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May 9, 2013

VIA HAND DELIVERY
Lilly Schinsing
Administrative Analyst
Trees & Views Committee
Community Development
City of Sausalito
420 Litho Street
Sausalito, CA 94965

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JUN 10 2013

CITY OF SAUSALITO

Re: **View Claim Application – Supplemental Arborist Report
June Schwarcz – 18 Wray Avenue**

Lily:

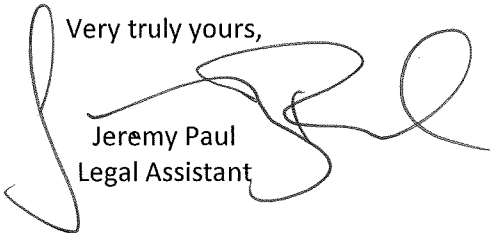
Pursuant to the committees' offer at the site inspection, I enclose our arborist's supplemental report. As discussed, the report is an update of both the arborist's findings and conclusions based upon the additional information he was able to obtain at the May 30, 2013 site inspection of 10 Wray Avenue.

We request that you advise the committee that these updated conclusions supersede those contained in the original report. As such, the supplemental conclusions should be considered to constitute Mrs. Schwarcz's formal request for restoring her historic views.

Please advise if our office can be of any further assistance in this regard prior to the June 24, 2013 committee hearing.

Thank you for your cooperation in this regard.

Very truly yours,

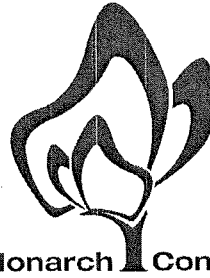

Jeremy Paul
Legal Assistant

BKB:jp
Enclosures
Cc: Eulalie Glaser

EXHIBIT H
(13 PAGES)

June 7, 2013

June Schwarcz
18 Wray Avenue
Sausalito, CA 94965



Monarch Consulting Arborists LLC
P.O. Box 1010
Felton, CA 95018
831. 331. 8982

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Addendum to Schwarcz residence "View Obstruction Arborist's Report" dated April 4, 2013.

Summary

The southern most coast live oak (*Quercus agrifolia*) is in moderate to poor condition and removal of the tree should be explored rather than reduction. The horsetail pine (*Casuarina stricta*), plum (*Prunus sp.*), and two small coast live oaks near the property boundary should be removed. The middle coast live oak and the southern most coast live oak have poor structure but can be reduced to help restore the original views from 18 Wray Avenue.

Assignment

- Provide a "Level 2" basic structural assessment of the three coast live oaks and horsetail pine as defined by ANSI A300 (Part 9) Tree Risk Assessment a. Tree Structure Assessment, 2011.
- Provide a health assessment of the coast live oaks and horsetail pine.
- Provide view restoration information regarding the addition of the southern most coast live oak.
- Update the original view restoration plan.

Limits to the assignment

- The information in this report is limited to the condition of the trees and views during my inspections on February 26, 2013 and May 30, 2013.
- No tree risk assessments were performed.

Purpose and use of the report

The purpose and use of this report is to supplement the information and opinions provided in the original View Obstruction Arborist's Report dated April 4, 2013. The report is to be used by Mrs. Schwarcz and her attorney to help resolve the view claim.



Observations and Discussion

Plum tree

The plum (*Prunus sp.*) is a volunteer growing under the northern most coast live oak (Appendix A). The tree has a trunk diameter of approximately 12 inches at 1 foot above grade and separates into multiple stems. The tree is approximately 30 feet tall and the crown is intertwined with the coast live oak.

The plum does not provide visual or auditory screening and has no significant beneficial use or economic value to the property.

