

## APPEAL OF REMOVAL PERMIT DENIAL

I respectfully appeal the denial of my requests for removal permits for two trees: a 30" hazardous pine tree and an approximately 18" hazardous dogwood tree. In the alternative, the fines assessed should be reduced to \$200 based on my perceived necessity to remove these trees. The following is a Declaration concerning what I allege to be the facts of this appeal. I am attaching exhibits to declarations to support this appeal.

I, Cornel Termure, am over the age of 18 years old and am competent to give evidence concerning my appeal of the City's denial of my previous requests for a tree removal permit for a 30" pine tree and an approximately 18" dogwood tree located at 13506 132<sup>nd</sup> Ave NE in Kirkland, Washington that was removed because of its hazardous condition (see tree positions on Exhibit "D" prior to removal).

On the days that my pine tree and dogwood trees were inspected and finally removed in April, 2023 I was renting out our property at 13506 132<sup>nd</sup> Ave NE in Kirkland, WA to Spencer King (see statement King at Exhibit "C"). At the time that the trees were removed, I did not have ANY intention of developing the property in question.

Spencer had been my tenant for about 12 years. He had been complaining about two trees on the property for quite some time. I really did not want to put any money into the property because it was a rental. However, I inspected the trees in the summer of 2022 and again in early 2023. Both instances I found branches below the trees that had broken off. I contacted my insurance company and they indicated that if I knew of a potentially dangerous tree on the property, and if it fell on someone, I could be held personally liable.

My tenant had children that played under both the pine tree and the dogwood tree. He decided then to contact an arborist and Christopher Assaf from Evergreen Tree Care came out to inspect and gave him a bid. He took some notes and declared that it was his opinion that my pine tree was hazardous and was a nuisance under the City's code: it could be removed. Spencer used this to convince me of my

reluctance to go ahead and spend the money needed to take down the tree.

Both trees were removed and thank God as the November 19, 2024 storm could have toppled them and worse yet our house could have been destroyed seeing how both trees were just feet away from the house.

The City's denial letter lacks an adequate foundation to deny my requests. I now have a supplemental Risk Assessment form that was drafted based on an arborist's inspection and compliance with City code. The City basically accuses my arborist of lying and that the hearing examiner should rely on the City's argument. The City seems to be making assumptions and arbitrarily denied my permit because it did not believe my arborist. In addition, it makes an opinion on the dogwood tree without any evidence to show that trees with 30%+ butt rot will not fall over and will live a healthy life, and not endanger small children.

The City also denied my permit to remove the dogwood despite objective proof that it had suffered butt and heart rot. It concluded "trees often exist with heartwood decay and continue to live as healthy trees" (Exhibit "D").

First, the City is incorrect that the dogwood ONLY suffered heartwood rot. The stump shows approximately 30%+ butt rot. The butt of the tree is the foundation for a tree's strength I would think. The City lacks any foundation for its opinion yet common sense says that the tree is hazardous when children are playing underneath it and branches are breaking off. I can bet that the City inspector would not allow a danger such as this to exist to his/her children. I am attaching as Exhibit "G" a photo of the dogwood tree which was removed April of 2023.

It was not until spring of 2024 did we decide that we would like to develop the property. I employed an architectural and landscape design engineer. I am attaching Exhibit "E" as a true and correct copy of our plan to develop the property showing the restoration by planting 13 trees on the property where there were once only 2 unhealthy and hazardous trees.

I really thought that one could take down a tree if it were on property used as a

residence of rental. I relied on my contractors opinions to remove these trees and had my tenant's family's safety at heart when I had them removed.

I swear under penalty of perjury, under the laws of the State of Washington that the foregoing and exhibits attached are true and correct to the best of my knowledge.

  
Cornel Termure, this 31<sup>st</sup> day of December, 2024 in Kirkland, WA.

I, Christopher Assaf, am over the age of 18 years old and am competent to give evidence concerning Mr. Termure's request for a tree cutting permit for a 30" pine tree located at 13506 132<sup>nd</sup> Av. NE in Kirkland, Washington that was removed because of its hazardous condition.

