



E-NEWSLETTER

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They chopped; we collected CAO resolves one West Seattle greenbelt clear-cut case

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The City has settled one of two civil suits against West Seattle homeowners who the City alleged hired people to cut down a swath of a greenbelt in late 2015 or early 2016 to improve the homeowners' views.

The unpermitted tree cutting near the 3200 block of 35th Ave. SW occurred in environmentally critical areas on a steep slope below the defendants' homes. In its two lawsuits, the City alleges that two separate groups of people are responsible for cutting two distinct groups of City trees. Between the two groups, about 150 trees of varying sizes, including many big-leaf maples and Scouler's willows, were felled and left crisscrossing the area.

According to the settlement, two couples – Stanley J. and Mary E. Harrelson and Marty and Karrie Riemer – will together pay the City \$440,000 regarding one of the decimated areas. The City's suit regarding the other area is ongoing, and unaffected by this settlement.

The City has amended the complaint in that action, which previously named Kostas A. and Linda C. Kyrimis, to add the following defendants: Nancy Despain, Wendy Sweigart, Leroy Bernard, Joyce Bernard, Charles King, Shirley King and Bruce Gross. The Kyrimises were recently given criminal immunity for their statements in the lawsuit regarding the tree cutting by the City and King County in exchange for their full cooperation in discovery, including sharing the identities of their neighbors who are alleged to have shared the cost of tree-cutters with the Kyrimises.

With the first case resolved, the Parks and Recreation Department will use the settlement proceeds from the Harrelson/Riemer suit to begin remediating the slope.

“We have met our three goals – to recover damages and penalties that make the City whole financially and deter future cutting, to hold people accountable for the destruction, and to make the public aware that laying waste to public lands in whatever form will bring consequences,” City Attorney Pete Holmes said.



“All of Seattle was disappointed to learn that hundreds of trees were illegally cut down in West Seattle—this was a violation of code and Seattle’s values,” said Mayor Murray. “With today’s announcement, we can begin to turn this unfortunate event into an opportunity. The settlement will pay for the replanting of the trees and will provide resources for the City to hire youth from West Seattle to help restore the greenbelt, connecting them to the local environment and green jobs.”

Felled trees were left just as they crashed to the greenbelt floor .

“Today, we see that actions result in consequences,” said Councilmember Lisa Herbold (District 1, West Seattle & South Park). “I’m hopeful this settlement—60% higher per tree than the 2003 case in Mount Baker—will deter future rogue clearcutting. In Seattle, those with financial means can’t count on small settlements to pave the way towards increased views and property values. Trees in our greenbelts are precious natural resources that maintain soil stability, thus lessening the risk of landslides, and maintain air quality by absorbing carbon. We must protect them.”

“I was absolutely outraged last year when I learned someone clearcut an entire hill in one of our public green spaces,” said Councilmember Debora Juarez (District 5, North Seattle), Chair of the Council’s Parks Committee. “I commend the City Attorney’s Office for its vigorous pursuit of just compensation. We will not tolerate the razing of City-owned trees for the sake of an improved view. Not only does the quality of our air depend on trees, but the structural stability of our hillsides does as well.”

“This settlement represents our reasonable, best efforts to hold those responsible for the illegal tree cutting accountable. As stewards of one of the largest parks and recreation systems in the country, our goal is to preserve and protect parkland,” Parks and Recreation Superintendent Jesús Aguirre said.

“Trees are not only nice to look at, but they play a crucial role in managing storm water, stabilizing slopes, providing habitat, reducing air pollution, and contributing to neighborhood character,” Aguirre said. “The funds from this settlement will be used to restore the lost trees and damaged land, as well as to support urban forestry restoration at Duwamish Head and programs that engage youth in forest restoration work in West Seattle. Since the beginning, we have been committed to securing the best outcome on behalf of Seattle park users and tax payers. This settlement offer demonstrates our strong commitment to protecting parkland from illegal acts of destruction.”