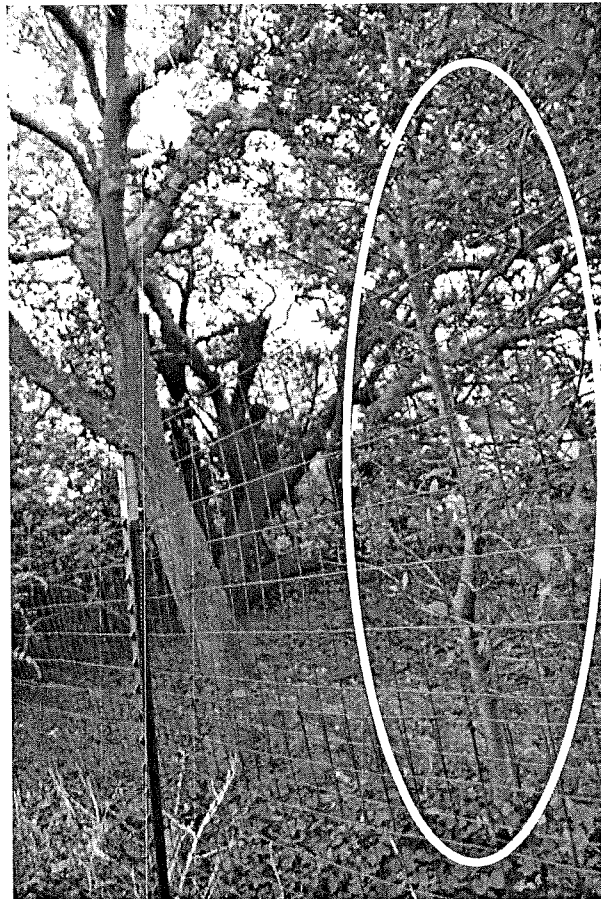
Removal of the plum tree should be considered.

Small coast live oaks along the property boundary

There are two small coast live oaks growing along the northern property boundary (Photo 1). These two trees do not obstruct the view from either residence at this time, however they have the potential to be a problem in the future. Because the trees are growing near the property boundary they will create problems for both property owners as they grow taller and their crowns cross the property boundary.

I would recommend removing these trees now while they are small and easily removed before they become an issue years from now.

Photo 1: The photo to the right shows one of the two small coast live oaks growing near the property boundary.



Horsetail pine (*Casuarina stricta*)

The unknown tree referenced in the report dated April 4, 2013 is a (*Casuarina stricta*). Casuarinas have many common names including horsetail pine, she oak, beef oak but they are not pines or oaks and are in a classification of their own. The tree is a native to Australia and grows to approximately 60 feet tall.

The casuarina has three main stems, is located behind the middle coast live oak, and has a trunk diameter of approximately 24 inches. The main stems have been previously topped at approximately 30 feet above grade and there are adventitious sprouts originating near the old cuts. There is an old "Artists Conk" (*Ganoderma applanatum*) growing near the main stem attachments (Photo 2).

The casuarina is in poor health and has poor structure. There are positive indicators of decay at the ends of the main stems where the tree was topped and in the attachment where the conk is located. One stem is completely dead.

The casuarina should be removed and it does not provide visual or auditory screening or have significant beneficial use or economic value to the property.