I have 7 years experience as a certified arborist and on 2/23/2023 I was employed as an arborist in good standing. I have inspected approximately 5000 trees in my career. Attached as Exhibit "A" to my declaration is a tree removal contract, a Basic Tree Risk Assessment form that I filled out on May 16, 2024, and additional statement based on my field notes of my inspection 2/23/2023. I was asked to fill this form out because Mr. Termure's tenant, Spencer King, told me that the City was requiring additional evidence that the tree in question was hazardous under KZC 95.25(9):

6. *Removal of Hazard or Nuisance Trees. Removal of hazard or nuisance trees does not count toward the tree removal allowances if the nuisance or hazard is supported by a tree risk assessment report prepared by a qualified professional arborist...*

I performed a risk assessment in compliance with the ISA Tree risk Assessment (TRAQ) manual guidelines and found that the pine tree in question met the definition of KZC 95.10(17)(b) as hazardous and a nuisance. There was no additional trimming that could be done to make this pine tree a safe tree to retain.

Unfortunately, I do not take any photos when I give out bids.

I swear under penalty of perjury, under the laws of the State of Washington that the foregoing and exhibits attached are true and correct to the best of my knowledge.



Christopher Assaf, this 31 day of December, 2024 in Kirkland, WA

## EXHIBIT A





Northwest's Largest Tree Preservation Company  
Licensed • Bonded • Insured  
Washington Cont. Lic. #EVERGTC011JM

Arborists of WA, Inc.  
NW Pruners, Inc.

CONTRACT FOR WORK  
TO BE PERFORMED

## TREE REMOVAL CONTRACT

www.evergreentlc.com

CONTRACT SUBMITTED TO:

OFFICE USE:

Name Somer King  
Street 13506 132nd Ave NE  
City Redmond  
State WA Zip 98034  
Phone 425 246-1771



ISA Member  
On Staff 14205

CC ☐ TRF ☐ SC ☐ WH ☐ SG ☐  
CK# \_\_\_\_\_ AMT \$ \_\_\_\_\_ of \_\_\_\_\_  
LEAD SOURCE CLB# 60600003

"We are never too busy for referrals"

Job site address; same as "Submitted to;" unless otherwise noted.

☐ Tree Removal Contract

☐ Home Owner understands cabling & bracing is warranted for 3 years from the initial installation date \_\_\_\_\_ initials

REMOVAL ID	TREE SPECIES	DBH (Inches)	APPROX. HEIGHT (Feet)	REMOVAL TYPE (Dead, Dying, Decayed, Other)	TARGET (Yes or No)
A	Pine	50"	100	Hazardous	Yes
B				splits at crown	
C					
D					
E					

A Pine to remove. Stumps & rounds remain					
divots to lawn with cover					
20% Deposit required					

ALL DISCOUNTS APPLIED

SUBTOTAL

TAX

TOTAL

Trees marked correctly for removal.