Parks expects to complete the majority of restoration work on the site in 2017, with work to begin in the next month or two. Holmes said the City appreciates that both sets of homeowners consistently expressed an interest in resolving the issue short of trial, and worked cooperatively with the City towards a fair resolution.

Had the Harrelsons and Riemers not been so cooperative, the City would have sought a greater recovery. On a per tree basis, this recovery is significantly higher than the amount recovered in the City v. Farris matter based on 2003 tree cutting. That case involved 120 trees and settled for \$500,000, or \$4,166 per tree. This case involved 66 trees, and the settlement amounts to \$6,667 per tree.

“We accept responsibility for a portion of the cutting that took place in the area described as ‘Site A’ in the City’s Complaint for damages, as disclosed to the City in early 2016,” the Harrelsons said in a statement.

The Riemers said: “We have taken responsibility for our fraction of the tree cutting from the very beginning and are glad we were able to successfully resolve this with the City.”

As part of the Harrelson-Riemer settlement, the City will assign its rights to pursue the tree cutters, Forrest Bishop and John Russo, to the Riemers and Harrelsons. The tree-cutters hired by the Kyrimises and others remain unknown.



Torts Section Director Joe Groshong explains to reporters how the settlement was reached. At right is Deputy Parks Superintendent Christopher Williams.

In the two complaints filed last fall, the City sought relief on several grounds, including timber trespass, damage to land, trespass, negligence, environmentally critical areas violations, violations of the parks code and violations of the city's tree and vegetation management in public places code.

On its damages theories, the City generally alleged that the defendants and/or their agents cut down trees on City property without permission when they should have known better. The extensive tree cutting damaged the trees and the underlying land. On its code violation theories, because the cutting took place on City property and some occurred in City right of way, the cutters or their employers were required to obtain a number of permits before they cut any trees. No permits were issued to authorize the cutting.



Assistant City Attorneys who worked on the case are, from left to right, Joe Groshong, Scott Kennedy, Stephanie Dikeakos and Tamera Van Ness.

City sues over ‘sanctuary cities’ executive order

In late March, the City of Seattle, under the direction of Mayor Ed Murray and City Attorney Pete Holmes, filed a lawsuit against President Donald Trump’s “sanctuary cities” executive order (No. 13768, 82 Fed. Reg. 8799). The order threatens to strip federal funding from cities that refuse to assist the federal government in immigration enforcement and was reiterated by Attorney General Jeff Sessions this week. Seattle, a welcoming city where City employees do not inquire about immigration status and where all services are available to every resident, will argue the order is unconstitutional and that the City has not violated federal law. The ambiguity of the executive order also leaves the City unable to accurately plan its upcoming budget.

The lawsuit, filed in the Western District of Washington, makes two main arguments:

- The order is unconstitutional and ambiguous, and creates budgetary uncertainty by threatening federal funding. It violates the 10th amendment by attempting to force local entities to enforce federal immigration law, and violates the Spending Clause by attempting to coerce local action through the denial of federal funds.
- The City of Seattle and our welcoming city policies do not violate federal law. The executive order calls for localities to cooperate with the federal government and share information. City employees are directed to cooperate with, not hinder, federal actions; however, City employees are prohibited from inquiring into immigration status. The City does not prohibit information sharing, but instead limits the collection of information.

Click [here](#) to read the Complaint for Declaratory Relief.



Drone operator sentenced to 30 days for reckless endangerment conviction

Seattle Municipal Court Judge Willie Gregory on Feb. 24 sentenced the owner of an aerial photography company to 30 days in jail for losing control of his drone at the Gay Pride Parade in 2015 and injuring two people.

Judge Gregory told the defendant, Paul M. Skinner, that he recognized the incident that injured the parade goers was an accident, but said Skinner had “engaged in conduct that put people in danger of being injured, which is what happened.”