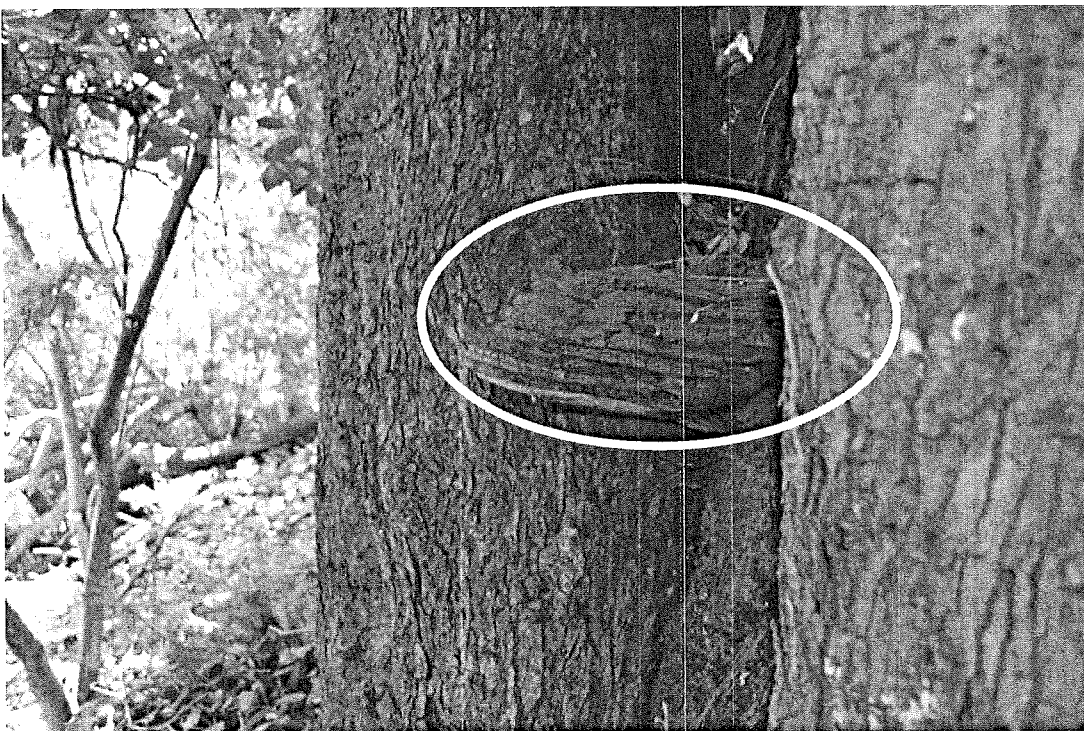


Photo 2: The photo above is of the main stem attachment and the "Artists Conk".



Coast live oak (northern most oak)

The health assessment I performed on the coast live oak focused on the following conditions:

- Overall appearance
- Foliar health
- Twig growth
- Environment (abiotic disorders)
- Presence of insects and disease (biotic disorders)

The overall health rating is either good, moderate, or poor. The assessment is based on the overall appearance of the tree, its leaf and twig growth, and the presence and severity of insects or disease.

The coast live oak has sparse foliage that has a yellow hue (Photo 3). Chlorosis, the whitish or yellowish leaf discoloration is caused by a lack of chlorophyll, which is often caused by nutrient deficiencies. The yellowing of the foliage, sparse crown, and sporadic leaf dieback are all indicators of stress and potential root, leaf, or nutrient problems. The tree is declining in health.

Topping or crown reduction, even within the maximum of 25 percent reduction in live foliage, may cause the tree to go into a spiral of decline. Removal of significant amounts of foliage could cause irreversible decline because the tree is already declining.

Removal of this coast live oak proactively rather than topping or significant reduction may be a more appropriate long term solution.



Photo 3: Sparse crown of the northern most tree.



Coast live oak (middle oak)

The structural evaluation on the coast live oak focused on the crown, trunk, trunk flare, above ground roots and the site conditions.

The tree has codominant stems that originate between two and four feet above grade with one stem being upright and the other extending west before sweeping upward (Photo 4). Codominant stems are branches of relatively equal size that join at the same point on the main stem. Usually, codominant stems do not have normal branch attachments and are prone to failure especially when the stems are similar in size (diameter) (Smiley, Fraedrich and Hendrickson, 2007). The lower foliage on the tree has been removed creating poor branch and stem taper with overextended limbs. The western leader is oozing from bacterial flux where the limb is cracked. The vertical crack is formed on the compression side of the stem where gravity is pulling the stem toward the ground. This is sometimes referred to as a "banana crack" because the fracture is the same as you would see if you were to bend a banana. The oozing or bacterial flux is caused by several different kinds of bacteria and/or yeast that colonize areas where wounds occur (Dreistadt, 2004), in this case the crack. Although it is unsightly the affected wood may still be strong underneath. Typically, bacterial flux has little to no effect on healthy trees.

The tree has poor structure, codominant stems, poor stem taper, and a cracked stem, but is in good health. Crown reduction, especially on the western most leader, could help the structure by reducing weight while reducing the risk of stem failure.



Photo 4: Coast live oak with codominant stems and oozing compression crack.



Coast live oak (southern most oak)

The southern most live oak was not considered in the original view obstruction claim. The tree has a trunk diameter of approximately 24 inches and is about 25 feet tall. There is a large wound on the south side of the tree where a codominant stem failed. The failed stem created a wound that is half the circumference of the original stem (Photo 5). The tree has been pruned in a "windowing" fashion and all the lower foliage has been removed. The tree has poor structure and its potential for failure is increased due to the wound at the base. When wounds encompass greater than 33 percent of the original branch or stem circumference, failure is likely to occur at that point and the limb or stem poses a high risk. When 50 percent or more of the branch or stem is decayed or missing the branch poses a critical risk of failure (Smiley, Fraedrich and Hendrickson, 2007). The stem of the tree has approximately 50 percent of the original circumference of the stem remaining.

