



# City of Saint Paul

City Hall and Court House  
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Boulevard  
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## Master

**File Number: RLH CO 13-1**

**File ID:** RLH CO 13-1

**Type:** Resolution LH Correction  
Order

**Status:** Passed

**Version:** 2

**Contact  
Number:**

**In Control:** City Council

**File Created:** 12/27/2012

**File Name:** 44 Bates Avenue

**Final Action:** 06/05/2013

**Title:** Appeal of Anna Leininger and Greg Kramer to a Correction Order at 44 BATES AVENUE.

### Notes:

**Agenda Date:** 06/05/2013

**Agenda Number:** 45

**Sponsors:** Lantry

**Enactment Date:**

**Attachments:** 44 Bates Ave.appeal.12-27-12, 44 Bates Ave.appellant photos.12-27-12, 44 Bates Ave.Photos.1-7-13, 44 Bates Ave.Leininger & Kramer Ltr 1-10-13, 18 Bates Ave Chan & Leininger Ltr 2-25-13

**Financials Included?:**

**Contact Name:**

**Hearing Date:**

**Entered by:** mary.erickson@ci.stpaul.mn.us

**Ord Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Legislative Hearings	01/08/2013	Laid Over	Legislative Hearings	02/05/2013		
	<b>Action Text:</b>	Laid Over to the Legislative Hearings due back on 2/5/2013					
	<b>Notes:</b>	<i>Forthcoming</i>					
		<i>RE: 44 Bates Ave (single family) and 18 Bates Ave (exempt vacant land)</i>					
		<i>Anna Leininger and Greg Kramer, owners, appeared (44 Bates Ave - single family)</i>					
		<i>Nelly Lai Chiu Chan, owner (Successor Under Trust), appeared with Vanh Chan, her niece (18 Bates Ave - exempt vacant land)</i>					
		<i>Inspector Paula Seeley:</i>					
		<i>- Dec 18, 2012 - received report of overgrown brush and bramble on the blvd</i>					
		<i>- Inspector St. Martin sent Order to cut the growth down to a height of 36 inches (ordinance) and trim back all the bushes along the sidewalk</i>					
		<i>- same as Orders for 44 Bates Ave (single family)</i>					
		<i>Ms. Moermond:</i>					

- invited Appellants for 44 Bates Ave to join the discussion since they are appealing the same issue

Ms. Seeley:

- they received a complaint about both properties: overgrowth (over 36 inches) on the blvd
- received a letter (attached) from property owners of 44 Bates Ave saying the blvd was planted by the city with maintenance free wild native plants as promised by the city at the time of sidewalk construction. By definition, no maintenance is required as residents. We have concerns about safety and erosion due to the very steep slope. The taller plants are more desirable plants for erosion control and include attractive native plants, such as sumac. Since it is a wooded slope, the taller plants lend a more attractive visual field. Cutting trees is restricted in the river corridor. The taller plants add a measure of safety. Without the taller plants, there is nothing keeping people (including small children) from tumbling down a very steep slope into the street (please see photo).
- the ordinance says, no matter what it is, for sight view line purposes, plants can be no taller than 36 inches
- she is waiting for a call back from Public Works to see if there was ever such an agreement made
- this appears to be sumac, which is not a native plant

Ms. Leininger:

- they moved onto that block years ago
- when the street went in, approximately 1995, Mike (a neighbor in audience) and Greg met in the street with the city engineer; there was a lot of concern from all of the houses because this is a bluff, so, it meets the definition of the River Corridor and is protected. When they put in their sewer, they had to justify which trees would be removed and create a plan to replace them; so, we're not actually allowed to cut trees on our own property. When the street was put in, they put a sidewalk right along the bluff, which comes down, steeply; so, the sidewalk is boarded by this very steep bluff (photos shows the steepness); their concern for the city engineer was that they wouldn't be able to mow grass on a slope like that. The city engineer said that would not be a problem because they would put in a special block; we will seed it with maintenance free wild flowers and the sidewalk would also be maintenance free. The 3 issues they are running up against is: 1) there's not a way to safely or easily mow it or trim it (that's why the maintenance free idea was a great idea); 2) because of that block that's put it, it's hard to keep it attractive; so, if you cut everything down, you have this concrete spreading \_\_\_\_\_ and behind it, you have the woods; so, if you let it grow into more of more natural bluff face as it would have had, at least, there'd be some visual continuity; and 3) safety issues for children, especially. The only thing keeping a toddler and a bike from tumbling down are the larger trees/plants. Mike had the same complaint back in 2004; he wrote in and they said, "Oh! That's OK; it's just the sidewalk that needs to be clear; never mind the slope." This issue seems to keep coming up; she would like to clear it up and figure out a good solution
- they do want the block to be attractive but it doesn't look like cutting that down below 36 inches is the right way to do it, considering the setting

Ms. Chan:

- she agrees with what Ms. Leininger said
- they would have to cut down mature trees and that just doesn't make sense because the slope is very steep; they do trim the trees
- it's very challenging
- they will do whatever they need to do to be in compliance

