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CITY CLERK'S OFFICE
SOMERVILLE, MA

March 25, 2019

Jason D. Grossfield
Assistant City Solicitor
Somerville City Hall
93 Highland Avenue
Somerville, MA 02143

Re: Unauthorized Removal of Public Shade Trees – Beacon Street

Dear Mr. Grossfield,

Newport Construction is in receipt of your correspondence dated March 14, 2019 with respect to the removal of 38 shade trees on Beacon Street, Somerville, Mass. As of this writing today, my response to you is that Newport Construction has no intention of paying Thirty Eight Thousand Dollars (\$38,000.00) to The City of Somerville for this alleged violation.

Newport Construction has a legal and binding contract with the Massachusetts Highway Department to construct Beacon Street. There are many contract items to be performed including, utility installation, roadway excavation, new granite curbing, new cement sidewalks, new bike lanes, new traffic signals, tree removal, new plantings both shrubs and trees etc. Newport Construction bid this contract under The Massachusetts Public bidding laws and were the responsible low bidder. In preparation of this bid process the MHD issued plans and specifications for all bidders to ascertain the knowledge needed to prepare its bid. The project documents include stamped, engineered plans that clearly show the limits of construction and associated items to be executed. Newport has followed these plans and has executed all items under its contract.

It is my contention that your request for payment is addressed to the wrong party. Newport did not design this project nor did Newport issue the legal contract with documents to be followed and adhered to.

It is my understanding that the contract drawings required some time to develop and that Somerville residents would have had ample time to comment on the design and would have been able to address any and all concerns at those meetings.


NEWPORT

CONSTRUCTION CORPORATION

Jason D. Grossfield
Assistant City Solicitor
Page 2 of 2

Thank you for your correspondence, I consider this matter closed.

Sincerely,



Richard A. DeFelice
President and CEO
Newport Construction Corporation

cc: Mayor Mr. Joseph Curtatone
Steve MacEachern -Tree Warden
Board of Alderman
Mr. Stan Koty – Commissioner
Mr. Paul Stedman – DHE District 4



CITY OF SOMERVILLE, MASSACHUSETTS
LAW DEPARTMENT

March 14, 2019

Newport Construction
Attn: Richard A. Defelice, Pres.
145 Temple Street
Nashua, NH 03060

Northern Tree Service, Inc.
Attn: Timothy Lamotte, Pres.
1290 Park Street
Palmer, MA 01069

Re: **UNAUTHORIZED REMOVAL OF PUBLIC SHADE TREES - BEACON STREET**

Dear Sir or Madam:

I contact you in my capacity as legal counsel to the City of Somerville and its Tree Warden. The City of Somerville Tree Warden ("Tree Warden") has referred the above-referenced matter to this office for follow-up in order to recover payment for the damage to public shade trees in the amount of \$38,000.00, as set forth in detail in the enclosed Tree Warden's correspondence to you dated January 31, 2019. It is my understanding that no response has been received to-date by the Tree Warden to the January 31, 2019 letter.

The Tree Warden has determined that public shade trees were removed without proper authorization on Beacon Street in Somerville in 2017 and that your entity was responsible for the cutting and/or removal of approximately thirty-eight (38) public shade trees.

On behalf of the City of Somerville, I hereby demand that you respond to this letter in writing within fourteen (14) days of receipt as to your payment to compensate the City of Somerville for the damages suffered in the amount of \$38,000.00.

The City of Somerville and its Tree Warden reserve the right to take any legal action necessary, including but not limited to filing a civil action, to recover for these damages. Should you have an insurance carrier, you may wish to forward this correspondence to them for immediate attention. Should you be represented by counsel, please have your attorney contact me to discuss this matter. Thank you for your anticipated prompt attention to this matter.

Respectfully,


Jason D. Grossfield
Assistant City Solicitor

Enc.

cc: Steven P. MacEachern, Tree Warden



SOMERVILLE CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143

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CITY OF SOMERVILLE, MASSACHUSETTS
DEPARTMENT OF PUBLIC WORKS
JOSEPH A. CURTATONE
MAYOR

STAN KOTY
COMMISSIONER

RICHARD WILLETTE
DIRECTOR OF OPERATIONS

January 31, 2019

VIA CERTIFIED & FIRST CLASS MAIL

Newport Construction
145 Temple Street
Nashua, NH 03060

Northern Tree Service, Inc.
1290 Park Street
Palmer, MA 01069

Re: UNAUTHORIZED REMOVAL OF PUBLIC SHADE TREES – BEACON STREET
NOTICE OF VIOLATION

Dear Sir or Madam:

This notice is issued in my capacity as the City of Somerville Tree Warden in connection with the unauthorized removal of public shade trees on Beacon Street in Somerville, MA in 2017.

On or about October 6, 2017, I am informed that you cut and removed approximately thirty-eight (38) public shade trees on or about Beacon Street, a public way in the city of Somerville, without the prior required approval of this office in accordance with all applicable provisions of MGL c. 87, and City Ordinance 12-100 et seq.

Based on the above circumstances, I hereby determine that your acts are responsible for causing damage to said trees, and seek reimbursement for these damages to the City of Somerville. Accordingly, you are requested to make payment in the amount of \$38,000.00 to the City of Somerville, in order to resolve this matter. See MGL c. 87, s. 12; MGL, 242, s. 7. This amount is based upon the cost to the City to replant a tree at a rate of \$1,000 per tree based on current contract terms for such services.

You are hereby notified that, unless you make payment in the amount of \$38,000 within twenty-one (21) days of the date of this letter, this office will assume that you do not intend to voluntarily pay to remedy the damages in this matter and will be forced to institute court action against you. You may make your check payable to the City of Somerville, Attn: Law Department, 93 Highland Avenue, Somerville, MA 02143.





CITY OF SOMERVILLE, MASSACHUSETTS
JOSEPH A. CURTATONE
MAYOR

This office and the City of Somerville reserve its legal rights and remedies to file a civil action to recover any and all damages including without limitation the amounts referenced in this notice. Please contact this office if you have any questions regarding this notice. Thank you for your prompt attention to this matter.

Respectfully,

Steven P. MacEachern
Tree Warden

cc: John McGillicuddy, Resident Engineer, MassDOT
Board of Aldermen
Jason Grossfield, Asst. City Solicitor

