

No. 24-0548
**MOTION TO VETO DECISION OF THE LOS ANGELES BOARD OF PUBLIC
WORKS IN THE APPEAL OF MISHA CROSBY**

Statement on Behalf of Misha Crosby

The subject Motion asks this Council to Veto and send back for more consideration the decision of the BPW ordering a moratorium on issuing building permits to Misha Crosby for his small hillside residential lot in Laurel Canyon.

The BPW heard three days of testimony and argument, and made a decision based on evidence this Council has not been advised of. Copies of Documents from the BPW proceedings, a compendium of some of the evidence presented, is being filed today by the undersigned for the Council member's review and consideration.

It is true two licensed tree removal companies, one with certified arborists on staff, illegally removed protected trees from Mr. Crosby's property without a permit. However, both did that contrary to Mr. Crosby's express direction, both written and verbal. And both companies had told Mr. Crosby, after an on-site inspection with Mr. Crosby present, that the trees he wanted removed were not protected.

Mr. Crosby, an actor and filmmaker with no prior homeowner experience, believed the contractors, one of them an arborist. That is his only crime.

For a landowner to rely on experts to evaluate whether protected trees are on a property is not, and never should be, considered a crime deserving of punishment. Especially where there is no evidence that the landowner had any reason to believe the experts were wrong.

Yet, that is what Mr. Crosby is being punished for in this case.

There is no evidence of intent or knowledge by Mr. Crosby that any of the removed trees were of a protected species and size. None. Statements that Mr. Crosby did nothing to try to identify whether the trees to be removed were protected are false.

In fact, the undisputed evidence is that Mr. Crosby, through verbal in person conversations, which were confirmed in writing by emails, told the contractors NOT to remove any of the live oaks on his property, “or any other protected tree.” The documents proving this are in Mr. Crosby’s statement provided to BSS, Item 4 in the compendium.

The Declaration of Raymond Salas, Item 3, was filed with the BPW, where Mr. Salas confirmed that he told Mr. Crosby there were no protected trees; that he was wrong; and that it was his fault and not Mr. Crosby’s.

Further details about the proceedings are outlined in the Notice of Appeal of Misha Crosby, Item 5, and the Response of Misha Crosby to the BSS Board Report, Item 7.

Significant Public Outcry Has Been Generated by Special Interests

There has been significant public outcry about this case. The public outcry began and has been flamed by Mr. Jamie Hall and Rikki Poulos, members of the Laurel Canyon Land Trust; who spread false information and inspired hundreds of form emails containing false information about Mr. Crosby, and disseminated those to all of the BPW Commissioners, and numerous BSS officials, as well as Councilmember Raman and her staff; all before there was even an investigation.

The false information includes claims that Mr. Crosby knowingly and intentionally removed protected trees, in flagrant disregard of the LA ordinance; that he has removed all protected trees from his property; and that he has left his property “barren of all vegetation.” These statements simply are not true.

The evidence before the BPW is that 242 emails, most mimicking a form template prepared by Rikki Poulos, were sent to by 18 people to 14 City officials, making false claims about Mr. Crosby. Two of those emails are attached to the compendium as Exhibit 9.

The evidence before the BPW is that Ann Song wrote and sent her email at the request of Rikki Poulos, and Ann Song did not realize that it was about Mr. Crosby, her neighbor who she had allowed to use her driveway for contractors to park in working on the property. Ms. Song apologized to Mr. Crosby, and said she would recant her email. Ultimately, however, she has not.

The false claims and unfairness of these statements was brought to the BPW's attention by the undersigned, in his email of 10-5-2023, which is in the record and is included as Item 10 in the compendium.

Both Mr. Hall and Ms. Poulos, on June 28, 2023 at his property, met Mr. Crosby and told him they were very organized; that the prior owner had trouble building, and that he would to. These threats are repeated in most of the 242 emails, which appear in the BPW record at pagers 137-164 of the City packet. See also Item 9 to the Copies of Documents.

In response to some of the Public Comments, many of which are based on erroneous understandings of the facts of this case, it is important to note:

Mr. Crosby is a private individual who wants to build a home for himself to live in. He is not a developer.

Mr. Crosby purchased the lot in 2020 to build a home for himself to live in. He currently rents. Mr. Crosby has never owned any real property before.

