



CITY OF SOMERVILLE, MASSACHUSETTS
LAW DEPARTMENT

July 11, 2012

Honorable Board of Aldermen
City Hall
93 Highland Avenue
Somerville, MA 02143

Re: Board Order Number 193317
That the Director of SPCD Provide this Board with Information on Tree Planting

Dear Honorable Board Members:

You have asked this office for a legal opinion as to whether notice is required prior to the removal of a public shade tree in relation to the above-referenced board order. In my opinion, pursuant to G. L. c. 87, § 3, the tree warden must generally conduct a public hearing, upon written notice, to cut, trim or remove a public shade tree. However, in my opinion, no public hearing or notice is required if: (1) it is a small treeⁱ, or (2) the tree warden is "orderedⁱⁱ [to] trim or cut down trees... deemed to obstruct, endanger, hinder or incommode persons traveling thereon [public ways]..." as set out in G.L c. 87, § 5.

G.L. c. 87, § 5 states that nothing in chapter 87 "shall prevent the trimming, cutting or removal of any tree which endangers persons traveling on a highway...and nothing herein contained shall interfere with the suppression of pests declared to be public nuisances."

Where a public hearing is required pursuant to G.L. c. 87, § 3ⁱⁱⁱ, notice of the hearing shall be: (1) publicly posted, including, "upon the tree at least seven days before such hearing;" (2) published in a newspaper of general circulation in the city once in each of two successive weeks; and (3) given by electronic notification, when feasible, and first class mail to all owners of real property located within 150 feet of the public shade tree proposed to be removed and placing notice on the city website and cable wheel at least 14 days before the public hearing in accordance with Somerville Code of Ordinances Section 12-102.

Honorable Board of Aldermen
July 11, 2012
Page 2



Please contact me with any additional questions.

Very truly yours,

Jason D. Grossfield
Assistant City Solicitor

cc: Mayor Joseph A. Curtatone
Francis W. Wright, Jr., City Solicitor
Stan Koty, Superintendent, Department of Public Works
Michael Glavin, Director, OSPCD

ⁱ Less "than one and one half inches in diameter one foot from the ground." G.L. c. 87, § 5.

ⁱⁱ Such order "by the mayor... road commissioners or highway surveyor". *Id.*

ⁱⁱⁱ Also See G.L. c. 40, § 15C (scenic roads; consolidated hearing with notice as provided in G.L. c. 87, § 3).