

City of New York Parks & Recreation



New York City Council Committee on Parks & Recreation

Introduction Number 916 (regulating removal of tree from private property)

Introduction Number 927
(unlawful damage or removal of trees within a Special Natural Area District)

May 21, 2009

Testimony by
Michael Schnall
Director of Government Relations

INTRODUCTION

I would like to thank Council Members Liu and Oddo and members of this committee for taking the lead to raise awareness of the need to protect New York City's tree canopy. New Yorkers love trees, and as the stewards of over 600,000 street trees, and over 2 million trees on public greenspaces, we love them too.

As you all know by now, Parks is in its second year of the MillionTreesNYC campaign to plant 1 million new trees on public and private property throughout the city over a ten year period. Along with our partners, our goal is to increase tree canopy across all of New York City. With the help of private/public partnerships, stewardship by private citizens, and support of our local elected leaders in identifying places to plant and educating constituents on the benefits of trees, we can green our city together. To date, we have planted over 202,136 trees towards our 1 million tree goal, and we're just getting started.

THE BENEFITS OF TREES

Trees are the workhorses of the environment, contributing to cleaner air and water, cooling the atmosphere, reducing energy use and carbon production and providing homes for wildlife. They also define the character of a community, connect people to nature and add tangible value to property.

The U.S. Forest Service, using a sophisticated computer program called Stratum, analyzed the City's street tree population and calculated that each year the 592,130 trees that line our streets provide almost \$122 million in environmental benefits and additional property value. In air quality alone, street trees remove 272 tons of particulate matter each year valued at \$5.3 million.

INTRODUCTIONS 916 and 927

Introduction 916 seeks to prevent the removal of trees, caliper of twelve inches or more, from private property, unless permitted by Parks. A violation of this proposed bill would carry a penalty of at least \$100 to \$250 per violation.

Introduction 927 would give authority to Parks under the Administrative Code to enforce penalties for the unlawful damage or removal of trees in violation of the zoning resolutions for "Special Natural Area Districts."

While Parks certainly lauds the intent of these bills, we oppose these two bills for primarily the same reasons: both would unduly burden the agency to take on the monitoring and enforcement without the necessary resources to do so. Simply put, we do not have the resources to handle these types of enforcement matters, and in fiscally austere times where we're facing doing more with less, these two demands would reduce the agency's ability to satisfy our core responsibilities and competencies.

Additionally, both bills would require Parks to be, in essence, stewards of private trees. The sheer volume of responsibility would overwhelm our ability to perform the most basic maintenance on our 2.6 million public property trees.

CONCLUSION

The Parks Department is committed to protecting our current tree stock on our streets and open green spaces. We agree with the Council that protecting trees on private property is essential to keeping our city clean, green and sustainable, and look forward to working with the Council to continue our great work of stocking New York City with new trees and continuing our work to green our city one tree at a time.

TESTIMONY OF

DREW BECHER

EXECUTIVE DIRECTOR OF NEW YORK RESTORATION PROJECT

Before

NEW YORK CITY COUNCIL COMMITTEE ON PARKS AND RECREATION
THURSDAY, MAY 21, 2009

Good morning, Chairwoman Foster and members of the Committee. My name is Drew Becher, and I am the Executive Director of New York Restoration Project (NYRP), the City's partner in the MillionTreesNYC initiative. While planting trees is a critical part of building a vital urban forest, ensuring tree survival and growth to full maturity is no less important—and ought to be adopted as a complementary goal.

We know that young, newly-planted trees do not yield the level of health, environmental and social benefit that established trees do. It is mature trees – with complex root systems and full canopy crowns – that provide greatest protections through enhanced air filtration, urban heat island mitigation, stormwater capture, and other critical benefits to the urban environment. Each of these functions represents its own economic benefit to the city – reduced hospitalization for respiratory diseases, reduced cooling costs, and reduced stormwater runoff, to name a few. In recognition of these benefits, municipalities across the world have adopted tree protection ordinances which govern the terms of removal for trees above a given size threshold. While New York City does regulate tree removal in the public domain, there are currently no such protections for private property.

Given the rapid pace of development and conflicting land use pressures in New York City, the absence of effective tree protection could have devastating consequences for our urban forest. According to the New York City Parks Department, over 9,000 acres of vegetation cover were lost across the five boroughs between 1984 and 2002. While not all of that loss represents trees, it is a proxy that helps us understand the threats development can pose to the urban forest.