Ms. Leininger:

- it doesn't seem like the optimal long-term solution to just chop down the growth; she doesn't think that was the intention to begin with
- what it is now seems better than chopping it down
- the natural growth is, at least, consistent with what's behind it
- the other big issue which is confusing --- the city talks about bluff protection, which describes this type of topography
- perhaps, it disturbs others who have a flat topography and must keep everything cut down
- the City of Saint Paul has a bluff protection plan all through the River Corridor that involves "not cutting down", not taking out natural plants, etc. because of erosion concerns
- another supporting neighbor was not able to be here today
- we're all interested in figuring out what will be acceptable for protecting the bluff; be safe; and something that's achievable
- she thought her sumac was gorgeous; it has beautiful color and it's much better than concrete; others may not think the same
- none of them have driveways; it's way too steep; they have a private easement behind the houses

Ms. Chan:

- it's beautiful in the summer and spring
- they do hire people to trim it when it looks overgrown
- they do not want to chop down 3 mature trees on their property
- showed Ms. Moermond photos on her iPhone

Ms. Moermond:

- asked for an aerial photo
- one of the reasons for height requirements for blvd plantings is to give sight lines for drivers - to see other vehicles coming from driveways, pedestrians coming and going from the sidewalk, etc. but here there's not even a clean way for people to come off the sidewalks (Ms. Leininger: you can't get off the sidewalks unless you want to mountain-climb, except at the ends of the blocks)
- would like to talk to the Ward 7 Office, who can contact Public Works
- would also like to talk with Kevin Nelson about it, too
- all enforcement is stayed during this LH process; we need time to sort this through
- will lay this over for 1 month
- Katie Burger will come to meet you and Ms. Moermond will explain the situation to her; she can get your contact information

1	Legislative Hearings	02/05/2013	Laid Over	Legislative Hearings	02/19/2013	
	<b>Action Text:</b>	Laid Over to the Legislative Hearings due back on 2/19/2013				
1	Legislative Hearings	02/19/2013	Referred	City Council	03/06/2013	03/06/2013
	<b>Action Text:</b>	Referred to the City Council due back on 3/6/2013				
	<b>Notes:</b>	Grant until May 15, 2013 to trim back the overgrown brushes obstructing the public sidewalks by 3 feet.				

RE: 18 Bates Ave ( residential/exempt vacant land)

Nelly Lai Chiu Chan, Successor Under Trust, appeared.

Ms. Moermond:

- she went by the property to look at this; Council President Lantry also looked at it, as well
- Public Works also pulled their records on it
- there was a question as to whether these plantings were maintenance free
- it looks as if it was to be maintenance free but now, we have overgrown brush and it does need maintenance because the original plantings are no longer discernible
- some erosion control will need to be put into place
- there will be a need to cut these plantings back
- of course, at this time of year, it doesn't make sense to do it; more time is needed

Ms. Chan:

- we cleaned everything already
- are we still required to trim 3 feet back from the blvd ? (Ms. Moermond: yes)
- asked for time until late spring / early summer
- concerned about the trees

Ms. Moermond:

- will recommend granting an extension to May 15, 2013 for cutting and trimming of plantings

2	City Council	03/06/2013	Continue Public Hearing	City Council	06/05/2013	Pass
	<b>Action Text:</b>	Public hearing continued to June 5				
	<b>Notes:</b>	<i>Legislative Hearing Officer Marcia Moermond asked that the matter be continued to June 5.</i>				
		<i>No one appeared in opposition; Council President Lantry moved to continue the public hearing to June 5.</i>				
2	City Council	06/05/2013	Adopted As Amended			Pass
	<b>Action Text:</b>	Adopted as amended (appeal granted with conditions)				
	<b>Notes:</b>	<i>Legislative Hearing Officer Marcia Moermond asked that the resolution be amended to grant the appeal because Public Works was assuming responsibility for maintenance of the slope area in question.</i>				

*No one appeared in opposition; Councilmember Thune moved to close the public hearing and grant the appeal.*

2 Mayor's Office 06/07/2013 Signed

Action Text: Signed

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**Text of Legislative File RLH CO 13-1**

Appeal of Anna Leininger and Greg Kramer to a Correction Order at 44 BATES AVENUE.

**AMENDED 6/5/13**

WHEREAS, in the matter of the Appeal of Anna Leininger and Greg Kramer to a Correction Order at 44 BATES AVENUE, the Legislative Hearing Officer has reviewed the appeal and considered the testimony of City staff and the appellant;

WHEREAS, the Legislative Hearing Officer recommends that the City Council grant ~~until May 15, 2013 to trim back the overgrown bushes obstructing the public sidewalks by 3 feet~~ the appeal, as Public Works has added the slope area in question to its "mowing" list; however, ongoing responsibility for snow and ice removal from the public sidewalk will continue to belong to the property owners; Now, Therefore, Be It

RESOLVED, that the Saint Paul City Council hereby accepts and adopts the Legislative Hearing Officer's recommendation in this matter.

Letter attached