There are views from 18 Wray Avenue that are obstructed by this tree and crown reduction similar to that performed on the middle oak will help to restore those views (Appendix B).



Photo 5: Wound at the base of the southern most coast live oak.



Conclusion

The northern most coast live oak is in moderate to poor health and pruning for view restoration may cause the tree to go into irreversible decline. The plum, casuarina, and small coast live oaks should be removed and provide no visual or auditory screening nor have significant beneficial use or economic value to the property. The middle coast live oak has poor structure with codominant stems and a compression crack along the western leader but is in good overall health. The southern most coast live oak has poor structure, is in good health, and also impairs the views from 18 Wray Avenue. The southern most coast live oak should be pruned to be consistent with the middle coast live oak view restoration treatment.

Recommendations

Cut the plum, casuarina, and two small coast live oaks to grade level. Grind or poison the stumps of the coast live oaks and plum to help prevent regrowth.

Consider removal of the northern most coast live oak because of its health and long term viability.

Prune the middle coast live oak and the southern most coast live oak to restore the original views from 18 Wray Avenue.

Scope: Prune the two coast live oaks a maximum of one time every growing season and annually as necessary. Pruning should maintain seventy five percent (75%) of the existing foliar density and be performed during the months between June and October. It would be best to reduce the trees over a period of two to five years by selectively removing upright branches to appropriate sized laterals. Given Ms. Schwarcz's advanced age, and the apparent lack of regular reduction pruning, it may be appropriate in this situation to exercise a more aggressive pruning program than would otherwise be recommended.

Objective: Reduce the height of the trees below the deck level of 18 Wray Ave to help improve the views from 18 Wray Avenue (Photo 6).

Specifications:

- Reduce the crown heights below the level of the back deck. Prune back to appropriate sized lateral limbs no less than 50 percent the diameter of the parent branch or stem at the cut. Reduction cuts shall consist of branches no greater than four inches in diameter at the point of the cut. Heading and topping cuts shall be avoided where possible.