Additionally, beyond the obvious rationale of social, environmental and economic benefits, protecting our urban forest is critical at this time to honor the public and private investments that have been made to support our city's trees. This is especially true now, at a time when the City alone has pledged \$400 million in support of MillionTreesNYC, and NYRP along with corporate, foundation, and individual support is investing millions of dollars planting trees in publicly accessible properties citywide. We would be remiss to let these dollars go to waste — and especially in a time of fiscal austerity.

I want to commend the Council Members who have come together to address this gap in city legislation. Through extensive research on the structure and impact of tree protection ordinances across the nation and world, New York Restoration Project has outlined the terms of a model tree protection ordinance for private property within the New York City context. Cities topping the list in our research include San Francisco, Atlanta, Myrtle Beach and Washington, D.C – but it is the City of Atlanta's ordinance in particular which inspires the recommendations of this testimony. This morning I will briefly discuss what we believe is a model tree protection

framework, and I urge your partnership in adopting these guidelines in a refined version of Intro 916.

- A formal City of New York permitting process that requires residential and commercial landowners to request a permit to remove any tree measuring over a minimum diameter (TBD) at the tree's breast height also known as DBH. For example, the City of Atlanta requires a removal permit for any tree over 6 inches DBH. Consideration should also be given to integrating any tree removal permitting process into the Department of Building's construction permitting process, while tree removal permits should be evaluated and issued by the Parks Department's Forestry Department.
- To pay for any administration costs associated with the permitting process, we recommend a filing fee be assessed for each tree removal application making the permitting process fiscally neutral.
- Any tree removed with a to-be-determined minimum DBH should be subject to recompense payment or replacement planting. The New York City Tree Conservation Commission which I will outline later in my testimony shall determine whether or not residential and commercial actors will make a recompense payment or conduct replacement planting. Where tree removals are compensated through payment, a fee accounting for the tree's DBH measurement should apply meaning the larger the tree removed, the greater the fee associated with the removal.
- Where tree removals are compensated through replanting, permit applicants must replace caliper inch for caliper inch meaning if a tree of 20 inch caliper at breast height will be removed, the permit applicant would need to plant 20 inches worth of new trees. NYRP also believes that replacement trees planted by permit applicants should be large caliper. In Atlanta, replacement trees must be 2 and a half inches or greater.
- NYRP also recommends a progressive fee schedule for residential and commercial actors who remove trees in violation of the terms of the ordinance. Residential actors should be fined for the first tree removed in violation of the ordinance, and fined at a higher violation fee for every non-permitted removal thereafter; similarly, commercial actors will be fined for the first tree removal in violation of the ordinance, and fined at a higher rate for every non-permitted removal thereafter. NYRP believes fines for developers should be significantly higher than those for homeowners, as the fines must be meaningful enough to prevent unpermitted tree removal.
- For trees removed in violation of the ordinance where the tree's size cannot be determined
 (i.e., the trees have been chipped and stumps removed), a flat and hefty penalty should be
 issued. NYRP believes that without meaningful and significant financial penalties, private
 homeowners and residential and commercial developers will continue to remove large
 canopy trees the very trees that provide New York City with the greatest environmental,
 socio-economic, health and economic benefits.
- All fees and penalties collected in association with the ordinance should be administered by a newly established New York City Tree Conservation Commission (see below). NYRP believes that no less than 80 percent of the fees and fines should be used for tree planting

on publicly accessible properties – with a focus on neighborhoods with low tree canopy cover across New York City. Up to 20 percent of funds raised on an annual basis could be used for tree stewardship, outreach and education purposes. Like other cities and in the spirit of the MillionTreesNYC initiative's public-private partnerships, NYRP believes the collected funds should be made available in the form of grants to New York City non-profit organizations for tree planting, stewardship and education activities.

- NYRP also recommends the establishment of an independent New York City Tree Conservation Commission, which we suggest be composed of 13 members serving two year terms. Eight commissioners might be appointed by the Mayor of the City of New York and the Commissioner of the New York City Parks Department, with each of the five Borough Presidents appointing one commissioner. The Tree Conservation Commission's role is chiefly to provide an independent enforcement body for the terms of the tree protection ordinance, including: hearing all appeals of Parks Department permit decisions; monitoring, managing, and distributing the City's Private Tree Trust funds; and assessing penalties in response to ordinance violations.
- Special protection for landmarked and historic trees, known as "Great Trees" in New York
 City. Such trees shall only be granted removal if they are found to be hazardous or in
 decline. "Great Tree" preservation shall be provided by application to the New York Tree
 Trust; all such designations shall be recorded with the New York City Tree Conservation
 Commission.
- Ordinance penalties shall be strengthened by the establishment of an incentive-based MillionTreesNYC "Tree Protectors" Program. This seal-of-approval program, administered by MillionTreesNYC lead partners the New York City Parks Department and New York Restoration Project, would offer contracting businesses, developers and nurseries, an endorsement and marketing platform when they proactively comply with ordinance standards. Program subscribers shall be required to attend annual training sessions and will be celebrated as partners in MillionTreesNYC and protecting New York City's urban forest.