City Attorney Pete Holmes, who had sought 90 days of jail time, said he views the faulty operation of drones “as a serious public safety issue that will only get worse,” noting the increasing prevalence of drones on the market.

In representing Holmes before Judge Gregory, Assistant City Prosecutor Raymond Lee said Seattle residents “should not fear a drone strike falling from the sky” and noted that the defendant created the situation that caused the harm.

When Skinner lost control of the drone, it crashed into a building on 4th Avenue and then struck the two people; one woman suffered a concussion and a man was bruised. Last month a jury convicted Skinner of reckless endangerment, which is defined this way: “A person is guilty of reckless endangerment when he recklessly engages in conduct which creates a substantial risk of death or serious bodily injury to another person.”

In handing down the sentence, Gregory, who had presided over the four-day jury trial in January, recalled that “the [woman] victim had a hard time talking about what happened to her when you [Skinner] placed that drone in the air.” A hearing is set for May 25 to resolve the amount of restitution that Skinner owes the woman for her medical treatment.

Skinner’s attorney said he will appeal the verdict. While it is pending, Skinner will not have to serve the 30 days in jail. However, he will have to meet the other conditions imposed by the court.

“With limited legal tools at our disposal,” Holmes said, “I’m extremely proud of the job Raymond Lee and Jeff Wolf [Lee’s co-counsel] did. Operators should know that we will continue to go after them when they disregard public safety.”



City wins key test in Monsanto suit over PCBs

The City of Seattle's suit against three "Monsanto" corporations to make them pay to remove cancer-causing chemical compounds known as PCBs (polychlorinated biphenyls) from the City's drainage system and the Duwamish River has survived a key test in federal court.

In February U.S. District Judge Robert Lasnik partially denied Monsanto's motion to dismiss the action that the City filed in January 2016.

Although the judge dismissed some City claims, he decided that none of the remaining claims are barred by the statutes of limitations because, he said, "Seattle's efforts to rid its waterways of pollution is an act 'for the common good'" that "fulfills the city's delegated responsibility to act as steward of the land and waters within its boundaries for the benefit of the public at large."

Monsanto was the sole producer of PCBs in the United States from 1935 to 1979.

The most important legal claim that survived is public nuisance, which addresses a condition that is impairing community rights. In the Seattle case the condition is the widespread contamination by PCBs that makes bottom fish and shellfish from the Duwamish too contaminated to eat, that exposes the public to a chemical that is injurious to health and that impairs the public's use of City parks along the waterway.

Judge Lasnik ruled that the City has alleged facts indicating a public nuisance exists and that Monsanto caused it by promoting the use of PCBs in a wide range of products, including paint and caulk, even though Monsanto knew that PCBs would leach and vaporize out of those products and would contaminate the environment. Monsanto, further, knew that PCBs were toxic to people and wildlife, it is alleged. PCBs — found globally in bays, oceans, rivers, streams, oil and air — are an equal opportunity toxic that destroys populations of fish, birds and other animal life as well as harming human immune, reproductive, nervous and endocrine systems.

In Seattle the PCB contamination affects 20,000 acres that drain to the Lower Duwamish, a federal Superfund site, and in areas that drain to the East Waterway adjacent to Harbor Island, a separate federal Superfund site. PCBs were detected in "82 percent of samples of sediment in drainage pipes" and in "73 percent of samples collected from catch basins in street right-of-ways" in Lower Duwamish drainage basins.

The concentrations of PCBs are low compared with historic releases by industries along the waterway, but any PCBs are a risk to health.

Under a consent decree issued by the U.S. Environmental Protection Agency and the Washington Department of Ecology, the City will build a storm water treatment plant adjacent to the Lower Duwamish that is designed to remove PCBs from storm water — at an estimated cost of nearly \$27 million.

