

**TREE COMMITTEE RESOLUTION NO. 24-01**

**A RESOLUTION OF THE TREE COMMITTEE OF THE CITY OF SAN LUIS OBISPO,  
CALIFORNIA, DENYING THE APPEAL OF JOHN ROURKE OF AN  
ADMINISTRATIVE CITATION FOR VIOLATION OF SAN LUIS OBISPO  
MUNICIPAL CODE SECTION 12.24.150 AND CIVIL PENALTY**

**WHEREAS**, the Tree Committee of the City of San Luis Obispo (the “Committee”) conducted a public hearing in the Council Hearing Room of San Luis Obispo City Hall on January 22, 2024, at 5:30pm (the “hearing”), on the appeal of John Rourke (the “Appellant”) of an administrative citation issued on or around October 20, 2021, for the illegal pruning of trees, a violation of San Luis Obispo Municipal Code (“SLOMC”) Section 12.24.150, which occurred at Appellants’ property located at 163 Serrano Heights Drive within the city limits of San Luis Obispo (the “subject property”); and

**WHEREAS**, at the hearing, the Committee heard testimony of Appellant, Director of Public Works Matt Horn, and City Arborist Anthony Whipple and voted 5-0 (Chair Elizabeth Lucas, Vice Chair Ben Parker, Board Member Alan Bate, Board Member Henry Bonifas, and Board Member Emily Rosten voting aye, Board Member Daniel Canella absent, one seat vacant) to uphold the administrative citation and civil penalty issued to Appellant for the violation of SLOMC Section 12.24.150 for illegal pruning of trees; and

**WHEREAS**, notice of said public hearing was made at the time and in the manner required by law; and

**WHEREAS**, Section 1.24.100 of the San Luis Obispo Municipal Code establishes a right to appeal an administrative citation; and

**WHEREAS**, Section 12.24.010 authorizes the Director of the Public Works department to enforce, implement, and carry out the policies and provisions of the City’s Tree Regulations, and

**WHEREAS**, it was determined by the Department of Public Works that the Tree Committee was the appointed body most appropriate to hear this appeal in accordance with Chapters 1.24 and 12.24 of the Municipal Code; and

**WHEREAS**, the Committee duly considered all documents and information, including the administrative citation dated October 20, 2021, the City Arborist report, the City’s staff reports and accompanying presentations, oral argument by the City, photographs from the site, the Replacement Cost calculation report, correspondence between the City and the property owner, a report from Greenvale Tree Company dated September 23, 2021, the Appellant’s appeal and subsequent written documentation and oral argument by the Appellant, and all written or other evidence, and evaluation and recommendations by staff presented at such hearings.

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**NOW, THEREFORE, BE IT RESOLVED** by the Tree Committee of the City of San Luis Obispo as follows:

**SECTION 1. Findings.** The Tree Committee finds:

1. The above statements are true.
2. The names of all people participating in the hearing and their capacity:
  - a. Appellant: John Rourke
  - b. City staff: Matt Horn, Director of Public Works; Anthony Whipple, Acting City Arborist
  - c. Deputy City Attorney Sadie Symens, legal advisor to the Tree Committee
3. The hearings were recorded with audio and video recording, which is in the custody of the City Clerk.
4. The Appellant was present for the public hearing.
5. Pursuant to Municipal Code Section 1.24.110(E), the Committee received the Administrative Citation and supporting information (documents, exhibits, or materials prepared by city staff) concerning the Appellant's violations of Municipal Code Section 12.24.150 as prima facie evidence of the Appellant's code violations and of the facts stated in such documents.
6. The following submissions were submitted to the record, including, but not limited to photographs, drawings, and documents:
  - a. City staff report, dated January 22, 2024, and accompanying Attachments 1-10;
  - b. Documents from Appellant, received January 22, 2024 and submitted as agenda correspondence, with accompanying photographs
7. The Committee decided to uphold the Administrative Citation issued to Appellant for violations of Municipal Code Section 12.24.150(A).
8. The Committee found the following information, presented by oral and physical evidence, credible in support of its decision to uphold the Administrative Citation and deny the appeal for violations of Municipal Code Section 12.24.150(A) for pruning done out of conformance with the municipal code and the International Society of Arboriculture standards:
  - a. SLOMC 12.24.150(A)(1) states that "No person shall...Trim, prune, or cut any tree unless such work conforms to this chapter and is performed in accordance with all International Society of Arboriculture standards. In no case shall more than one-third of the tree canopy be removed."