Together, these provisions offer a regulatory platform that can go a long way in protecting trees in the public domain. Other cities with similar ordinances can attest to this by virtue of their own efforts, including Atlanta, San Francisco, and Myrtle Beach. We are here today in part to ask how New York City's tree protection policy measures up against these and other American cities. Are we doing enough? Can we truly call ourselves leaders in this cause? And while we have much to celebrate with MillionTreesNYC and other urban forestry management programs across the city, New York can do better. We must acknowledge that we cannot stand as a true model in sustainable urban forestry until we adopt policies that safeguard trees in the private domain from arbitrary removal.

Trees work in so many ways on our city and its residents' behalf; they make up a vital part of our urban infrastructure and the resilience of the city's environmental, social and economic fabric. And science tells us that it is older, more mature trees that deliver the greatest of these benefits. For the many benefits that established trees provide, they deserve our careful protection by law. I look forward to working with the Council and the New York City Parks Department in crafting a refined bill that will honor and protect New York City's vital urban forest. Thank you.



City Council Parks & Recreation Committee Hearing Int. No. 916 and Int. No. 927 May 21, 2009

Good afternoon. I'm Sheelah Feinberg, Director of Government and Community Relations at New Yorkers for Parks, the only independent watchdog for all the city's parks, beaches, and playgrounds. For 100 years, New Yorkers for Parks has worked to ensure greener, safer, cleaner parks for all New Yorkers.

As the Mayor has evidenced through PlaNYC and the Million Trees NYC initiative, greening New York City is a priority. We would like to congratulate the Mayor, the Parks Department and New York Restoration Project on their progress with the Million Trees effort. Additionally, we would like to thank the City Council for this additional effort to protect existing trees in our city through Int.No.916 and 927.

Under local law 916, it will be unlawful for anyone to remove or alter a mature tree, of twelve inches in trunk diameter or more, that is on private property or on public property but under private care. It can only be removed if the tree is in violation of any local, state, or federal law, dead, or poses a safety hazard, and that removal shall be at the full expense of the property owner. Furthermore, violators will pay a fine between one hundred and two hundred fifty dollars.

Local law 927 takes this even further: Any individual or entity that damages or removes a tree within a Special Natural Area District without proper approval can be charged five thousand dollars for each damaged or removed tree.

By regulating the removal of trees from private property and increasing the penalties for unlawful damage to trees within Special Natural Area Districts, the City Council is bolstering the Million Trees NYC's efforts to attain a 30% urban tree canopy by 2030. In conjunction with legislation passed during

former Parks Commissioner Stern's tenure, which charged fines up to \$15,000, this new legislative aims to comprehensively protect all of New York City's trees from arborcide.

New Yorkers are very protective of their trees and the streets in which their planted. They appreciate the aesthetic benefits of freshly planted saplings, and understand that mature trees improve air quality, public health, and the overall quality of life. However, in order to reap these benefits we must ensure that sufficient funding is available in the FY 2010 budget to ensure that all street trees are regularly pruned to guarantee public safety as well as the health of our street trees. Unfortunately, the Mayor's Executive Budget reduced tree pruning by a total of \$3.5 million, which is \$1 million beyond the Preliminary budget.

As a result, the resources of the Department of Parks and Recreation (in terms of staff, time, and money) are limited and enforcing these new rules may be problematic for the administration. Provisions should be made to increase staff and the maintenance budget in order to comply with the legislation. We ask again that the City Council recognize the need for committed funding to ensure regular pruning of our new and existing trees. It is redundant to legislate for punishment of individuals who unlawfully damage or remove trees when we do not mandate proper stewardship to keep them alive.

Thank you

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FLUSHING CHAMBER OF COMMERCE & BUSINESS ASSOCIATION

ESTABLISHED 1928

c/o NBNYC Building, 136-29 38th Ave. Flushing, NY 11354
• Fax: 718-358-4488

May 21, 2009

New York City Council

RE: INTRO #916
INTRODUCED BY COUNCILMAN JOHN LIU
A LOCAL LAW TO AMEND THE
ADMINISTRATIVE CODE OF THE
THE CITY OF NEW YORK IN RELATION TO
REGULATING REMOVAL OF TREES FROM PRIVATE
PROPERTY

Dear Council Members:

The Flushing Chamber of Commerce & Business Association regards the trees on private property as an enhancement for our business community, Flushing being the home of horticulture for the United States.

