

RESOLUTION No.

35845

Authorize City Attorney to commence legal action against Edward Davis for damages to City-owned tree (Resolution)

WHEREAS, Edward Davis applied to the City Forester for a permit to remove a Spanish Chestnut tree in the right of way abutting his property at 4906 NE 33rd Avenue; and

WHEREAS, the Forester denied the permit on the ground that the condition and circumstances of the tree did not warrant removal; and

WHEREAS, Mr. Davis, under the provisions of PCC 20.40.100, appealed the Forester's decision to the Urban Forestry Commission, which affirmed the Forester's denial of a permit and recommended that Mr. Davis seek a permit for selective pruning of the tree; and

WHEREAS, Mr. Davis did not appeal the Urban Forestry Commission's decision to the Council; and

WHEREAS, Mr. Davis, through his lawyer, sent a letter to the City complaining of the decision to deny permission to remove the tree; and

WHEREAS, the City Attorney responded with a letter to Mr. Davis' lawyer reminding Mr. Davis of his responsibility to maintain the tree under the City Code; and

WHEREAS, Mr. Davis, without a permit, cut and seriously damaged the tree; and

NOW, THEREFORE, BE IT RESOLVED that the City Attorney or his designee is authorized to commence an action for damages and other appropriate relief, in any court of competent jurisdiction against Edward Davis and any other person who may be responsible for damage to the City-owned tree in the right of way abutting 4906 NE 33rd Avenue, and, in furtherance or resolution of such action, is authorized to make any stipulation, agreement or admission as in his judgment may be in the best interest of the City.

Commissioner Francesconi
Harry Auerbach.ha
November 17, 1999
Adopted by the Council:

DEC 01 1999

Gary Blackmer
Auditor of the City of Portland
By: *Britt Olson*
Deputy

1686 1687

Agenda No

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Title

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INTRODUCED BY	DATE FILED
Jim Francesconi	NOV 19 1999
NOTED BY COMMISSIONER	Gary Blackmer Auditor of the City of Portland
Affairs	By <u>Gary Kershner</u> Deputy
Finance and Administration	For Meeting of _____
Safety	ACTION TAKEN
Utilities	NOV 24 1999 CONTINUED TO DEC 01 1999 9:30 A.M.
Works	
BUREAU APPROVAL	
Bureau Parks	
Prepared by H/Auerbach kr Date 11/16/1999	
Budget Impact Review	
Completed Not Required	
Bureau Head	

AGENDA		FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS	
			YEAS	NAYS
Consent	Regular	Francesconi	✓	
NOTED BY		Hales	✓	
City Attorney		Saltzman	✓	
City Auditor		Sten	✓	
City Engineer		Katz	✓	