Arborist

Customer

Initial TERMS: A non-refundable deposit is due upon acceptance. The balance is due to Ever-Green Tree Care Inc. (Ever-Green) within 10 days of invoice date. An invoice will be sent upon substantial completion of the project, or any portion thereof if the project is in stages. If payment is not received as outlined above, the balance due may be subject to late fees and interest of 1% per month. In the event it becomes necessary to enforce payment or any of the terms of this contract, the client agrees to pay all costs and fees incurred by Ever-Green, including attorney's fees and costs, regardless of whether legal action is filed with the courts. Acceptance gives Ever-Green authorization to obtain credit information when extending credit to an individual or a business. Customer agrees crew members working onsite; may use water from hose bib for cooling & hydration. Customer states that trees & shrubs listed above are on their property, and in the event any trees or shrubs are on a shared property line, the customer is responsible to get permission from neighbor prior to work commencing. Customer has advised Ever-Green of the nature and location of all buried and/or concealed pipe, wiring, and sewer systems, including, without limitation, septic tanks, drain fields, water pipes, irrigation/sprinkler systems, and outdoor electrical and landscape lighting lines. Unless so advised prior to commencement of work, Ever-Green shall not be liable for any damage thereto. In the event of a dispute with neighboring property owners over any trespass, customer agrees to defend and indemnify and hold Ever-Green harmless. Customer approves use of gaffs (spurs) for safety reasons in trees. In the event there is a dispute (other than nonpayment), both parties agree the first step is nonbinding mediation with the Better Business Bureau. Ever-Green reserves the right to modify this contract or void it entirely, if it deems any task within unsafe. All additional work requested by customer above and beyond what is written in the contract will constitute additional charges. Permit cost, acquisition, and municipal code compliance is the customers responsibility unless noted above in body of contract. In the event Ever-Green causes damage to Customer's property, including plants and trees, Ever-Green's liability is limited to reseeding damaged turf, replacing damaged plants and trees with similar species in size commonly available in nurseries, and to repair or replace other property damaged by Ever-Green. Ever-Green is not liable for any other form of damages in contract, tort or statute, including but not limited to claims for emotional distress, treble damages, attorneys' fees or costs, claims for violation of the Washington Consumer Protection Act, or timber trespass claims. Customer acknowledges that the final decision on work to be performed was made by customer, and if any tree/s are a healthy living tree, that Ever-Green has discussed alternatives to tree removals, such as trimming. A three-year cabling warranty is limited to Repair or Replacement of the cabling system in the event of product failure, or defective installation. This warranty does not cover excessive winds or other Acts of God. For the warranty to be valid, the client must contact Ever-Green annually to inspect the cabling system. Additionally, the tree may need frequent pruning to keep the stress on the cabling system within reason. Additional pruning will be at the customer's expense.

Your signature below indicates you agree to the terms set forth and have received a copy of the contract and cancel form.

You may cancel this contract within 3 business days from the date below, as explained in the attached notice of cancellation form.

Initial Ever-Green has verbally informed me of my right to cancel.

Initial The customer acknowledges they have received a completed cancellation form with contract.

By: CLB# 60600003 Date: 2/25/20 By: CLB# 60600003 Date: \_\_\_\_\_

Apply to my credit card, as per terms, Card #:

Exp. Date: \_\_\_\_\_ Vcode \_\_\_\_\_

Client gives Ever-Green Tree Care Inc. permission to contact Client via phone calls, voicemails, and SMS messages about its services. For instance, Ever-Green may contact Client when we are in the neighborhood to see if Client has any concerns.

Phone Number: \_\_\_\_\_ Alternate Phone Number \_\_\_\_\_

Permission to Contact ☐ Yes ☐ No

CUSTOMER SIGNATURE \_\_\_\_\_

Toll Free Fax (866) 875-3569 • 9923 E. Trent Ave., Spokane Valley, WA 99206

1-800-684-TREE (8733)

5/16/2024

I am writing to summarize my observation during a tree check up for removal of dead branches and trimming for safety of a pine tree at the entry of 13506 132<sup>nd</sup> Ave NE Kirkland WA.

My observation was by visual inspection of soil condition, past failures, branch structure and overall health of a white pine.

The tree sat at the west side of the family home.

The tree had been trimmed on the west side.

aggressively in the past and grew with an unbalanced crown. The tree had a large crack at the area of included bark and the trunk reached over the patio entry to the home.

This area has wind funneling from the large N/S running 132<sup>nd</sup> Ave. and no trees to damp the pine from gale.

My recommendation at the time of my viewing was to remove the tree based on my diagnosis and prognosis and age of the tree. Cabling or trimming would suffice.