Court rejects homeless advocates' challenge to city parking ordinances

Seattle Municipal Court Presiding Judge Karen Donahue has rejected a homeless man's challenge that the tow and impound, and associated costs and fees, of a vehicle he was living in violated his constitutional and homestead rights.

This case arose from the issuance of a 72-hour notice that was placed on the man's vehicle, which was illegally parked on City property in South Seattle for more than 72 hours. Even though the Seattle Police Department provided the individual with four more days to move his vehicle, and even though it was functioning properly, he chose not to move it. That provided the predicate for a novel legal attack on the City's struggle to control car camping – another dimension of Seattle's homeless problem.

Judge Donahue ruled: (1) that the tow and impound were proper under Seattle law; (2) that SPD's compliance with City law was not arbitrary; (3) that the City did not violate the homestead rights by towing and impounding the vehicle; and (4) that any costs associated with the tow and impound were not "excessive fines" under the Eight Amendment to the U.S. Constitution. In so ruling, Judge Donahue recognized that the City has "an inherent interest in the uniform application of its traffic and parking ordinances," and she declined to "create a particular class or group of persons that can ignore the traffic and parking laws of the City."

While sympathetic to the homeless man's difficulties, City Attorney Pete Holmes, like the judge, pointed to the political and policy process as the source of change. "Public safety is paramount in our mission," Holmes said, "even as the City devotes more and more resources to alleviating the plight of the homeless. Collateral attacks on the City's comprehensive efforts to provide services and manage impacts throughout the City are not helpful."

The case is City of Seattle v. Steven Gregory Long, Seattle Municipal Court No. 203641306



The Path to Police Accountability



Police Accountability in Seattle

The path to stronger civilian oversight

presented by
The Law Enforcement Action Partnership
&
The Seattle City Attorney's Office

via



Live Stream
Tues. June 6th @ 9am PT/12pm ET



Seattle City Attorney Pete Holmes is the misdemeanor prosecutor of Seattle and the only elected city attorney in Washington. He has worked extensively to reduce prosecutions that disproportionately impact low-income residents and to end unconstitutional policing practices.



Assistant Seattle City Attorney Andrew Myerberg co-drafted an ordinance to improve civilian oversight of policing practices. Since 2008, he has worked in law departments in Seattle and New York City, specializing in the areas of civil rights litigation defense, criminal justice policy, and police accountability.

Visit [Facebook.com/LawEnforcementAction](https://www.facebook.com/LawEnforcementAction) to participate

(Top) Pete joined a Seattle Channel panel to discuss police accountability legislation before the City Council: <http://www.seattlechannel.org/Mayor?videoid=x74198>

(Bottom) Watch the Facebook Live video by looking for the top video on : <https://www.facebook.com/SeattleCityAttorney/>



NEWS AND EVENTS

Disaster Book Club: Eruption

Wednesday, June 7, 2017 from 6:00-7:30pm

West Seattle Branch Library

2306 42nd Ave SW

Register online at www.disasterbookclubmay.eventbrite.com

Join Seattle Office of Emergency Management and author Steve Olson to discuss his award-winning book "Eruption: The Untold Story of Mount St. Helens." We'll delve into the history of Washington's volcanoes and what we can do to better prepare for volcanic eruptions and other disasters.

Light Search and Rescue

Thursday, June 8, 2017 from 6:00-8:30pm

North Seattle College, College Center Building, Room 1161

9600 College Way N

Register online at <https://goo.gl/r8ZOt8>

When a large disaster happens, first responders and other city services may be overwhelmed. Transportation may be disrupted and communication may be difficult. It is vital that city residents are prepared to be self-sufficient during these times. Having knowledge of some key disaster skills is a crucial part of that preparedness effort. This training provides an overview of light search and rescue skills and basic rescuer safety. When first responders are overwhelmed, residents may apply some of these techniques to help those around them in need.

