 Submitted by Marine Bezhanyan

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### **RECOMMENDATION**

Uphold the Permit Appeals Panel's decision to uphold the fine issued by the Park, Recreation and Community Services Department for the violation of the Burbank Municipal Code related to the unauthorized pruning of a City-owned tree adjacent to 1083 East Harvard Road based on the reasons and authorities provided in this staff report.

### **BACKGROUND**

The Park, Recreation and Community Services Department (Department) is responsible for the care and maintenance of City-owned parkway trees. Most trees are maintained on a scheduled six-year cycle, but residents may request inspections or tree trimming for urgent issues. If warranted, Forestry staff will perform trimming ahead of schedule.

Below is a timeline related to actions taken on a City tree located at 1083 East Harvard Road:

- January 3, 2019: The Appellant, Ms. Marine Bezhanyan (Appellant) contacted the Department to request trimming of the tree adjacent to her property.

- June 15, 2020: The tree was pruned following an inspection by City staff.
- December 18, 2023: The Appellant contacted the Department to request pruning of the same tree. However, no work was scheduled as it was determined by staff that no maintenance was warranted at that time.
- April 12, 2024: Since no work was scheduled, a follow-up request was submitted by the Appellant.
- April 15, 2024: Following protocol, Forestry staff inspected the tree and determined once again that trimming was not necessary (Attachment 1).
- April 28, 2024: Senior Tree Trimmer and Certified Arborist, Ken Scarone received an after-hours call reporting that a tree was being trimmed by non-City personnel. Mr. Scarone responded the same day and, upon arriving at the site, observed that the improper pruning had already been completed and the contractors had left the area (Attachment 2).
- April 29, 2024: Forestry Supervisor, Juan Cardenas, also a Certified Arborist, inspected the tree and confirmed that it had been improperly pruned. More than 60% of the tree's foliage had been removed, leaving it unbalanced and structurally unsafe (Attachment 3).
- May 16, 2024: A Notice of Violation letter was sent to the Appellant, citing Burbank Municipal Code (BMC) § 7-4-104(C), which prohibits any person from trimming, altering, or damaging a City-owned tree without written approval. The letter included an estimated valuation of \$9,600 for the tree. The valuation is based on the "Trunk Formula" method outlined by the Council of Tree and Landscape Appraisers (CTLA) and used by ISA-certified arborists; a standard valuation approach used by arborists to estimate the monetary value of a tree (Attachment 4).
- May 20, 2024: Ms. Ashley Gambourian emailed the Assistant Park, Recreation and Community Services Director, Michael del Campo, indicating she was representing the Appellant and requested clarification and evidence related to the allegations. Mr. del Campo forwarded the correspondence to the City Attorney's Office (CAO) for review.
- June 5, 2024: the Department issued an invoice for \$12,604.41 to the Appellant. This amount included the tree valuation, labor, materials, equipment, and administrative fees (Attachment 5).

- June 25, 2024: Ms. Gambourian again contacted Mr. del Campo and reiterated her concerns related to the invoice received by Ms. Bezhanyan. Ms. Gambourian also requested the evidence justifying the invoice, claiming the City did not need to remove the tree. In response, Mr. del Campo explained that the City's Certified Arborist had found the tree to be pruned more than 60%, making it unsafe. This correspondence was also forwarded to the CAO.

Subsequently, it was identified that Mr. del Campo initially referenced the wrong inspection date in his correspondence. An email stated that the tree had been inspected on November 18, 2023, but the correct inspection date confirming damage was on April 29, 2024. This mistake has since been acknowledged by staff.

- July 10, 2024: The Appellant and Ms. Gambourian visited the Department Administration Office at the Community Services Building to speak with the Department Director, Marisa Garcia or Mr. del Campo. Neither were available, and they were assisted by Assistant Director Grace Coronado and Forestry Senior Clerk, Andrea Del Rio. According to Ms. Del Rio's written statement (Attachment 6), the Appellant acknowledged she had trimmed the tree but claimed the damage was minimal. Ms. Gambourian then interjected, denying that her client had touched the tree and asserted that the complaint may be racially motivated. Similarly, according to Ms. Coronado's statement (Attachment 7), the Appellant acknowledged she had barely trimmed the tree and that it was still blooming and alive. The Appellant requested to speak with Ms. Garcia and Mr. del Campo, and staff noted the request would be passed along.

Following this interaction, upon consultation with the CAO, staff was directed to refrain from any further direct contact with the Appellant due to the potential for litigation and the Appellant's claim that she was represented by counsel.