Your local arborist, Christopher Assaf PN 8642A

206 369 6380





# Basic Tree Risk Assessment Form

Client Spencer King Date 5/16/24 Time 5:00 pm  
 Address/Tree location 10506 132nd Ave NE Kirkland Tree no. \_\_\_\_\_ Sheet \_\_\_\_\_ of \_\_\_\_\_  
 Tree species White Pine (Pinus strobus) dbh 24" Height 95' Crown spread dia. 60'  
 Assessor(s) Christopher Assef PR8642A Tools used Visual inspection Time frame 1 visit

## Target Assessment

Target number	Target description	Target protection	Target zone			Occupancy rate 1 - low 2 - occasional 3 - frequent 4 - constant	Practical to move target?	Restriction practical?
			Target within drip line	Target within 2 ft. ht.	Target within 1.5 ft. ht.			
1	family home, entry to home & parking	Remove	X	X	X	4	No	No
2	spots	none						
3								
4								

## Site Factors

History of failures recent and past breakages Topography Flat ☒ Slope ☐ % Aspect N/E  
 Site changes None ☒ Grade change ☐ Site clearing ☐ Changed soil hydrology ☐ Root cuts ☐ Describe \_\_\_\_\_  
 Soil conditions Limited volume ☐ Saturated ☐ Shallow ☒ Compacted ☒ Pavement over roots ☒ 2-0 % Describe tree sits/sit west  
 Prevailing wind direction N/E Common weather Strong winds ☒ Ice ☒ Snow ☒ Heavy rain ☒ Describe 132nd st is just to the west of door entry

## Tree Health and Species Profile

Vigor Low ☐ Normal ☒ High ☐ Foliage None (seasonal) ☐ None (dead) ☒ Normal 65 % Chlorotic 20 % Necrotic 15 %  
 Pests/Biotic \_\_\_\_\_ Abiotic \_\_\_\_\_  
 Species failure profile Branches ☒ Trunk ☒ Roots ☒ Describe compacted soil & INCLUDED BARK

## Load Factors

Wind exposure Protected ☐ Partial ☐ Full ☒ Wind funneling ☒ on 132nd st Relative crown size Small ☐ Medium ☐ Large ☒  
 Crown density Sparse ☐ Normal ☒ Dense ☒ Interior branches Few ☐ Normal ☐ Dense ☒ Vines/Mistletoe/Moss ☐  
 Recent or expected change in load factors Splits from codominants in past

## Tree Defects and Conditions Affecting the Likelihood of Failure

### — Crown and Branches —

Unbalanced crown ☒ LCR 80 %  
 Dead twigs/branches ☐ 15 % overall  
 Broken/Hangers Number 3 Max. dia. 8"  
 Over extended branches ☒ Max. dia. 6"  
 Pruning history  
 Crown cleaned ☐ Thinned ☐ Raised ☐  
 Reduced ☐ Topped ☐ Lion-tailed ☐  
 Flush cuts ☐ Other cut from power line  
 Cracks ☐ Lightning damage ☐  
 Codominant ☒ Included bark ☒  
 Weak attachments ☒ Cavity/Nest hole \_\_\_\_\_ % circ.  
 Previous branch failures ☒ Similar branches present ☒  
 Dead/Missing bark ☐ Cankers/Galls/Burls ☐ Sapwood damage/decay ☐  
 Conks ☐ Heartwood decay ☐  
 Response growth heavy horizontal at  
 Condition(s) of concern codominant crotch with  
included bark  
 Part Size 16" Fall Distance 80'  
 Load on defect N/A ☐ Minor ☐ Moderate ☐ Significant ☒  
 Likelihood of failure Improbable ☐ Possible ☐ Probable ☐ Imminent ☒

### — Trunk —

Dead/Missing bark ☐ Abnormal bark texture/color ☐  
 Codominant stems ☒ Included bark ☒ Cracks ☒  
 Sapwood damage/decay ☒ Cankers/Galls/Burls ☐ Sap ooze ☐  
 Lightning damage ☐ Heartwood decay ☐ Conks/Mushrooms ☐  
 Cavity/Nest hole \_\_\_\_\_ % circ. Depth \_\_\_\_\_ Poor taper ☐  
 Lean 30° Corrected? no  
 Response growth none trunk save separately  
 Condition(s) of concern at union  
 Part Size 20" Fall Distance 10'  
 Load on defect N/A ☐ Minor ☐ Moderate ☐ Significant ☒  
 Likelihood of failure Improbable ☐ Possible ☐ Probable ☒ Imminent ☐

