

STAFF REPORT

DATE: December 28, 2016

RE: **913 White Street (permit application # T16-8225)**

FROM: Karen DeMaria, City of Key West Urban Forestry Manager

An application was received requesting the removal of **(1) Royal Poinciana tree**. A site inspection was done on November 15, 2016 and documented the following:

Tree Species: Royal Poinciana (Delonix regia)



913 White Street

919 White Street





Property line survey pin

11/15/2016



Looking down 919 White Street side of property line



Looking down 913 White Street side of property line



Looking down 913 White Street side of property line

The trunk of the tree is located on 919 White Street with some roots on 913 White Street. Therefore, this application can not be accepted for processing as the tree is owned by 919 White Street.

Sec. 110-323. Application.

All applications for a tree removal permit shall be made to the Urban Forestry Manager. The application shall include an inventory of all existing trees in the area of proposed construction impact, including ingress to and egress from this area. The inventory shall state size, diameter and species of each tree. **In order for the application to be acted upon, it must be signed by the property owner, or a notarized letter from the property owner must be attached to the application designating an authorized agent.** The applicant shall be responsible for clearly marking the subject trees on the site with flagging tape.

It does appear that roots from the Royal Poinciana tree have caused some issues with an existing masonry wall. A permit would be required to cut any roots within the masonry wall area due to the closeness of these roots to the base of the tree (critical root zone). The critical root zone is that area of ground under the dripline of a tree. Any work involving roots within this zone require review by the Urban Forester, possible processing of a root pruning permit, and the hiring of an arborist.

Regarding the root issue to the existing masonry wall and gate, construction methods are available that will allow reconstruction of the wall without causing any negative impacts to the tree or its roots. The existing code does address this issue:

Sec. 110-367. Fences and walls.

The root systems of existing trees shall be taken into consideration when installing fences and walls. Post holes and trenches located close to trees shall be dug by hand and adjusted as necessary to avoid damage to major roots. **Continuous footers for masonry walls shall be ended at the point larger roots are encountered and the roots bridged.**

(Ord. No. 97-10, § 1(3-14.8(A)(2)), 7-3-1997)

Sec. 110-368. Failure to comply.

Any owner, tenant, contractor or agent thereof who fails to provide tree protection as stated in this division shall be guilty of tree abuse.

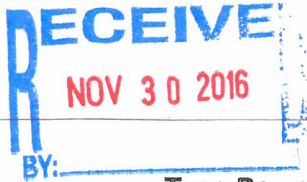
Sec. 110-256. Tree abuse.

- (b) *Prohibited acts.* A tree shall be considered abused if a person takes an action so that one of the following occurs:
- (1) Significant damage has been inflicted upon any part of a tree, including the root system, by machinery, storage of materials, soil compaction, excavation, vehicle accidents, chemical application or change to the natural grade.
 - (2) Damage inflicted to or cutting upon a tree which permits infection or pest infestation.
 - (3) Cutting upon any tree which permanently reduces the function of the tree or causes it to go into irreversible decline.
 - (4) Cutting upon a tree which destroys its natural shape.

(c) *Additional prohibitions.*

- (1) No private property owner or agent shall damage, cut, or carve any tree or tree root located on the owner's property; or allow any liquid, solid or biological substance that is harmful to trees to be placed within the dripline.
- (2) No person shall cut or otherwise damage a root or roots of a tree located on public property without first obtaining a permit from the tree commission.
- (3) If a root or roots of a tree on private property migrates into another property, the owner of the tree must consult with the Urban Forestry Manager before commencing any work that will result in severing the root.
- (4) Trenching of any kind shall not be done within the dripline of any tree. Only mechanical- or auger-type equipment shall be used to place conduit under a tree root system.
- (5) Attachments to trees; excessive cut or fill.
 - i. *Attachments to trees prohibited.* It shall be unlawful to attach anything to a tree trunk or stem having a diameter of six inches or more, other than protective wires, braces or other similar noninjurious materials.
 - ii. *Excessive cut and/or fill.* It shall be unlawful to remove any material or ground within the dripline of a tree which is necessary for the growth of the subject tree.

Application



8225

Tree Permit Application

Date: 11/8/2016

Please Clearly Print All Information unless indicated otherwise.