We have many old historic trees which we also use as a marketing tool for the Flushing business area. We find the removal of trees would be detrimental to the general ambience of the area.

We respectively request your support on the issue of maintaining the beautiful trees of Flushing. We do need your help.

Sincerely yours,

Myra Baird Herce Co-President

MBH:ll



Mission Statement-To promote Flushing, encourage economic growth and stability, plus support the needs of business.

Beverly McDermott President Kissena Park Civic Association, Inc. Director of the Friends of Kissena Park Licensed Tree Climber Pruner Citizen Pruner

As a resident of Flushing for 65 years where trees were appreciated and revered as was documented by those who visited in the 18th, 19th and 20th century, I am most eager to witness the legislation of better tree protection in New York City, which is long overdue. Perhaps the role of the first plant nurseries in this country which were located in Flushing made the residents like me more knowledgeable and aware of the importance and beauty of trees which is now being rediscovered by those that wish to be "politically green."

It has been very painful to see the continued practice of destroying trees for reasons of expediency on the part of the private, business and governmental sectors. The "See No Evil" attitude of all three in regards to the mass destruction of trees on public, private and governmental properties has been appalling. The early nurserymen of Flushing set a gold standard of care and appreciation of trees long before it became politically correct. If it had been continued it would have saved us a great deal of money and grief.

Now you as law makers have a golden opportunity to bring back those standards and insure a healthier more beautiful future for those will come after us. As I read the amendment to the administration code I realized that you suggest that we stick our finger in the dike when the dike has all but collapsed. The obvious lack of real monetary threats in terms of penalties ranging from \$100 to \$250 is a joke. It costs \$1500 to \$3000 to remove a tree and your penalty is laughable to developers who simply add that to their operating costs. Why are newly planted trees which cost the taxpayer \$1900 not included in this amendment? There is no directive that actually makes the decision to take down or over prune a tree in specific terms. There are very few licensed pruners doing legitimate work on city trees. Most of the trees that I have seen being removed were done by landscapers or gardeners who "mow, blow and go!"

Where is the provision that any tree that is removed is immediately replaced by the applicant at his cost? How is the determination going to be made for removal and by whom? If we self certify the tree pruners, it is the same ridiculous notion that an architect can certify his own plans for building and we all know where that has led us. There must be structure in the code to adhere to and severe penalties which clearly state who is responsible for that penalty. If a pruner can lose his license for breaking the law and the homeowner is fined on his tax bill you might find it a far better deterrent than a vague amount of money and no clearly defined rules.

Assuming that the regulations are clearly stated, is the city going to create an agency to overlook the proper use of these new rules? Will it be staffed by knowledgeable arborists who are equal to the task at hand and won't be buffaloed by the wily citizen who will be anxious to find and utilize the loop holes in this legislation? The Parks Dept. which is currently responsible for investigating and penalizing offenders has recently stepped up their response to calls made by private citizens and civic organizations who act as their watch dogs in neighborhoods that have taken some horrific hits by developers and others who are not compliant with the present law. We appreciate their efforts, but I find it hard to believe that they can tackle this along with their present venue. They are understaffed and the work load will be tremendous if this legislation is going to really be effective. Will it be incumbent upon the Dept. of Buildings to inform the

architects, developers and engineers of these serious offenses and that ignorance of the new rules will not be an acceptable defense?

Last but not least, why not apply the same rules to all offending parties with equal penalties for private and natural districts. The results of destroying a tree are not diminished because of its location. Leaving obvious loopholes is the hallmark of poor legislation, is that what you want your name attached to? Is this the best that you can do for the taxpayers and the environmentally concerned citizens of New York? You will be remembered by your deeds.

My NAME IS FRED GERBER. I AM EDUCATION DIRECTOR EMERITUS AT QUEENS BOTANICAL GARDEN; A TEACHER THERE FOR 39 YEARS, MEMBER OF KISSENA CORRIDOR PARK CONSERVANCY, HOLLY CVIC ASSN., AND NEW YORK ROOT ZONE, A GROUP OF PROFESSIONALS IN THE AREA OF TREES ADVOCATING FOR OUR URBAN FOREST.

I EXPRESS MY SUPPORT OF THIS DOCUMENT AND THANK THE WRITERS AND SPONSORS; AND URGE THAT IT ALSO MARK THE BEGINNING OF A RENEWED EFFORT TO ENFORCE LEGISLATION PROTECTING ALL LARGE TREES.