### — Roots and Root Collar —

Collar buried/Not visible ☐ Depth \_\_\_\_\_ Stem girdling ☐  
 Dead ☐ Decay ☐ Conks/Mushrooms ☐  
 Ooze ☐ Cavity ☐ % circ.  
 Cracks ☐ Cut/Damaged roots ☐ Distance from trunk \_\_\_\_\_  
 Root plate lifting ☐ Soil weakness ☒  
 Response growth \_\_\_\_\_  
 Condition(s) of concern compacted soil & no  
dampening from wind  
 Part Size \_\_\_\_\_ Fall Distance leaving  
 Load on defect N/A ☐ Minor ☐ Moderate ☐ Significant ☐  
 Likelihood of failure Improbable ☐ Possible ☒ Probable ☒ Imminent ☐



# Risk Categorization

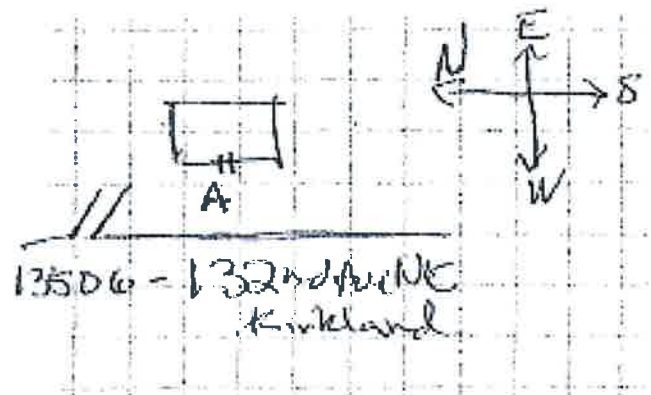
Target (Target number or description)	Tree part	Condition(s) of concern	Likelihood												Consequences				Risk rating given (Matrix 2)
			Failure				Impact				Failure & Impact (from Matrix 1)								
			Improbable	Possible	Probable	Inevitable	Very low	Low	Medium	High	Unlikely	Somewhat	Usualy	Very likely	Negligible	Minor	Significant	Severe	
Home	Crown	Included			X				X				X				X	16	
	Branches	bark			X				X				X				X	16	
	Trunk																		

Matrix 1. Likelihood matrix.

Likelihood of Failure	Likelihood of impact			
	Very low	Low	Medium	High
Imminent	Unlikely	Somewhat likely	Likely	Very likely
Probable	Unlikely	Unlikely	Somewhat likely	Likely
Possible	Unlikely	Unlikely	Unlikely	Somewhat likely
Improbable	Unlikely	Unlikely	Unlikely	Unlikely

Matrix 2. Risk rating matrix.

Likelihood of Failure & Impact	Consequences of Failure			
	Negligible	Minor	Significant	Severe
Very likely	Low	Moderate	High	Extreme
Likely	Low	Moderate	High	High
Somewhat likely	Low	Low	Moderate	Moderate
Unlikely	Low	Low	Low	Low



## Notes, explanations, descriptions

When viewed the Pinetree had a large  
cadomant reaching horizontally to  
home which had included bark  
with a recent tear atrotch.  
No cable system or reduction  
was a feasible solution  
to save the tree.

## Mitigation options

1. Remove tree & plant new ones Residual risk \_\_\_\_\_
2. \_\_\_\_\_ Residual risk \_\_\_\_\_
3. \_\_\_\_\_ Residual risk \_\_\_\_\_
4. \_\_\_\_\_ Residual risk \_\_\_\_\_

Overall tree risk rating Low ☐ Moderate ☐ High ☐ Extreme ☒

Overall residual risk None ☐ Low ☐ Moderate ☐ High ☐ Extreme ☒ Recommended inspection interval \_\_\_\_\_

Date Final ☐ Preliminary ☐ Advanced assessment needed ☐ No ☐ Yes-Type/Reason \_\_\_\_\_

Inspection limitations ☒ None ☐ Visibility ☐ Access ☐ Vines ☐ Root collar buried Describe \_\_\_\_\_

I, Jacob Randall, am over the age of 18 years old and am competent to give evidence concerning Mr. Termure's request for a tree cutting permit for a 18" dogwood and 30" pinewood located at 132<sup>nd</sup> Ave NE in Kirkland, Washington that was removed because of its hazardous conditions.

