CITY OF
SANTA ROSA

March 3, 2008

COMMUNITY DEVELOPMENT
100 Santa Rosa Avenue
Post Office Box 1678
Santa Rosa, CA 95402-1678

Attn: Sharon King
Silvercrest
1050 3rd Street
Santa Rosa, CA 95404

Dear Ms. King:

BUNYA-BUNYA TREE REMOVAL – 50 MONTGOMERY DRIVE
APN: 009-082-003; ZONING: PD; GENERAL PLAN: OFFICE; FILE NO: TR08-009

Please be advised that on March 3, 2008, the Department of Community Development denied the tree removal permit application for the above project based on the following reasons:

1. The Bunya-Bunya tree is in good health and vigor with no apparent disease or insect issues.

2. The Bunya-Bunya tree is of significant size and maturity and provides great aesthetic benefit to all persons living in the vicinity.

3. The Bunya-Bunya tree is one of few existing mature specimens in Santa Rosa; arbitrary removal of the tree would detract from the quality and attractiveness of the neighborhood.

4. Retaining the Bunya-Bunya tree would be consistent with the City's Tree Ordinance in that protection of certain trees is essential to the maintenance of Santa Rosa's aesthetic value and heritage.

5. A Tree Removal Permit application was applied for in 1999 and denied on June 8, 1999. Since that denial, there has been no change in the tree's health.

This action is subject to appeal within ten (10) calendar days from the date of this denial. In the event that the end of the appeal period falls on a non-workday, the appeal period shall be extended to include the next business day. Reasons for an appeal must be made in writing on a completed appeal application form. A $380 fee must accompany the appeal application and should be filed at:

Department of Community Development
City of Santa Rosa
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 95404

If you have further questions, please call me at (707) 543-4303.

SUSIE MURRAY
Community Development Technician

c: File

May 29, 2008

Michael J. Woodruff
The Salvation Army
USA Western Territorial Headquarters
180 East Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4709

Dear Mr. Woodruff:

I am in receipt of you letters of March 13 and May 19, 2008 in which you request a permit for the removal of the Bunya Bunya tree that is on the Silvercrest property.

I understand that the City denied this permit, and the time to appeal has come and gone.

The Salvation Army's general counsel has written to advise the City that the tree poses a grave health and safety risk because of the cones it sheds. Attached to this letter is a letter from a certified arborist saying the same. SA relies upon a section of the City Code (17-24-030(A)(3) that allows emergency removal of a tree that poses an immediate threat of injury. Under that section, a permit is not required, only permission from any of the department heads: Police, Fire, Public Works, Utilities, Recreation and Parks, Community Development, City Manager. SA insists that the City grant it permission to remove the tree based on the foregoing. SA has threatened further legal action if its request is denied.

The City's arborist, Lisa Grant, says the tree is healthy, as does the SA's arborist. The tree sheds cones, which condition is a foreseeable risk of injury *if the cones are not removed, are allowed to shed naturally, and the tree is not maintained regularly*. To manage this risk, the City regularly maintains the *bunya bunya* trees on its property by, among other things, removing the cones. To date, there have been no reported *bunya bunya*-related injury claims in the City.

ISSUE: Is the *bunya bunya* on SA's property a hazardous or dangerous condition which requires immediate action to protect life or property?
ANSWER: No.

DISCUSSION: Clearly, what is contemplated by City Code Section 17-24-030(A)(3) is the emergency removal of a condition that poses an immediate threat of injury, e.g., a hanging branch, partially felled tree. This condition is not present here. As long as the tree is regularly maintained and the cones are professionally removed, it does not pose an

immediate threat of injury to passersby. This is consistent with the conclusions contained in Ms. Grant's report.

Sincerely,

JEFF KOLIN
City Manager

JK/sks

c: Susie Murray, Community Development Technician

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CITY OF SANTA ROSA

Recreation & Parks Department
MEMORANDUM

DATE: March 19, 2008

TO: Vince Ewing, Assistant City Attorney
Susie Murray, Community Development Technician

FROM: Lisa Ward Grant, Parks Superintendent

SUBJECT: Bunya Bunya Tree at 50 Montgomery Drive

I have been asked to evaluate the Bunya Bunya tree adjacent to Silvercrest located at 1050 Third Street. The property is owned by Salvation Army Residences, Inc. Below is a summary of my findings observed from the street level.

