

CITY OF OAKLAND



7101 EDGEWATER DRIVE OAKLAND, CALIFORNIA 94621

Public Works Department
Bureau of Environment
Parks and Tree Services Division

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July 16, 2025

NOTICE OF VIOLATION

**Illegal Tree Removals on Claremont Avenue at Vacant Parcel With Assessor Parcel Number
48H-7672-18**

Via Certified U.S. Mail

Matthew Bernard
6363 Christie Ave #2104
Emeryville, CA 94608

I. Summary of Events:

On February 2, 2021, at approximately 8:45 AM, City of Oakland Tree Services staff responded to a report of illegal tree removals in progress on a vacant lot adjacent to 7401 Claremont Avenue, Assessor Parcel Number (APN) 48H-7672-18. Tree Services staff observed approximately eight (8) mature trees, approximately 20" diameter at breast height (DBH) each that were either recently removed or were in the process of being removed. These observations were made by Tree Services staff from the street level on Claremont Avenue, where visibility was partially obstructed by the substantial number of downed trees and woody debris. Tree Services staff observed a man on the property cutting the trees down with a chainsaw who identified himself as the property owner. Tree Services staff verbally informed this person that the trees are protected by the City of Oakland Protected Tree Ordinance and that a permit is required for the tree removals. The City of Oakland Protected Tree Ordinance is codified in Chapter 12.36 of the City of Oakland Municipal Code. The property owner, Mathew Bernard, replied to Tree Services staff by forcefully and abruptly telling staff, in sum, that this is his property, he will not engage in dialogue with or respect the authority or jurisdiction of Tree Services staff. Mr. Bernard refused to stop the tree removal work, despite direction from Tree Services staff to stop work as the tree removal was in violation of the City's Protected Tree Ordinance. There were no tree removal permits posted on site. Oakland Public Works was not in possession of any tree removal permits or tree removal permit applications for this property at that time. No tree removal permits for this property have been issued to date.

On March 2, 2021, an Illegal Tree Removal Notification Letter was sent to Lynn Warner and Mr. Bernard and Lynn Warner, who are the recorded owners of this property. The letter stated that Tree Services received a citizen complaint of illegal tree removals on Claremont Avenue, APN 48H-7672-18. The letter indicated that the property may be inspected, a fine may be placed for the assessed value of the trees that have been removed, and all Development Related permits will be placed on hold.

On March 25, 2021, Tree Services staff inspected the property to assess the number of protected trees that had been removed. Staff determined that a total of twenty-three (23) protected trees had been removed at that time from the property: nineteen (19) coast live oaks (*Quercus agrifolia*), two (2) bigleaf maples (*Acer macrophyllum*) and one (1) California buckeye (*Aesculus californica*). The property was later re-inspected on June 3, 2021, and staff determined that seven (7) additional protected trees had been removed following the prior inspection: four (4) coast live oaks (*Quercus agrifolia*), one (1) bigleaf maple (*Acer macrophyllum*), one (1) purple leaf plum (*Prunus cerasifera*) and one (1) California bay (*Umbellularia californica*). In total, staff determined that thirty (30) protected trees have been removed from APN 48H-7672-18 Claremont Avenue without a tree removal permit.

On June 4, 2021, property owner Mr. Bernard submitted a Service Request #1118697 through OAK 311 for a Tree Removal Permit Waiver. Tree Services staff contacted Mr. Bernard and set up a site meeting for 1:00 PM on June 7, 2021. Mr. Bernard called Tree Services staff on the morning of June 7, 2021, to cancel the site meeting and withdraw the Permit Waiver Service Request. Tree Services staff sent an email to Mr. Bernard recapping the phone call. In the email, Mr. Bernard was informed again that a Tree Removal Permit is needed to remove green standing trees and a Permit Waiver is needed to remove dead standing trees in the City of Oakland.

On June 25, 2021, Julian Tree Care Inc, applied for a Tree Removal Permit for Claremont Avenue, APN 48H-7672-18 on behalf of Mr. Bernard. The application form indicated that the request was for the removal of two (2) trees on the property. The arborist report attached to the application, however, indicated that the request was for the removal of eight (8) trees. Staff contacted applicant Julian Tree Care Inc. for clarification and information related to this application. At that time, Julian Tree Care Inc. stated that they were no longer representing the property owner and did not provide the information required and requested for the permit application to move forward. The permit application was denied on August 10, 2021. The reasons for denial include the following: the number of trees proposed for removal was not clearly defined, clear reasons for removal of each tree were not provided, and the pine tree listed on the application appears to be on the neighboring property. In addition, Protected Trees Ordinance Section 12.36.050(B)2 requires adequate provisions for drainage and erosion control as the property is located on a steep slope and most of the APN has been stripped of vegetation, and no drainage plan detailing this information was submitted with the application. This denial was not

On March 18, 2022, at 12:15 pm, Tree Services staff responded to a report of illegal tree removals in progress at this property. The property owner Mathew Bernard was on the property removing protected trees without a permit. The trees were a 16" DBH coast live oak, a 20" DBH coast live oak, and a 2-stem 12", 18" DBH coast live oak. Mr. Bernard refused to cooperate with requests from staff to stop work, and instead continued to engage in illegal tree removal. Staff then called City of Oakland Police to assist, and they were able to mediate a conversation with Mr. Bernard and Tree Services staff. Mr. Bernard was informed what permits and information was needed to obtain a tree removal permit. The police informed Mr. Bernard that if he continued to work without permits that this situation could escalate.