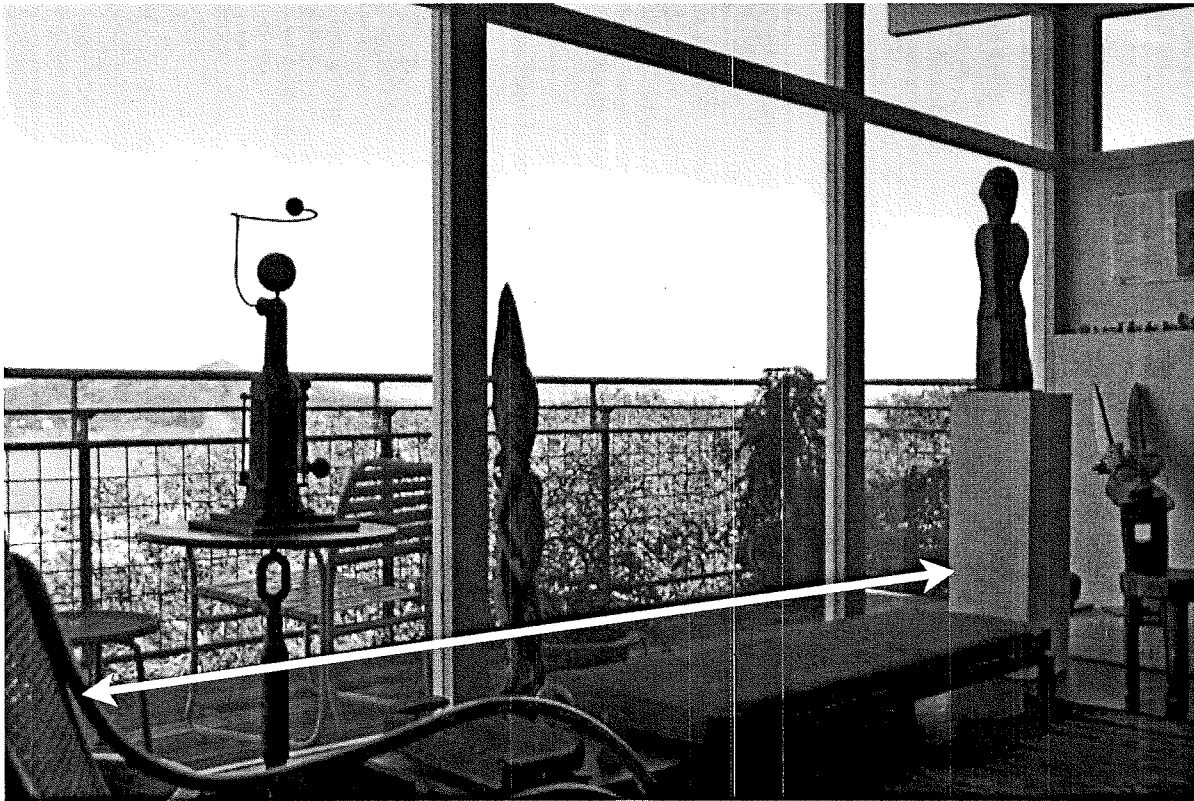


Photo 6: The arrow line in the photo above indicates the level the trees should be reduced below to restore the views.

Reference

American national standard for tree care operations: tree, shrub and other woody plant management: standard practices (Tree risk assessment a. Tree structure assessment). Londonderry, NH: Secretariat, Tree Care Industry Association, Inc., 2011. Print.

Dreistadt, Steve H.. *Pests of Landscape Trees and Shrubs: An Integrated Pest Management Guide*. 2nd ed. UC Davis: Univ Of California Agriculture & Natural Resources, 2004. Print.

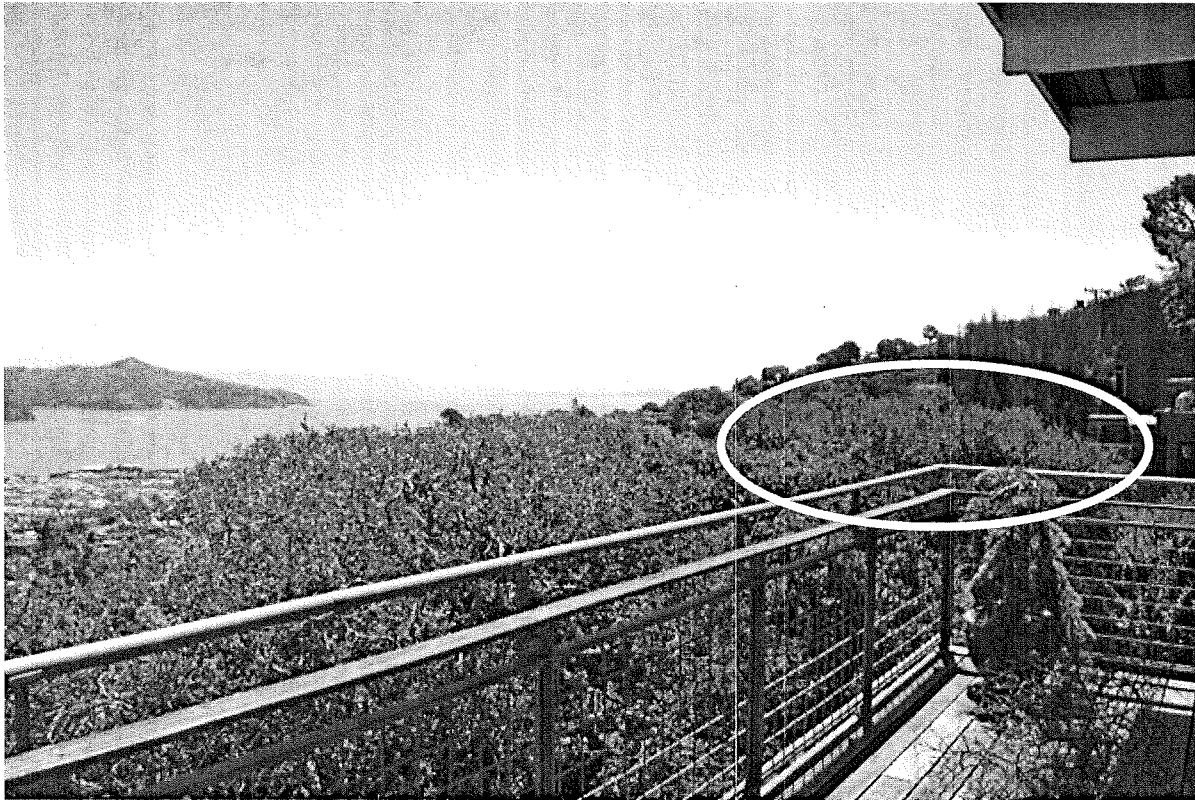
Smiley, E. Thomas, Fraedrich, Bruce R., and Hendrickson, Neil. *Tree Risk Management*. 2nd ed. Charlotte, NC: Bartlett Tree Research Laboratories, 2007