The property is zoned residential. It is not "open space."

The land at 8461 West Grand View is zoned R1-HCR – residential. The land is a 0.3 acre small, steep hillside lot. This case does not involve open space.

There are protected trees still on the property.

The claim all protected trees have been removed is false. The three older and mature protected live oaks Mr. Crosby was aware of are, and will remain, on the property. At least one protected black walnut and one elderberry remain.

Further, the upper hillside area has been barren for years. See Google Map photo from May 2023, Item 1. Statements that the lot was previously "full" of trees are false.

There have been no more tree removals of any kind since July 7, 2023.

The report of more protected tree removals, in a recent public comment, is false. This is an example of the hysteria being generated wrongfully about this case.

The Motion contains misstatements of fact that are very wrong, and misrepresents the nature of both the facts and proceedings before the BPW.

The Motion of Councilmember Raman contains significant factual errors, that create a false picture of the matter presented to the BPW. The Motion incorrectly asserts in paragraph 2 that the BSS alleged removal of trees on three occasions – June 28, July 7 and July 28, 2023. This is incorrect. There were only two dates where contractors illegally removed protected trees, contrary to their written agreements with Mr. Crosby not to remove any protected trees. See BSS Report, page 7, footnote 4.

In paragraph 4, the Motion incorrectly asserts that there was “recurring tree removal activities following the issuance of administrative hearing notices.” This too is incorrect. See Response of Misha Crosby to BSS Board Report, (Item 7) page 5, and BSS Report (Item 6), page 7, footnote 4.

This Historical Enforcement of the Ordinance shows that only once before has BSS ever sought to withhold building permits – when a developer intentionally removed an historic, 26” 75 year old sycamore near a ROW.

The only prior recommendation for withholding of building permits involved developer Sullivan Equity Partners, LLC in 2015-2016, a case that was heavily litigated. A court of appeals opinion in the case is reported at 2022 Cal. App. Unpub. LEXIS 4439, 2022 WL 2815451, (Item 11), which details the facts.

In that case, the real estate developers bought 12 acres of undeveloped land in Brentwood, and had a Protected Tree Report (PTR) prepared that reported 117 protected trees, including 104 live oaks and 2 sycamores. The developers wanted to build two 10,000 square foot homes for sale. The developers applied for and obtained a tree removal permit for 56 trees, which did not include one of the larger, more mature sycamores that was 26 inches in diameter, 80 feet tall with a 50 foot canopy spread, that we near the front of the property and the right of way. Yet, this large “historic” tree was removed, in violation of the permit. The tree was 50-75 years old.

In deciding whether to impose building permit withholding, the Commission decided the tree was not removed by accident but intentionally to provide better access to the site. BSS representative Lorenzen stated that “the largest reason” the BSS was recommending a five-year penalty was that “there actually was intent to take down the wrong tree, which, in fact, they did.”

No such intent is present in this case.

There is no evidence to support factors 3 and 4 of LAMC § 46.06(c), intent of the owner and prior violations, and therefore no withholding of permits should occur.

There are four (4) factors in LAMC 46.06(c) that are considered in determining if and for how long building permits might be withheld. The most important, for purposes of deciding whether appropriate “punishment” is needed, are the knowledge and intent of the owner, and prior violations.

There is no evidence Mr. Crosby intended to have protected trees removed without first obtaining a permit. And no evidence of any prior violations; and none were argued by BSS.

The trees removed were relatively young, less than ten years old, and mostly new growth, per Kelly Lewis. See Statement of Kelly Lewis, Item 8.

The punishment must fit the crime. Here, the only “crime” was committed by the tree contractors, who unlawfully removed protected trees, contrary to the express instructions of Mr. Crosby not to do so.

LAMC § 46.03(b) makes it a misdemeanor for any person to willfully violate conditions imposed in a permit; but no such rule exists for wrongful removal of a protected tree without a permit.

There are no provisions in the LAMC to hold unscrupulous contractors responsible for their actions for removal of protected trees without a permit. The ordinance provides no penalties to the contractors, but only the landowner.

The ordinance should be amended to address this. Most of the tree removals in the City are done by contractors. See Kelly Lewis Statement (Item 8).

Thank you for your consideration.

May 20, 2024

Respectfully,
/s/ David L. Monroe
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