- b. SLOMC 12.24.150(A)(3) states that “No person shall... Willfully injure, disfigure or intentionally destroy by any means any tree, except with permits described elsewhere in this chapter.”
- c. SLOMC 12.24.170(A)(5) states that “For damaged trees, in addition to civil penalties, the property owner will be required to obtain the services of an ISA certified arborist to determine the future viability of the tree and, if salvageable, create a maintenance plan to restore the tree.”
- d. On or about August 30, 2021, City staff inspected the property owned by Appellant located at 163 Serrano Heights Drive and observed three oak trees that had been pruned in violation of SLOMC 12.24.150.
- e. On October 20, 2021, in accordance with SLOMC 12.24.170, City staff issued an administrative citation to Appellant imposing a civil penalty for the tree damage.
- f. The notice dated October 20, 2021, included a civil penalty of \$16,040. This calculation included a multiplication factor of four times the value of the tree because it was believed that the damage was related to a development or subdivision (SLOMC 12.24.170(A)(3).)
- g. Upon learning that the damage was not related to a development or subdivision, staff recalculated the fine in accordance with SLOMC 12.24.170(A)(1). Staff issued to Appellant a subsequent Replacement Cost Method worksheet reflecting a corrected fine amount of \$8,020.
- h. Photographs of the trees taken before and after the pruning show significant removal of the tree canopies and limbs.
- i. Greenvale Tree Company observed the subject trees and prepared an Arborist Report dated September 23, 2021. The report noted that “owner pruned four (4) Coast Live Oaks (CLO) for view. Trees are extensively pruned leaving stubs and large pruning wounds,” and that “Very large cuts were made, and stubs were left as trees were topped. Two trees have very little foliage left.” The report included recommendations for canopy restoration of the pruned trees, with tasks to be completed starting immediately in 2021 and through and including 2024 (the “restoration plan.”) The report stated that “Failure to follow these guidelines may reduce the trees’ survivability or complete restoration of the canopy” that was destroyed.
- j. Appellant requested an appeal of the fines on or about November 15, 2021. On November 17, 2021, Appellant submitted a request for public records. The appeal was postponed at Appellant’s request in order for Appellant to review the City’s responses to said records request. That request was substantially completed on or around January 11, 2024, at which time the appeal on the violations was scheduled to move forward.
- k. Appellant admitted at the hearing to personally pruning the three oak trees for which he was cited. Appellant stated he did not consult an arborist before pruning the trees.
- l. Appellant provided no evidence that he consulted the International Society of Arboriculture standards before pruning the trees nor that he pruned the trees in conformance thereof.

- m. Appellant admitted at the hearing that he did not comply with the restoration plan.
  - n. The Administrative Citation, together with the attachments contained in the staff report, admitted as prima facie evidence under Paragraph 5 above, demonstrate that the citing Acting City Arborist personally observed Appellant’s violations.
  - o. Appellant failed to submit any information that the Violations did not occur and failed to submit any credible information that there is a defense to the citation.
9. The due date for payment of the fine (\$8,020) shall be thirty (30) days after the date this decision is mailed.

**SECTION 2. Action:** Based on the above findings, documentation, and information submitted in support thereof, the Tree Committee does hereby deny the appeal of John Rourke and uphold the citation and civil penalty issued against Appellant for violations of San Luis Obispo Municipal Code Section 12.24.150(A).

**SECTION 3. Appeal or Review by Writ.** This Resolution is the City of San Luis Obispo’s final administrative decision, under Municipal Code Section 1.24.140(A), on the Administrative Citation. A person contesting this decision may do so in either of two ways. First, pursuant to California Government Code Section 53069.4(b)(1), within 20 days after the service of this Resolution, a person contesting this decision may seek review by filing an appeal to be heard by the Superior Court of the County of San Luis Obispo. Alternatively, a person contesting this decision may file a petition for writ with the Superior Court of the County of San Luis Obispo. The time within which the petition must be filed, and the applicable requirements are governed by the California Code of Civil Procedure. Either the appeal or the petition for writ filed with the court must contain proof of service showing a copy of the appeal or petition for writ was served upon the city clerk. The petitioner must pay the superior court the appropriate court filing fee when the appeal or petition is filed.

Upon motion of Board Member Bonifas seconded by Chair Lucas to uphold the administrative citation for pruning of three oak trees in violation of the San Luis Obispo Municipal Code Section 12.24.150, and on the following roll call vote taken on January 22, 2024:

AYES: Chair Lucas, Vice Chair Parker, Board Member Bate, Board Member Bonifas, and Board Member Rosten

ABSENT: Board Member Canella

The foregoing resolution was adopted this 12<sup>th</sup> day of February, 2024.

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Elizabeth Lucas, Chair Date of Signature