- July 22 and July 25, 2024: Ms. Gambourian contacted Mr. del Campo and Ms. Garcia via email to request a formal meeting regarding the invoice and alleged damage. Ms. Garcia acknowledged receipt and confirmed the tree would have to be removed following unauthorized work.
- July 31 and August 31, 2024: Past-due invoices for the invoice in the amount of \$12,604.41 (issued to the Appellant on June 5, 2024) were mailed to the Appellant, in accordance with standard Department policy, prior to forwarding any unpaid invoice to collection services. Due to the damage to the tree at issue, Department staff placed the tree on the City's removal list. This list is categorized by priority of safety risk to the public.

- October 2024: The tree was removed due to its unsafe condition.
- November 12, 2024: the Appellant submitted a formal appeal of the Notice of Violation and fine (Attachment 8).
- March 13, 2025: a Permit Appeals Panel (Panel) hearing was held at City Hall. The Panel (consisting of the Assistant City Manager, the Fire Chief, and the Financial Services Director in accordance with Burbank Municipal Code 15-1-1501) reviewed written and oral testimony from both sides and affirmed the Department's determination (Attachment 9). The Panel found the following:
  1. Evidence Supported the Violation: Based on the weight of the evidence presented, the Panel concluded that the Appellant was financially responsible for trimming the City-owned tree. The Panel cited the Appellant's prior requests to trim the tree, staff observations, and statements made to City staff. The tree was improperly pruned to such a degree that it required removal.
  2. Premature Invoice: The Panel noted that the invoice issued to the Appellant was premature and did not reflect the final cost. Accordingly, the Panel reduced the total fine from \$12,604.41 to \$9,600, representing the tree's value, with no charges for labor, materials, or administrative fees. At the time of the incident, the Department's practice was to issue invoices for estimated costs in advance of completing the work. This prior procedure was followed in the Appellant's case. The Department has since updated its procedures and now issues invoices only after work is completed.
  3. Right to Appeal Was Honored: Although the initial invoice did not clearly state the right to appeal, the City waived any statutory deadlines, and the Appellant was granted a full hearing.
  4. No Evidence of Discrimination or Retaliation: The Panel found no evidence that the City's actions were influenced by discrimination or retaliation.

## **DISCUSSION**

In accordance with BMC, the Appellant is appealing the decision of the Panel (Attachment 10) to the City Council. In the appeal, the Appellant raised several points for consideration. The following provides a summary of those concerns along with the basis for staff's position in support of the Panel's decision.

### **1) Credibility of Testimony from City Staff**

The Appellant disputes the testimony provided by two City staff members during the hearing, arguing that their statements were not supported by any physical or

documentary evidence. The Appellant claims that the clerks falsely testified about overhearing an admission of tree trimming.

In response, the City asserts that the testimony of Ms. Del Rio and Ms. Coronado, is credible based on their positions within the Department and their responsibility to uphold the integrity of City staff in the management and maintenance of public assets. Their testimony was evaluated as part of the overall evidence supporting the fine and is consistent with the City's policies regarding the care of public trees.

In addition, the City relied on the expertise of its certified arborists, Mr. Scarone and Mr. Cardenas, in assessing the condition of the tree and determining appropriate actions. While the Appellant submitted a sworn statement from Ms. Gambourian that contradicts the staff statements, the Appeal Panel found the staff's administrative roles within the Department, and the support of certified arborist, to be relevant factors. As such, the City's reliance on their testimony is considered justified.

## **2) Evidence and Allegation of an Arbitrary and Capricious Decision**

The Appellant contends that the decision to impose the fine was arbitrary and capricious, given the absence of direct evidence linking them to the alleged tree trimming. The Appellant argues that the fine was imposed without concrete proof of wrongdoing.

The City maintains that the fine was issued based on a combination of evidence. This evidence includes the multiple requests for trimming made by the Appellant, the proximity in time from her most recent request to the pruning of the tree, her statements made to City staff, the condition of the tree after pruning, and the general maintenance practices for parkway trees. The City asserts that the fine was issued in accordance with established regulations intended to protect public property. The Panel reviewed the evidence and concluded that the fine was justified under the circumstances.

## **3) Photographic Evidence and Condition of Trees**

The Appellant challenges the use of photographic evidence, specifically Google imagery (Attachment 11), which they argue does not accurately depict the condition of the tree in question. The Appellant asserts that the images reflect natural growth patterns and environmental factors, rather than unauthorized trimming.