On April 30, 2022, at 2:00 pm Tree Services staff responded to a report of an illegal tree removal at this property. Tree staff investigated and found a 33" DBH Canary Island pine that had been cut down. This tree appeared to be on the property line between 280 Stonewall Drive and APN 48H-7672-18 Claremont Avenue as shown on surveys provided to staff and verified with aerial imaging. The adjacent property owners alleged that Mr. Bernard cut the tree.

On May 9, 2022, at 1:30 pm Tree Services staff responded to a report of an illegal tree removal. The inspection revealed that one (1) 20" DBH coast live oak and one (1) 18" DBH coast live oak had been removed. Tree Services staff were informed by the adjacent property owners that Mr. Bernard had removed the tree and that they had called Oakland Police.

On May 17, 2022, at 10:15 am Tree Services staff responded to a report of an illegal tree removal in progress. Tree Services staff found the property owner Mathew Bernard and Sonoma County Vegetation Management were in the process of removing a 2-stem 18", 21" DBH coast live oak that was located on City of Oakland Property, APN 48H7672-9-1. Mr. Bernard and the tree removal company were told that by Tree Services staff they were working without the necessary tree permit and Tree Services staff requested that they stop work. Mr. Bernard instructed the tree crew to keep working and told Tree Services staff to stop harassing his crew. Mr. Bernard and the tree crew ignored Tree Services staff instruction and finished removing the tree. City staff called the police for assistance with this matter, but the tree removal work was completed, and the crew and Mr. Bernard had all left the premises by the time the police arrived on site. Further inspection by City staff revealed that an additional 18" DBH coast live oak and a 20" DBH coast live oak had also been cut down.

In total, City staff has determined that between February 2021 and May 2022, Mr. Bernard removed 38 protected trees without the necessary tree removal permits. Of these trees, based on information and belief, 31 of these trees were located on the parcel described as APN 48H-7672-18, 1 tree was on City property, and 6 are believed to have been located on parcels owned by adjacent property owners.

II. Preliminary Findings

The trees depicted in Table 1 (below) have all been cut down as described herein. These trees are all protected trees under Oakland's Protected Tree Ordinance (Oakland Municipal Code 12.36) and require tree removal permits before being removed. However, no tree removal permits have been granted by the City of Oakland to remove these trees. The property owner has therefore violated the Protected Tree Ordinance and is subject to all enforcement provisions, as described below.

Table 1: Summary of Illegal Tree Removals and Appraised Value

Trees listed #1 and #24 are on the property of 7401 Claremont Ave. APN 48H-7672-19 and trees listed as #27, #28, #29, and #30 are on the property of 280 Stonewall Dr. APN 48H-7672-8-1. Tree listed #34 appears to be on the property line with 280 Stonewall Dr. APN 48H-7672-8-1 making it a shared ownership tree. Tree listed #38 is located on property owned by the City of Oakland, APN 48H7672-9-1

Total Combined Appraised Tree Value = \$909,600.00

Tree #	<u>Species</u>	Diameter at Breast Height (DBH)	APN #	Appraised Value
1	<i>Aeculus californica</i>	15"	48H-7672-19	\$1980.00
2	<i>Quercus agrifolia</i>	12"	48H-7672-18	\$9,500.00
3	<i>Quercus agrifolia</i>	10"	48H-7672-18	\$6,700.00
4	<i>Quercus agrifolia</i>	20"	48H-7672-18	\$26,200.00
5	<i>Aeculus californica</i>	36"	48H-7672-18	\$62,800.00
6	<i>Quercus agrifolia</i>	23"	48H-7672-18	\$34,600.00
7	<i>Quercus agrifolia</i>	38"	48H-7672-18	\$94,100.00
8	<i>Quercus agrifolia</i>	9"	48H-7672-18	\$5,400.00
9	<i>Quercus agrifolia</i>	37"	48H-7672-18	\$89,200.00
10	<i>Quercus agrifolia</i>	16"	48H-7672-18	\$16,800.00
11	<i>Quercus agrifolia</i>	12"	48H-7672-18	\$9,500.00
12	<i>Quercus agrifolia</i>	22"	48H-7672-18	\$31,600.00
13	<i>Quercus agrifolia</i>	12"	48H-7672-18	\$9,500.00
14	<i>Quercus agrifolia</i>	7"	48H-7672-18	\$3,360.00
15	<i>Quercus agrifolia</i>	2-stems 22",14"	48H-7672-18	\$44,400.00
16	<i>Quercus agrifolia</i>	25"	48H-7672-18	\$40,800.00
17	<i>Quercus agrifolia</i>	15"	48H-7672-18	\$14,800.00

