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EXPEDITE
 No Hearing Set
 Hearing is set
Date:
Time:
Judge:

Calendar:

EMERGENCY

FILED
SUPERIOR COURT
THURSTON COUNTY WA
2024 MAY 31 PM 4:28
Linda Myhre Enlow
Thurston County Clerk

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON**

SAVE THE DAVIS-MEEKER GARRY OAK,

Case No. 24-2-01895-34

Plaintiff,

vs.

EMERGENCY NOTICE OF APPEAL
TO THE COURT OF APPEALS
DIVISION II

DEBBIE SULLIVAN, in her capacity of Mayor of
Tumwater

Defendant.

TO: DEBBIE SULLIVAN

AND TO: THE CLERK OF THE COURT

SAVE THE DAVIS-MEEKER GARRY OAK, Plaintiff in the above-captioned action,
seeks emergency review by the designated appellate court (Div. II) of the Order Granting Motion
to Dissolve TRO, filed on May 31, 2024, by the Honorable Anne Egeler of the Thurston County
Superior Court. A copy of the order is attached to this notice.

Dated this 31st day of May, 2024, at Olympia, Washington.

Ronda Larson Kramer

RONDA LARSON KRAMER

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CERTIFICATE OF SERVICE

I certify that I served a copy of the foregoing document on all parties or their counsel of record as follows:

- E-mail
- U.S. Mail
- ABC/Legal Messenger
- Hand delivered by Ronda Larson Kramer

TO:

Jeffrey S. Myers, WSBA No. 16390
Jakub L. Kocztorz, WSBA No. 61393
LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
P.O. BOX 11880
OLYMPIA, WA 98508-1880

I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED this 31st day of May, at Olympia, WA.



RONDA LARSON KRAMER
Attorney for SDMGO

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**SUPERIOR COURT OF WASHINGTON
IN AND FOR THURSTON COUNTY**

SAVE THE DAVIS-MEEKER GARRY OAK,

Plaintiff,

v.

DEBBIE SULLIVAN, in her capacity of Mayor
of Tumwater,

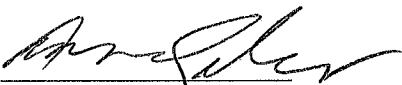
Defendant.

No. 24-2-01895-34

**ORDER GRANTING MOTION TO
DISSOLVE TRO**

The Court has considered the pleadings, declarations, and orders in the file, as well as the oral arguments made on May 31, 2024. For the reasons expressed in the attached transcript of the oral ruling, the Motion to Dissolve the Temporary Restraining Order is GRANTED. To ensure a meaningful right of appeal, a Temporary Restraining Order preventing removal of the subject tree will remain in place until 5:00 p.m. on Wednesday, June 5, 2024.

Signed this 31st day of May, 2024.



Judge Anne Egeler

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

SAVE THE DAVIS-MEEKER GARRY OAK,)	
)	
Plaintiff,)	
)	
vs.)	SUPERIOR COURT
)	NO. 24-2-01895-34
DEBBIE SULLIVAN in her capacity)	
of Mayor of Tumwater,)	
)	
Defendant.)	

THE HONORABLE ANNE EGELER PRESIDING

Ruling
 May 31, 2024
 2000 Lakeridge Drive SW
 Olympia, Washington

Court Reporter
 Ralph H. Beswick, CCR
 Certificate No. 2023
 1606 12th Avenue SW
 Olympia, Washington

A P P E A R A N C E S

For the Petitioner: Ronda Larson Kramer
Attorney at Law
PO Box 7337
Olympia, WA 98507

For the Respondent: Jeffrey Scott Myers
Law Lyman Daniel Kamerrer, et al
2674 RW Johnson Blvd SW
Olympia, WA 98508

1
2 THE COURT: Thank you. The court is prepared to
3 rule at this time. This court's ruling must be based
4 solely on the law and cannot consider the political
5 arguments regarding the wisdom of removing or saving the
6 tree. Under the law, a party requesting a temporary
7 restraining order must show three things, a clear legal or
8 equitable right, a well-grounded fear of immediate invasion
9 of that right, and that the act complained of will result
10 in actual and substantial injury to the moving party. All
11 of these requirements have to be met, and the plaintiffs
12 have not met the first criteria.

13 To establish a clear legal or equitable right, the
14 moving party must show that it is likely to prevail on the
15 merits. Here, plaintiffs make a number of claims, and I'll
16 begin with the claim that the legal right arises from the
17 Tumwater Municipal Code. The mayor's decision to proceed
18 is compliant with the code. There was not an obligation to
19 obtain a permit before removing a historic tree as opposed
20 to a historic structure, and the code allows removal of a
21 tree the city determines is posing a hazard.

22 With respect to the newly raised argument regarding RCW
23 27.53.060, the defendant is correct that was not briefed
24 previously. A quick look at that statute reveals that that
25 chapter of the law addresses archaeological resources, not

1 trees, and therefore that is not applicable and it does not
2 provide this court a basis for a finding of clear legal or
3 equitable right.

4 There are allegations of a federal law possibly
5 pertaining to endangered species or migratory birds. This
6 was not clearly established in the briefing. The
7 plaintiffs have not shown a clear legal or equitable right
8 under federal law.

9 They do not have standing to raise arguments on behalf
10 of the tribes regarding notice. That is something that the
11 tribes themselves can, of course, raise. They have not
12 joined in this action.

13 Therefore, the temporary restraining order will be
14 dissolved. However, when asked, the city's attorney stated
15 that the tree may be removed as early as Monday morning.
16 If that were to occur, that would destroy the plaintiffs'
17 ability to appeal this decision to the next court. I am
18 going to provide sufficient time to allow the plaintiffs to
19 make an emergency motion on appeal to the Court of Appeals.
20 Therefore, this temporary restraining order will expire on
21 Wednesday at five p.m.

22 Are there any questions?

23 MS. LARSON KRAMER: No, Your Honor. Thank you.

24 THE COURT: I will prepare an order that conforms
25 with the legal decision that I have entered. That will be

1 entered today.

2 MR. MYERS: Thank you, Your Honor.

3 THE COURT: All right. And that ends this matter
4 for today. Thank you.

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CERTIFICATE OF REPORTER

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I, RALPH H. BESWICK, CCR, Official Reporter of the Superior Court of the State of Washington in and for the County of Thurston do hereby certify:

- 1. I reported the proceedings stenographically;
- 2. This transcript is a true and correct record of the proceedings to the best of my ability, except for any changes made by the trial judge reviewing the transcript;
- 3. I am in no way related to or employed by any party in this matter, nor any counsel in the matter; and
- 4. I have no financial interest in the litigation.

Dated this 31st day of May, 2024



RALPH H. BESWICK, CCR
Official Court Reporter
Certificate No. 2023
1606 12th Avenue SW
Olympia, WA 98502
Fax: (360) 754-4060
beswicr@co.thurston.wa.us