

**COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION II**

SAVE THE DAVIS MEEKER  
GARRY OAK,

Appellant,

v.

DEBBIE SULLIVAN, in her  
capacity of Mayor of Tumwater

Respondent.

**NO. 58881-1-II**

**DECLARATION OF  
MAYOR DEBBIE  
SULLIVAN**

Debbie Sullivan hereby states and declares as follows;

1. I am over the age of 18, am competent to testify herein and make this declaration on personal knowledge. I am the Mayor of the City of Tumwater and defendant in this matter.
2. On June 4, 2024, I presided over a city council meeting that involved comments from numerous members of the public asking the City to reconsider removal of the Davis Meeker Garry Oak (DMGO). The public asked for consideration of alternatives to removal, including mitigation measures, and to get additional information about the condition of the tree. At the

conclusion of the meeting, I stated that the City would obtain a second, independent opinion to evaluate the tree. I stated that the opinion would need to be from a qualified arborist who had no involvement with the tree but would be totally independent.

3. To carry out the third-party review, the City issued a request for qualifications (RFQ) seeking qualified arborists capable of carrying out an independent assessment of the condition of the tree. The RFQ was issued by the City on July 3, 2024, and responses are due to the City on July 18, 2024. We have yet to hire an arborist.

4. Any decision about whether to remove the DMGO or to pursue mitigation strategies has been deferred until after the independent assessment is completed. I have not prejudged the outcome of this assessment, as alleged by Ms. Larson Kramer and the plaintiffs. Ms. Larson Kramer bases her allegations on a newspaper article where I responded to a question about whether the road would be widened if the tree were removed. I responded that it would not, as the site would remain historically significant,

although, in that hypothetical scenario, the tree would not be there. The question itself assumed removal of the tree.

5. The Motion for an Injunction distorts what I said and misquotes me. Motion at 26. I did not tell “the Olympian a week later, without qualification, that the tree will not be there ultimately.” Motion at 26. The Motion does not even accurately state what the Olympian article attached to Ms. Larson Kramer’s declaration says. The article says that if the tree is removed, the road will not be widened and there will be a memorial there.

6. Any decision about the tree’s removal will be made only after the independent assessment. Plaintiff’s suggestion that there is an ulterior motive to remove the tree to allow widening of the road is categorically false. There are no plans to expand or relocate the roadway, whether the tree is there or not. Whether the tree must be removed, or whether mitigation measures are feasible will not be decided until the RFQ process is completed and a second opinion obtained. If there was any other intention, the City could have proceeded to remove the tree when the

plaintiffs failed to file a timely motion within the 5 days allowed by the Superior Court and allowed the order vacating the TRO to become effective. I did not do so, but instead asked for a second opinion.

7. At present the City faces significant legal risks of liability if the tree were to drop a limb or collapse. The tree is located in the City owned right of way for Old Highway 99, one of the most traveled roadways in the City. The tree canopy, consisting of large branches and stems hangs directly over the roadway. My motivation here is to protect the safety of the traveling public and prevent liability of the City. At present, the City has a report classifying the tree as a "high risk" and recommending removal. If the City were to leave it in place and a member of the public were injured or killed, the City could be liable for millions of dollars for failing to provide a roadway that was safe and failing to remove a known hazard. Every day that passes subjects the City to additional risk of substantial legal liability.

8. We are proceeding with hiring an arborist qualified to render an independent opinion about the tree. We anticipate that this evaluation will be completed and a report is estimated to be rendered by the end of August. By that time, any migratory birds nesting in the tree will have fledged and are not expected to impact the decision. The decision is about the risks to public safety posed by decay and rot that was reported to be present in the DMGO by the City's tree professional.

DATED this 12<sup>th</sup> day of July, 2024 at Tumwater, Washington.

  
Debbie Sullivan

**LAW LYMAN DANIEL KAMERRER & BOGDANOVICH**

**July 15, 2024 - 11:34 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
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