Appendix A: Site Overview and Tree Locations



Appendix B: Southern Most Coast Live Oak



The photo above shows the views and the third coast live oak.



Qualifications, Assumptions, and Limiting Conditions

Any legal description provided to the consultant is assumed to be correct. Any titles or ownership of properties are assumed to be good and marketable. All property is appraised or evaluated as though free and clear, under responsible ownership and competent management.

All property is presumed to be in conformance with applicable codes, ordinances, statutes, or other regulations.

Care has been taken to obtain information from reliable sources. However, the consultant cannot be responsible for the accuracy of information provided by others.

The consultant shall not be required to give testimony or attend meetings, hearings, conferences, mediations, arbitration, or trials by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services.

This report and any appraisal value expressed herein represent the opinion of the consultant, and the consultant's fee is not contingent upon the reporting of a specified appraisal value, a stipulated result, or the occurrence of a subsequent event.

Sketches, drawings, and photographs in this report are intended for use as visual aids, are not necessarily to scale, and should not be construed as engineering or architectural reports or surveys. The reproduction of information generated by architects, engineers, or other consultants on any sketches, drawings, or photographs is only for coordination and ease of reference. Inclusion of said information with any drawings or other documents does not constitute a representation as to the sufficiency or accuracy of said information.

Unless otherwise expressed: a) this report covers only examined items and their condition at the time of inspection; and b) the inspection is limited to visual examination of accessible items without dissection, excavation, probing, or coring. There is no warranty or guarantee, expressed or implied, that structural problems or deficiencies of plants or property may not arise in the future.



Certification of Performance

I Richard Gessner, Certify:

That I have personally inspected the tree(s) and/or the property referred to in this report, and have stated my findings accurately. The extent of the evaluation and/or appraisal is stated in the attached report and Terms of Assignment;

That I have no current or prospective interest in the vegetation or the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved;

That the analysis, opinions and conclusions stated herein are my own;

That my analysis, opinions, and conclusions were developed and this report has been prepared according to commonly accepted Arboricultural practices;

That no one provided significant professional assistance to the consultant, except as indicated within the report.

That my compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party, nor upon the results of the assessment, the attainment of stipulated results, or the occurrence of any other subsequent events;

I further certify that I am a Registered Consulting Arborist® with the American Society of Consulting Arborists, and that I acknowledge, accept and adhere to the ASCA Standards of Professional Practice. I am an International Society of Arboriculture Board Certified Master Arborist® and a Certified Tree Risk Assessor. I have been involved with the practice of Arboriculture and the care and study of trees since 1998.

Richard J. Gessner



ASCA Registered Consulting Arborist® #496
ISA Board Certified Master Arborist® WE-4341B
ISA Certified Tree Risk Assessor Qualified

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JUN 17 2013

TREASURY SAUSALITO

Eulalie Glaser
10 Wray Ave.
Sausalito, CA 94965

15 June 2013vi

Sausalito Tree Committee:

Why I Treasure Trees

In my backyard my trees sway gracefully from the breeze, opening views of the blue water and occasionally boats – anchor outs and at the docks.

Their beauty hides the roofs and dwellings on the hills below me. Between branches I see blue water.

I'm so fortunate to have three beautiful oaks – volunteers to enhance my views and life. My desk on the lower level of my home bring their swaying to my eye level.

The bird population is amazing. Early spring brought a huge concentration of birds to nest in my trees – bright blue jays, a few small sparrows, and a pair of black crows, my constant visitors, year round.