Tree Address 913 White St.
Cross/Corner Street Truman / White
List Tree Name(s) and Quantity Royal Poinciana (1)
Species Type(s) check all that apply () Palm (x) Flowering () Fruit (x) Shade () Unsure
Reason(s) for Application:

(x) REMOVE (x) Tree Health (x) Safety (x) Other/Explain below
() TRANSPLANT () New Location () Same Property () Other/Explain below
() HEAVY MAINTENANCE () Branch Removal () Crown Cleaning/Thinning () Crown Reduction

Other/Explain Interfering with utility wires, breaking drive way and side walk surfaces, breaking property concrete wall, disabling gate
Reason for Request Property damage to 913 white street

Property Owner Name Bernard Hecht & Timothy Melone
Property Owner eMail Address tmhbradford@yahoo.com
Property Owner Mailing Address 7977 S. Highway A1A Melbourne Beach, FL
Property Owner Mailing City Melbourne Beach State FL Zip 32951
Property Owner Phone Number (305) 394-7316
Property Owner Signature Bernard Hecht Timothy Melone

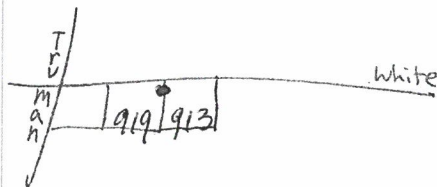
Representative Name Widerman Malek and Bernard Hecht and Tim Melone
Representative eMail Address mgushiken@uslegalteam.com tmhbradford@yahoo.com
Representative Mailing Address 1990 W. New Haven Ave, 1972 S. Highway A1A, M.B.R. 32151
Representative Mailing City Melbourne State FL Zip 32904
Representative Phone Number (321) 255-2332 # 305-394-7316

NOTE: A Tree Representation Authorization form must accompany this application if someone other than the owner will be representing the owner at a Tree Commission meeting or picking up an issued Tree Permit.

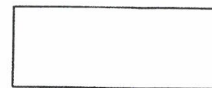
Tree Representation Authorization form attached ()

<<<<< Sketch location of tree in this area including cross/corner Street >>>>>

Please identify tree(s) with colored tape



If this process requires blocking of a City right-of-way, a separate ROW Permit is required. Please contact 305-809-3740.



Tree Representation Authorization

Date: 11/8/2016

Attendance at the Tree Commission meeting on the date when your request will be discussed is necessary in order to expedite the resolution of your application. This Tree Representation Authorization form must accompany the application if the property owner is unable to attend or will have someone else pick up the Tree Permit once issued.

Please Clearly Print All Information unless indicated otherwise.

Tree Address 913 White st.

Property Owner Name Bernard Hecht & Timothy McLane
Property Owner eMail Address trbh.bondford@yahoo.com
Property Owner Mailing Address 7972 S. Highway A1A
Property Owner Mailing City Melbourne Beach State FL Zip 32904
Property Owner Phone Number (321) 255-2332
Property Owner Signature Bernard R. Hecht Timothy McLane

Representative Name Widerman Malek Ind/Bernard Hecht & Timothy McLane
Representative eMail Address maushiken@uslegalteam.com
Representative Mailing Address 1940 W. New Haven Ave, Ind 7972 S. Highway A1A, A1B, FL 32951
Representative Mailing City Melbourne State FL Zip 32904
Representative Phone Number (321) 255-2332

I Bernard R. Hecht & Timothy McLane, hereby authorize the above listed agent(s) to represent me in the matter of obtaining a Tree Permit from the City of Key West for my property at the tree address above listed. You may contact me at the telephone listed above if there are any questions or need access to my property.

Property Owner Signature Bernard R. Hecht Timothy McLane
Bernard R. Hecht Timothy McLane

The forgoing instrument was acknowledged before me on this 8 day November 2016

By (Print name of Affiant) Bernard R. Hecht/Timothy G McLane who is personally known to me or has produced FL DL as identification and who did take an oath.

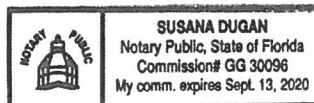
NOTARY PUBLIC

Sign Name: Susana Dugan

Notary Public - State of Florida (seal)

Print Name: Susana Dugan

My Commission Expires: Sep 13, 2020



Karen DeMaria

From: Mark Gushiken <mgushiken@uslegalteam.com>
Sent: Tuesday, November 08, 2016 4:04 PM
To: Karen DeMaria
Subject: Tree Removal App & Rep. Authorization
Attachments: Widerman Malek App. for Tree removal.jpg; Widerman Malek Tree removal Authorization.jpg

Good Afternoon Karen,

Please find the attached tree removal application and representation authorization as requested. Is there an average time frame for a response or setting of the hearing?

Thank you for all your help,

Mark D. Gushiken



Mark Gushiken,



NOTICE: This message and any attachments are solely for the use of the intended recipient. They may contain privileged and/or confidential information, attorney work product, or other information protected from disclosure. If you are not an intended recipient, you are hereby notified that you received this email in error. Any review, dissemination, distribution or copying of this email and any attachment is strictly prohibited. If you are not the intended recipient of this email, please contact Widerman Malek at the above-referenced number, and delete the message and any attachment from your system. Thank you.