The City used photographic evidence to provide context for the condition of the tree. While the Appellant notes that similar characteristics can be seen in other trees in the area, the City's position is that the alteration to the tree is a violation of the BMC, regardless of whether other trees exhibit similar conditions. The photographs were part of the evidence considered by the Panel when making its decision.

#### **4) Due Process Concerns**

The Appellant asserts that they were denied due process because they were not informed in a timely manner about their right to appeal and were not provided with sufficient notice regarding the procedures for challenging the fine.

The City acknowledges that there may have been delays in communicating the appeal process, but it maintains that the Appellant was provided with the necessary information to file an appeal and present their case. While the appellant raised concerns about the timing and clarity of the notifications, the City followed standard procedures in notifying the appellant of their right to appeal. Furthermore, the City waived any appeal deadlines to allow Appellant the opportunity to seek an appeal, remedying any due process violation claims.

#### **5) Retaliatory and Discriminatory Actions**

The Appellant argues that the fine was issued as an act of retaliation, related to previous complaints they made regarding neglected vegetation and fire hazards in the neighborhood. The Appellant contends that the City's actions were motivated by a desire to punish them for raising these concerns.

The City disputes this claim, asserting that the fine was issued solely based on the violation of the BMC and not in response to any prior complaints. In addition, the City took action with regards to all of Appellant's prior requests for tree pruning. City staff (Certified Arborists) inspected the tree and made decisions on whether the tree required pruning based on factors such as the overall health of the tree, public safety, potential hazards, and impacts on urban infrastructure. Tree service requests from the public are received, processed, and evaluated in a consistent and objective manner to ensure public safety and tree health.

#### **6) False Allegations and Intimidation**

The Appellant contends that the fine is based on false allegations and intimidation tactics, claiming that the City has resorted to using false witnesses in an attempt to justify the fine.

The City issued a fine in accordance with the provisions of the BMC related to tree maintenance on public rights-of-way. The City asserts that the actions taken were not intended to intimidate, but to ensure compliance with established rules regarding tree care and to protect City assets, including the long-term health and safety of the urban forest. The City emphasizes that the fine was based on the facts and circumstances surrounding the violation, as presented during the hearing. Trees are a necessary and expensive asset to the City, and damage to trees must be rectified.

In accordance with BMC, the appeal hearing shall be held as part of a regular meeting of the Council and shall be conducted as an independent reexamination of the matter (not as review of the Appeals Panel process or decision). The burden of proof falls to the Appellant. Upon hearing the appeal, the Council may refer the matter back to the Permit Appeals Panel with directions for further consideration, or it may reverse, affirm, or modify the decision in light of the evidence presented. The decision of Council shall be final and conclusive. Council's decision shall then be adopted at a regular meeting not later than two weeks following the close of the appeal hearing.

### **ENVIRONMENTAL REVIEW**

The decision on appeal has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and as such, is not a "project" subject to the requirements of the California Environmental Quality Act (CEQA) 14 Cal. Code Regs § 15378.

### **FISCAL IMPACT**

The City incurred total costs of \$12,604.41 for the removal of the tree, including the cost of the tree, labor, materials, and administrative fees. As part of their decision, the Panel reduced the Appellant's cost to \$9,600, representing only the cost of the tree.

### **CONCLUSION**

After reviewing the appeal, the evidence presented, and the arguments made, the City's decision to impose the fine was based on a reasonable assessment of the facts. While the Appellant challenges the validity of the evidence, the City's responsibility to maintain public property and uphold the BMC is of utmost importance. The revised fine was imposed following a formal hearing and in accordance with applicable City ordinances. Therefore, it is recommended that the Council uphold the fine as determined by the Panel, as it was issued in the interest of maintaining public safety, ensuring compliance with City ordinances, and preserving the integrity of City assets.

### **ATTACHMENTS**

Attachment 1 – Call Requests and Work Log  
Attachment 2 – Statement: Ken Scarone  
Attachment 3 – Statement: Juan Cardenas  
Attachment 4 – Trunk Formula Tree Value Record  
Attachment 5 – Invoice  
Attachment 6 – Statement: Andrea Del Rio  
Attachment 7 – Statement: Grace Coronado  
Attachment 8 – Appellant Appeal  
Attachment 9 – Permits Appeal Panel Determination Letter  
Attachment 10 – Appellant Panel Determination Appeal  
Attachment 11 – Photographs of Tree Before and After