18	<i>Quercus agrifolia</i>	20"	48H-7672-18	\$26,200.00
19	<i>Quercus agrifolia</i>	10"	48H-7672-18	\$6,700.00
20	<i>Acer macrophyllum</i>	30"	48H-7672-18	\$7,800.00
21	<i>Quercus agrifolia</i>	15"	48H-7672-18	\$14,800.00
22	<i>Quercus agrifolia</i>	17"	48H-7672-18	\$19,000.00
23	<i>Acer macrophyllum</i>	2-stem 11",9"	48H-7672-18	\$1,780.00
24	<i>Prunus cerasifera</i>	9"	48H-7672-19	\$750.00
25	<i>Quercus agrifolia</i>	23"	48H-7672-18	\$34,600.00
26	<i>Quercus agrifolia</i>	15"	48H-7672-18	\$14,800.00
27	<i>Acer macrophyllum</i>	7-stem 6",4",2",5",4",6",3"	48H-7678-8-1	\$1,300.00
28	<i>Quercus agrifolia</i>	21"	48H-7678-8-1	\$28,800.00
29	<i>Quercus agrifolia</i>	12"	48H-7672-8-1	\$9,500.00
30	<i>Umbellularia californica</i>	10"	48H-7678-8-1	\$5,000.00
31	<i>Quercus agrifolia</i>	16"	48H-7672-18	\$16,800.00
32	<i>Quercus agrifolia</i>	20"	48H-7672-18	\$26,200.00
33	<i>Quercus agrifolia</i>	2-stem 12",18"	48H-7672-18	\$30,600.00
34	<i>Pinus canariensis</i>	33"	48H-7672-18	\$39,000.00
35	<i>Quercus agrifolia</i>	20"	48H-7672-18	\$26,200.00
36	<i>Quercus agrifolia</i>	18	48H-7672-18	\$21,200.00
37	<i>Quercus agrifolia</i>	20	48H-7672-18	\$26,200.00
38	<i>Quercus agrifolia</i>	2-stem 18",21	48H7672-9-1	\$49,900.00

III. Enforcement and Penalties (O.M.C. 12.36.150)

Any person who removes a protected tree without a tree removal permit is guilty of an infraction.

Violators of the Protected Tree Ordinance shall be required to provide replacement trees and/or fees, not exceeding the value of the trees removed or damaged, as stated above. As described above, based on the size, type, and number of protected trees that were removed in violation of the City's Protected Tree Ordinance, Tree Services staff have determined these fees **total a sum of \$909,600.00**. Failure to pay or otherwise respond these fees within ten (10) working days of the date listed on this notice will result in further enforcement actions.

Violators are further liable for all costs associated with the investigation and enforcement by the City. All costs of investigation and enforcement shall constitute a special assessment against the real property whereupon the violation occurred.

In addition, a property owner who fails to comply with or who violates the Protected Tree Ordinance shall not receive a certificate of occupancy from the City for any project wherein such noncompliance and/or violations have occurred until such time as the provisions of the Ordinance have been fully satisfied.

The remedies set forth in this section shall be in addition to any other remedies available to the city in law and equity.

IV. Violations of the Tree Ordinance May Subject You to Arrest (O.M.C. 12.36.150C)

Any person who removes a protected tree without a permit may be subject to immediate arrest without a warrant by specified City staff.

City staff have investigated and determined that all of the trees described above are protected under the City's Tree Ordinance and have been illegally removed. It should be noted that there are six (6) additional protected trees still standing on this property. These include several high value large specimen native trees that make significant contributions to the landscape. The City of Oakland has granted no permits for these tree removals. These trees shall not be removed.

V. Right to Appeal (O.M.C. 12.36.160)

The property owner/violator has **ten (10) working days of the date listed on this notice** to respond to this notice in writing, or to request a hearing before the City Council, or both. Failure to respond to this notice within ten (10) working days will result in the preliminary findings contained herein becoming final. The time limit for seeking judicial review of a final determination is governed by California Code of Civil Procedure §1094.6.

Please note that the violations described herein remain subject to any and all other additional enforcement actions and remedies available to the City in law or equity. If you have any questions about this notice, please contact Assistant Public Work Director Kristin Hathaway at khathaway@oaklandca.gov.

Isaac Harvey, Acting Tree Supervisor II
Tree Services Division
Certified Arborist #NY-5626A
ISA Tree Risk Assessment Qualified

Bureau of Environment
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cc: Celso Ortiz, Deputy City Attorney
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Clinton Pugh, Parks and Tree Services Manager
Tod Lawsen, Arboricultural Inspector
Kristin Hathaway, Assistant Director, Public Works Department
Josh Rowan, Interim Director, Public Works Department

Attachments: Photographs

Illegal Tree Removal Notice Letter March 3, 2021
Tree Removal Permit Application, June 25, 2021
Oakland Municipal Code 12.36: Protected Trees

Parcel Map Claremont Ave.**Google Maps Street View March 2020 of Parcel 48H-7672-18**

Aerial View Map of Illegal Tree Removals

Photo of Property Owner Cutting Trees February 5, 2021.



Photo of Property Dated February 5, 2021



Photo of Property Dated March 25, 2021



Photo of Property dated June 15, 2021