A few years ago a neighbor uphill complained about the lack of birds. It seems that her neighbor had several cats, so the birds 'hiked' down hill to nest in my refuge – my trees.

I have welcomed their new home by putting out a large tub, filled with water from my deck watering hose.

A bonus is the deer family that has been visiting my backyard for years – we see them frequently – mama, papa, and two fauns – a beautiful sight.

So my trees are a refuge, a habitat for nature's creatures. I consider them God's gift, connecting earth to heaven: they bring sustenance to my soul – after losing both my sister and my son (my only child) in the same year. Perhaps the birds and deer are their gift to me.

My soul is nourished.

Note: There is no way that a view from 1954 can be regained. All of Sausalito is more lush with trees now. See the attached picture.

Almost 60 years ago!!

18 Wray Avenue - View Obstruction Arborist's Report

April 4, 2013

All of Sausalito changed.

B6: Exterior

Photo below of the residence in 1954 with the edge of the deck in the middle of the photo and no trees on the slope.



1954?



Photo above of the corridor between the properties today.



1951 -

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CITY OF SAUSALITO

unreasonable obstruction to those previously enjoyed views. The extent of the obstruction has been photo documented by a consulting arborist illustrated by the enclosed report.

Ms. Schwarcz has made multiple attempts to work with you and your arborists to come up with a pruning plan and schedule that will maintain her views. However, despite best efforts, you have not been able to agree on a satisfactory level of pruning or timing for same. Last summer, when Ms. Schwarcz paid to have a certified arborist perform modest pruning, you stopped him in the middle of the job refusing to allow its completion. *Last year the OAK nearest to Schwarz was brutalized - it is now in decline*

It is not clear why you are reluctant to allow Ms. Schwarcz to preserve her views. It is our hope that if we can engage in a conversation about your concerns, we will be able to adequately address them to your satisfaction while restoring Ms. Schwarcz's views. *Views to the north are far greater and panoramic than mine as her house is stepped. They would now us to provide equal to theirs, in 1973.*

LEGAL ANALYSIS

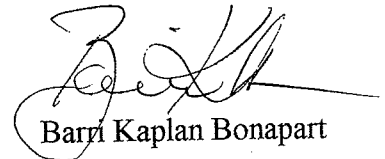
The City of Sausalito has a view ordinance which provides "A tree, shrub, hedge or other vegetation shall not be maintained in such manner as to unreasonably obstruct the view from or the sunlight reaching other property." (11.12.040 (A)). I enclose a copy of an arborist report which details the nature and extent of the obstruction. The photographs provide a dramatic illustration of the problem.

Ms. Schwarcz has already fulfilled her obligation under the ordinance to attempt resolution through "Initial Reconciliation." The next step pursuant to the ordinance is to propose mediation, which, besides being required by the ordinance before a suit can be brought, is often times the most effective way of addressing neighbor disputes such as these. I am hopeful that you will consider a collaborative process as preferable to an adversarial battle. *Mrs. Schwarcz wants all trees out Kill! Kill! I will NOT do that I will an*

If, however, we are still not able to reach agreement through negotiation and/or alternative dispute resolution, we will need to commence a legal action. *use daylighting.*

I look forward to your prompt response regarding this matter but preferably by April 15, 2013. Of course, if you have any questions, please feel free to call and/or to consult your own legal counsel. I am available to negotiate directly with you or through your legal representative. Thank you in advance for your cooperation.

Very truly yours,


Barri Kaplan Bonapart

BKB:abk
Enclosure

You can't go back again! The wall changed in 60 years. To demand else is futile. In 60 years² all Sausalito changed. The Schwarcz family owned the 4 lots below them they should have bought this one while they could.

Findings and Standards for View Claims

Municipal Code Sections 11.12.040.B.4 and C.3-4

Section 11.12.040.B.4 of the Sausalito Municipal Code

... "The Trees and Views Committee shall submit a written Advisory Decision to the parties. The Decision shall include the Trees and Views Committee's findings with respect to the Standards listed in subsection C-3 and 4 of this Section [11.12.040] and recommended restorative actions as well recommending allocation of costs for the same." ...