THE DESTRUCTION OF LARGE TREES ON PRIVATE LAND IS PART OF A LARGER PROBLEM OF ENLARGING HOMES AND PAYING OVER PROPERTIES THAT IS CITY-WIDE, BUT PARTICULARLY EYIDENT IN QUEENS COMMUNITIES. ZONING REGULATING PERCENT OF OPEN SPACE ON LOTS AND BUNDING CODES MUST BE ENFORCED ALONG WITH PASSAGE OF THIS DOCUMENT.

MANY TREES IN FRONT YARDS ARE PART OF PARKS RIGHT-OF-WAYS AND ENFORCEMENT OF THIS PROTECTION IS ALSO NEEDED.

AMENDAMENT, I URGE THE FOLLOWING AMENDAMENTS: SECTION 2. "REMOVE A MATURE TREE SHOULD ALSO INCLUDE PROHIBITION FROM USING ANY CHEMICAL OR PHYSICAL MEANS TO KILL A TREE.

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RELATIVE TO PROPERTY SIZE.

WE HOPE THAT THIS IS PASSED AS A FIRST STEP TOWARD ONGOING INPUT FROM PROFESSIONAL HORTICULTURISTS AND CONSULTING ARBORISTS AS MORE MUST BE DONE TO PRESERVE OUR URBAN FOREST FOR THE ENVIRONMENTAL, ECONOMIC AND AESTHETIC FUTURE OF OUR NEIGHBORHOODS.

THANK YOU.

My name is James Trikas, Board member of the Holly Civic Association of Flushing. I am here to testify in support of the proposed legislation on behalf of our Association, which is one of the most ethnically-diverse civic organization in the country.

The neighborhood within the Holly Civic Organization jurisdiction has suffered from increased congestion, school overcrowding and decline in the quality of life, due to over-development without regard to infrastructure. Just recently, the City Council has approved up-zoning for part of our neighborhood, despite the opposition of the residents and the majority of Community Board 7 members. Yet, we stand united with our neighboring civic association in urging speedy passage of the proposed tree protection legislation. Some of our members served on the Community Board that has originated the language for this law over two years ago, after many months of diligent work. Any delay in passing the law will only result in additional trees being cut down and paved over.

Please vote to pass this legislation without delay.

James Trikas
Holly Civic Association
Zoning Chair.
May 21, 2009

I am also a member of several other Civic Associations and a Conservancy in our Community. I urge you to protect our large Healthy Trees and not allow them to be cut down at the whim of the owner. Pressuring the City to plant a tremendous amount of small trees and wait 50+ years to grow. Depriving our citizens of the benefit of our large tree's producing a lot more oxygen to our environment, more shade to our City's canopy and beautifies our communities that benefit all of us now.

If these healthy trees on private property, don't interfere with a Building foundation and don't threaten immanent danger to the structure of a Building on private property, they should be protected.

I urge you again to Pass this legislation, as soon as possible. Thank you.

To: The Members of the Board

My name is Eugene A. Sadowsky. It was the summer of 2007 June or July a Saturday afternoon about 12:30pm and I had gone downstairs in front of my building. The gardener that was employed by my coop was cutting down the tree in front of my building. I asked him what happened. He said a big wind blew part of it down. I said I was here a half hour ago and there was no wind. He then said to me the tree was ugly so he cut the whole tree down. I ask him who told you to cut it down. He said he took it upon himself. I told him the tree does not belong to the coop I believe it may belong to the City, State or Parks Department. I had a big argument with him and subsequently my good friend and neighbor Mrs. Julia Harrison came down and saw what he had done and said to him get out of here. A few weeks later he tried to burn down the remaining stump. I was told by the Super across the street that the flame was about 2 ½ feet high. The flames could have got out of hand and burned down the building. The coop called him down to a special board meeting and they told him he should not have done that. Only the bushes he is allowed to cut. The trees are untouchable. Therefore I support this proposal to protect all of our trees, today, tomorrow and in the future. Thank you members of the Board.

Eugene A. Sadowsky

MAY 21, 2009 City Council OF The City of New York HONORAble Sperker QUINN HONORAble Members of the City Council, of the Kessenw Cossiston Pank Consensus and life long Thew Vanker, wholeholds support the Tree Preservation Defisition proposed by Roland Wade, recommended by Community Board Tond introduced by Councilment John Livi been here for decadis ond are on private and commercial property. They are a fereful to all Huy Johnes not only for their fearty and health benefits but because they are insplanable factors into consideration when Yours truly Senditte M. Janger 38.70 Elder Avel-36 Flushing, NY 11355-6003

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I represent: Kissena	Park Civic Assoc			
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