Karen DeMaria

From: Ronald Ramsingh
Sent: Thursday, December 01, 2016 5:18 PM
To: Mark Gushiken
Cc: Karen DeMaria
Subject: RE: Acceptance of Service

Thanks you. Again, staff will forward your request to the Tree Commission for consideration. Typically requests such as this are granted so long as the issue does not present a threat to life safety or property. I believe that due to the repeated requests for postponement, it does not present such a threat. If it is your belief that it does, please let me know.

Ron Ramsingh.

From: Mark Gushiken [mailto:mgushiken@uslegalteam.com]
Sent: Thursday, December 01, 2016 4:08 PM
To: Ronald Ramsingh <rramsingh@cityofkeywest-fl.gov>
Subject: RE: Acceptance of Service

Thank you,

To confirm: Due to short notice, our firm and our clients will not be able to attend and be adequately prepared for the December 2016 Tree Commission Meeting. We would like a continuance and request that our application be placed on the agenda for the meeting to be held on January 10, 2017. Please confirm the date and time, we look forward to hearing the decision of the Tree Commission.

Mark



Mark Gushiken,



NOTICE: This message and any attachments are solely for the use of the intended recipient. They may contain privileged and/or confidential information, attorney work product, or other information protected from disclosure. If you are not an intended recipient, you are hereby notified that you received this email in error. Any review, dissemination, distribution or copying of this email and any attachment is strictly prohibited. If you are not the intended recipient of this email, please contact Wideman Malek at the above-

Karen DeMaria

From: Mark Gushiken <mgushiken@uslegalteam.com>
Sent: Thursday, December 01, 2016 10:31 AM
To: Ronald Ramsingh
Cc: Karen DeMaria
Subject: RE: Acceptance of Service

Mr. Ramsingh,

Thank you for getting back to me so promptly. Due to the short notice and prior arrangements we will be unable to clear our calendar for Tuesday December 13, 2016. I would like to request that the city place our application on the January Tree Commission agenda. I believe the meeting will be held on Tuesday, January 10, 2016 at 5:00 p.m. at Old City Hall, 510 Green St. in Key West. Can you please confirm with the city's response to our request?

Thank you,

Mark



Mark Gushiken,

,



NOTICE: This message and any attachments are solely for the use of the intended recipient. They may contain privileged and/or confidential information, attorney work product, or other information protected from disclosure. If you are not an intended recipient, you are hereby notified that you received this email in error. Any review, dissemination, distribution or copying of this email and any attachment is strictly prohibited. If you are not the intended recipient of this email, please contact Wideman Malek at the above-referenced number, and delete the message and any attachment from your system. Thank you.

From: Ronald Ramsingh [mailto:rramsingh@cityofkeywest-fl.gov]
Sent: Wednesday, November 30, 2016 4:34 PM
To: Mark Gushiken <mgushiken@uslegalteam.com>
Cc: Robert Cintron, Jr. <kwlawyer@bellsouth.net>; Karen DeMaria <kdemaria@cityofkeywest-fl.gov>;

jhogan@mchlawfirm.com

Subject: RE: Acceptance of Service

Mr. Gushiken,

The city will place the 2 applications that have been filed by your client on the next Tree Commission agenda. That meeting will take place on December 13, 2016 at 5:00 p.m. at Old City Hall, 510 Green St. in Key West.

Sincerely,
Ron Ramsingh
Chief Assistant City Attorney
City of Key West

From: Mark Gushiken [<mailto:mgushiken@uslegalteam.com>]

Sent: Wednesday, November 30, 2016 10:50 AM

To: Ronald Ramsingh <rramsingh@cityofkeywest-fl.gov>

Subject: Acceptance of Service

Good Morning Mr. Ramsingh,

I am contacting you in regards to the tree permit application for my client Bernard Hecht & Timothy McLane. I attempted to call you, but there was no answer. Do you have a few minutes to speak?

Mark



Mark Gushiken,

,



NOTICE: This message and any attachments are solely for the use of the intended recipient. They may contain privileged and/or confidential information, attorney work product, or other information protected from disclosure. If you are not an intended recipient, you are hereby notified that you received this email in error. Any review, dissemination, distribution or copying of this email and any attachment is strictly prohibited. If you are not the intended recipient of this email, please contact Wideman Malek at the above-referenced number, and delete the message and any attachment from your system. Thank you.

Public Comments

Karen DeMaria

From: Christine Fifer <cfiferbeach@gmail.com>
Sent: Tuesday, December 13, 2016 3:14 PM
To: Karen DeMaria
Subject: #9/10 on tonights agenda Poinciana on White Street

I would just like to make my voice heard about the Royal Poinciana that is up for consideration at tonights meeting

I work at the Armory on White Street. This tree is in my immediate neighborhood, and removing it would be criminal. That wall is already in shambles - remove it and simply place a fence in its place. This tree is more than significant, its grand, and its part of what makes our island special.

Thank you for your time,
Christine Fifer

business:
600 White Street, Key West FL 33040

home:
316 Elizabeth Street, Key West FL 33040