Section 11.12.040.C.3-4 of the Sausalito Municipal Code

"3. Standards for Resolution of Claims in Arbitration

The Tree Committee shall, as a group, inspect the premises of both claimant(s) and tree owner(s) to verify the nature and extent of the alleged view obstruction. For purposes of this section, the Tree Committee and/or any involved Arborist may enter upon the property of either or both parties. The Tree Committee shall evaluate the Standards set forth below based on the site visit, the property file on record at City Hall, the submitted data and the public meeting.

- a. The character of the view:
 - 1) The vantage point from which the view is sought.
 - 2) The extent to which the view might be diminished by factors other than growth involved in the claim.
 - 3) The extent of the view that existed at the time claimant(s) purchased the property. (Is the party attempting to create, enhance or restore a view?).

- b. The character of the view obstruction:
 - 1) The extent of the alleged view obstruction as a percentage of the total view (estimate).
 - 2) The impact on the beneficial use, economic value and enjoyment of the claimant's property caused by the growth.

- c. The extent of benefits and/or burdens derived from the growth in question:
 - 1) The visual quality, including but not limited to species, size, growth, form and vigor.
 - 2) Location with respect to overall appearance, design and/or use of the tree owner's property.
 - 3) Visual, auditory, wind screening and privacy provided by the growth to the owner and the neighbors.
 - 4) Effects on neighboring vegetation provided by the growth.
 - 5) The impact of the beneficial use, economic value and enjoyment of the tree owner's property caused by the growth.

- d. Restorative actions shall be limited to the following:
 - 1) No action.
 - 2) Thinning to reduce density e.g., open windows.
 - 3) Shaping to reduce height or spread, using thinning cuts only (drop crotch).
 - 4) Heading or topping.
 - 5) Tree removal with necessary replacement planting.

- e. Each type of restorative action shall be evaluated based on the above findings and with consideration given the following factors:
- 1) The effectiveness of the restorative action in restoring the view.
 - 2) Any adverse impact of the restorative action on the benefits derived from the growth in question.
 - 3) The cost of the restorative action as obtained from the view claim. The Tree Committee may determine that additional estimates are required.
 - 4) The effects upon privacy of the tree owner. Values of quiet and privacy should receive equal consideration with values of view and sunlight.
- f. All restorative actions shall be undertaken with consideration given to the following factors:
- 1) All restorative actions must be consistent with subsection C-3, subparagraphs "d" and "e" of this Section.
 - 2) Restorative actions shall be limited to shaping, thinning, and/or heading of branches where possible.
 - 3) When shaping and/or thinning of branches is not a feasible solution, heading or topping shall be preferable to tree removal if it is determined that the impact of topping does not destroy the visual proportions of the tree, growth pattern or health, or otherwise constitute a detriment to the tree in question (arborist's advice required).
 - 4) Tree removal shall only be considered when all other restorative actions are judged to be ineffective. Replacement planting can be required on the property of the parties.
 - 5) An Arborist's report is required in determining the nature and cost of replacement plant materials, installation of such plant materials, and time required for such plant materials to become well established.
 - 6) In those cases where tree removal eliminates or significantly reduces the tree owner's benefits of visual screening, wind screening or privacy, replacement screen plantings shall, at the tree owner's option, be established prior to removal; notwithstanding the provisions of subparagraph "e" above, the tree owner may elect tree removal with replacement planting as an alternative to shaping, thinning, heading or topping.
 - 7) All shaping, thinning, heading, topping and tree removal required under this Chapter must be performed under the daily supervision of an Arborist.

4. Implementation of Decision

Within thirty (30) days of the arbitration decision, the tree owner will obtain at least three bids for the prescribed work from Arborists and shall present all bids to claimant. Within fifteen (15) days after presentation of the bids, the claimant shall deposit with the tree owner an amount equal to the percentage of the lowest bid deemed appropriate by the Tree Committee. The tree owner shall, at his sole discretion, choose the company by which he wishes the work done and shall order the work done within fifteen (15) days after receiving the claimant's deposit. The tree owner shall pay the difference between the deposit amount and the bid amount of the company he has chosen. The authorized work of correction shall be done by an Arborist under the sole direction and control of the tree owner.

I:\CDD\Boards & Committees\TVC\Admin\View Claim Findings for SR's