

FILED
Court of Appeals
Division II
State of Washington
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IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

NO. 58881-1-II

SAVE THE DAVIS-MEEKER GARRY OAK,

Appellant,

v.

DEBBIE SULLIVAN, in her capacity of Mayor of Tumwater,

Respondent.

REPLY IN SUPPORT OF APPELLANT'S MOTION FOR
EXTENSION OF TIME TO FILE AMENDED REPLY
BRIEF

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I. ARGUMENT IN REPLY

In her response to SDMGO’s motion for an extension of time to file its amended reply brief, Respondent Debbie Sullivan argues that it would be “inequitable” to grant the extension because “it was the Appellants who sought to accelerate this court’s review, as provided in RAP 18.12.”

Mayor Sullivan is correct that it was SDMGO who requested expedited review, based on the mayor’s intention—at that time—to immediately cut down the historic Davis Meeker oak.

Since then, circumstances have changed. The mayor no longer is threatening to immediately cut down the historic tree. Instead, she has stated openly—both to the public and to the Thurston County Superior Court—that she is in the process of obtaining a “second opinion concerning the condition of the tree.” Reply Br., App. F at 3:7–13. She has further stated that she will be using that second opinion to evaluate future management options for the tree. *Id.* In short, the circumstances

that led SDMGO to request expedited review no longer exist. The mayor no longer has imminent plans to remove the tree. She does not even possess the very study she now says she needs to evaluate the tree's condition and to determine how the tree should be managed in the future.

In addition to this, the mayor is protected by a \$10,000 bond. On September 6, 2024, the Honorable Anne Egeler of the Thurston County Superior Court set a supersedeas bond of \$10,000.00 pursuant to RAP 8.1 to compensate the City of Tumwater for not being able to immediately remove the tree. *See Reply Br., App. E.* SDMGO promptly paid that bond. *Id., App. D.* As a result, not only does the mayor *not* have plans to immediately cut the tree down, and not only does she *not* possess the very study she now needs to evaluate the tree's condition and to make a decision, but she also is protected by a \$10,000.00 bond.

SDMGO has a good faith basis for moving to modify the Commissioner's ruling granting the mayor's motion to strike.

Additionally, the urgency that initially motivated SDMGO's request for expedited review no longer exists. Thus, SDMGO respectfully requests that the current deadline of October 17, 2024 for SDMGO to file an amended reply brief be stricken. The amended reply brief should be due 10 days after this Court rules on SDMGO's forthcoming motion to modify under RAP 17.7(a).

II. CERTIFICATE OF COMPLIANCE

I certify that this motion contains 404 words, in compliance with RAP 18.17.

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RESPECTFULLY SUBMITTED this 10th day of
October, 2024.

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Transmittal Information

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