I have been a tree cutter for 21 years and have taken down hundreds of rotted trees: many less rotted than the dogwood and pinwood trees in question. When I cut these trees down, they looked like they were in a condition of decline and critical failure (see my letter attached to this declaration at exhibit "B"). I have researched some arborist journals and site why dogwoods can have a limited span of life:

<https://www.ajc.com/lifestyles/urban-dogwoods-have-limited-life-span/CMdyQd9NUBnG72kQQflgwM/>

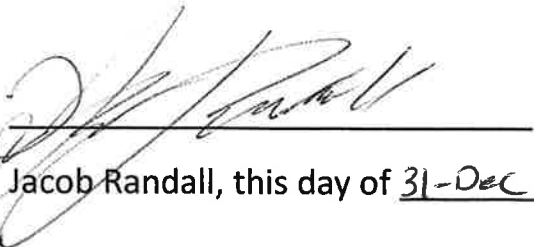
<https://www.walterreeves.com/landscaping/what-is-a-dogwoods-life-expectancy/>

It is unbelievable to me how anyone can predict that a partially rotted tree that is approximately 30+ years old could survive what happened on November 19, 2024 when winds of 60-80 MPH devastated thousands of trees and caused millions in property damage and personal injury. Yes, trees can continue to live with rot but what day will a branch fall off destroying property or worse yet injuring or killing someone. Since the dogwood tree was on a hill with limited soil water retention, on the south side of the house: exposed to intermittent extreme heat, I believe that it would not have withstood the November, 2024 cyclone bomb. The pinewood would also not have been able to withstand such winds.

Mr. Termure saved money by grinding the stump at the time of removal. Unfortunately, I did not take any photos of the trees because I did not

Take photos Back then now I do Due to this situation.

I swear under the penalty of perjury, under the laws of State of Washington that the foregoing and exhibit attached are true and correct to the best of my knowledge.



Jacob Randall, this day of 31-Dec, 2024 in Kirkland, WA

## EXHIBIT B

New view tree service

Jacob Randall

In regards to the job in question the trees selected for removal where in poor condition and at a point of critical failure the pine had been topped and not been maintained afterwards so fracturing and weak attachments as well as sap visible from the ground from the crown Co-dom tops I was asked during the bid what I thought. I gave some options none of them long term and this was inevitable for removal

The tree in the backyard had a cat face lots of visible rot and bug activity at trunk the lead over house had lots of dead branches and was crowding the house the rest of the tree seemed to be in ok health but the base structure was compromised with the rot at its base so this was a subject for removal as well.

When removing trees suspensions where confirmed the integrity of the tree's where in fact compromised as expected and more the climber climbed he noticed separation and cracking in trunk of trees as more of the job progressed

As an experienced tree climber I know the trees in question where currently and would have been a danger to the current property and any future development of property and person.



## EXHIBIT C

My name is Spencer King. I am Cornel Termure's tenant at 13506 132nd Ave NE.

In our front yard, we had a massive fir tree that was unhealthy. Approximately 60' up the tree, a huge split had formed. Since our driveway and walkway were adjacent to the tree, I stressed to Cornel to remove the tree in order to protect my family, pets and cars. We live on the ridge line of Kingsgate where is always breezy with occasional heavy gusts. If the tree had been left standing, there is no doubt it was at risk of causing severe damage...or worse when the next wind storm arrived. We love trees, but also felt huge relief when the tree came down.

Thank you,

Spencer King

425.241.1771

## EXHIBIT D





## EXHIBIT E