Disaster Skills Workshop

Tuesday, June 27th from 6:00-8:00pm

High Point Community Center

6920 34th Ave SW

Register online at <https://goo.gl/YtRKV3>

When a large disaster happens, first responders and other city services may be overwhelmed. Transportation may be disrupted and communication may be difficult. It is vital that city residents are prepared to be self-sufficient during these times. Having knowledge of some key disaster skills is a crucial part of that preparedness effort. This workshop provides training on key skills needed after a disaster and more in depth instruction on key preparedness actions.



The Mission of Seattle Neighborhood Group is to prevent crime and build community through partnerships with residents, businesses, law enforcement and other organizations

Presents

***Keeping Your Property
Safe & Crime Free***

**For new & experienced
property managers & landlords**

**Thursday, July 20th, 2017
At The 2100 building
2100 24th Avenue South
8:45am-4:30pm**

Register [here](#)
or call 206-323-9666

To download flyer, click [here](#)

We look forward to seeing you there!
If you have any questions,
please contact the Seattle Neighborhood Group
206-323-9666 | info@sngi.org

EVENTS

- 6/7 Pete will attend the SPD North Precinct Advisory Meeting from 7 to 8:30 p.m. at North Seattle Community College. An important topic is CAO's new firearm surrender program to get firearms away from known abusers.
- 6/22 Pete will speak at the EastPac/Healthy Youth Central Area Network community dinner at Garfield Community Center.
- 7/8 Pete will attend the North Precinct Summer Picnic from 1 to 4 p.m.

LINKS TO NEWS STORIES

- 5/16 [Seattle's police accountability proposal is overly complex, say SPD chief, city attorney](#) **Seattle Times**
- 5/14 **City attorney gives Council an earful on police accountability legislation** — <https://sccinsight.com/2017/05/14/city-attorney-gives-council-earful-police-accountability-legislation/>
- 5/9 [Seattle City Council Adds 2 Positions to Help Seize Illegal Firearms](#) **Publicola**
- 5/7 **Caught in the life: The business of prostitution** — <http://www.cbsnews.com/news/caught-in-the-life-the-business-of-prostitution/> (CBS Sunday Morning)
- 5/1 **A good first step to strip abusers of guns** [Seattle Times editorial board](#)
- 4/20 [Homeowners to pay \\$440K as the city settles one lawsuit over West Seattle clear-cut](#) **Seattle Times**
- 3/21 [Judge sides with city of Seattle in legal dispute with Uber over historic driver unionization law](#) **Geekwire**
- 2/23 Q&A: City Attorney Pete Holmes on Deciphering What Trump Policies Mean for Seattle
<https://www.seattlemet.com/articles/2017/2/23/q-a-city-attorney-pete-holmes-on-deciphering-what-trump-s-policies-mean-for-seattle>

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COMMENTS AND SUGGESTIONS

If you have suggestions for stories or comments on how we can make this newsletter better, please email kimberly.mills@seattle.gov.

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The Seattle City Attorney's Office is committed to providing the City of Seattle with the highest caliber legal advice to help protect the health, safety, welfare, and civil rights of all.

The City Attorney's Office has four divisions:

The Civil Division represents the City in lawsuits and advises City officials as they develop programs, projects, policies, and legislation. The sections within the Civil Division include torts (claims), governmental affairs, land use, environmental protection, labor and employment, and contracts/utilities.

The Criminal Division represents the City in prosecuting traffic infractions, misdemeanors, and gross misdemeanors in Seattle Municipal Court. The types of cases prosecuted by the Criminal Division include driving under the influence, traffic infractions, domestic violence, theft, assault, and trespassing.

The Administration Division staff provide budgeting, accounting, human resource, clerical and information technology services for the City Attorney's Office.

The Precinct Liaison Division assigns an assistant city attorney as a liaison to each of the City's five police precincts as another way of addressing public safety and neighborhood livability problems.

How to apply for an internship/externship in the Civil and Criminal Divisions: <http://www.seattle.gov/cityattorney/about-us/careers>



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