Species: Bunya Bunya (*Araucaira bidwillii*). The species is not unique, although few of these Australian natives are found within Sonoma County. A tree of similar age and size occupies a corner of Courthouse Square, while a slightly smaller tree is located in Railroad Square.

Size: 58" DBH (diameter measured at 4 ½ feet of height), approximately 95' tall. The tree's age can be estimated to be between 85 and 100 years old.

Health: The tree appears to be in good health; vigorous for a mature tree with new shoot growth at its apexes.

Structure: Overall structure is fair. The one noticeable defect is three co-dominant stems at approximately 10' from the top. This is an undesirable formation, especially in apical dominant (single stem) trees. The strength of three stem's attachments is unknown without the aid of aerial observation.

Site: The tree is growing in an ivy-covered planter on the south side of Second Street at Pierce Street, next to the driveway entrance to a private parking lot. Also within the surrounding target zone (debris fall zone) are resident gardens, public sidewalk, street parking spaces, a medical laboratory building and their parking area, and utility lines.

Conclusion: It is apparent to me that this Bunya Bunya tree has received routine maintenance since the last removal application was denied by City Council in 1999. The excess re-growth from freeze damage has been reduced and ivy overgrowing the main stem was removed. Why the multiple leaders were not reduced to a single leader at that time is hard to ascertain. It is not known to me whether or not there is included bark or decay pockets which may increase the possibility of a stem failure. The structure endured the January 4, 2008 storm with winds of 43 mile per hour. I am told by Silvercrest Manager, Sharon King, that the tree has been periodically de-coned.

The cones, if not removed on a routine basis, can be a foreseeable risk to the surrounding target zone. A fully-developed cone weighing over 20 pounds was removed from the Bunya Bunya tree in Courthouse Square in the fall of 2006. De-coning is recommended every two years; it takes approximately 36 months for cones to fully develop and shed naturally.

Bunya Bunya is an attractive tree to view from a distance; however, they require a higher level of maintenance than other similar sized trees. Each leaf tip comes to a sharp point and the entire tree is covered with spines from trunk to branch to cone. Leaf debris clean-up can be a painful job.

Recommendation: Cone removal should be routinely scheduled every two years. Binoculars can be used to identify and monitor cone development. It is further recommended that persons and property be removed from the target zone, by eliminating a section of the garden plot and parking spaces. Routine tree maintenance to reduce limb growth may not be needed more than every eight to ten years. The co-dominant leader should be inspected routinely at the same time the cones are removed. If regular maintenance cannot be performed, removal is regrettably recommended as a reasonable alternative.

THE SALVATION ARMY
USA Western Territorial Headquarters
180 East Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4709

MICHAEL J. WOODRUFF
GENERAL COUNSEL

FOUNDED IN 1865

WILLIAM BOOTH
Founder

SHAW CLIFTON
General

PHILIP SWYERS
Territorial Commander

March 13, 2008

VIA FEDERAL EXPRESS; TRACKING NUMBER: 7926 6513 3487

Ms. Susie Murray
Department of Community Development
City of Santa Rosa
100 Santa Rosa Avenue, Room 3
Santa Rosa, California 95404

CITY OF SANTA ROSA
P.O. Box 1678
Santa Rosa, CA 95402

MAR 14 2008

DEPT OF
COMMUNITY DEVELOPMENT

Ms. Murray:

I am writing on behalf of The Salvation Army, which operates an independent living community for low-income senior citizens in the City of Santa Rosa known as Silvercrest. The Salvation Army remains committed to serving the senior citizens which reside at Silvercrest and preserving the safety of the neighborhood for all, which is why I am formally withdrawing our application for a permit to remove a tree on Silvercrest's property and now make a formal request for your permission to remove a hazardous tree on Silvercrest's property, which poses a threat to public safety.

A serious concern has arisen about the danger posed to residents and neighborhood visitors alike from a tree on our property. This bunya bunya tree (the Tree), more formally known as *Araucaria bidwillii*, produces rather large and dense cones which resemble pineapples that are shed for a month every two to three years. These cones are typically between ten and fifteen pounds and can inflict great damage on property. More importantly, they threaten the health and safety of any person in their path. As Senior Scientist and Editor of the online plant encyclopedia *Floridata*, Steve Christman, Ph.D., warns that falling bunya bunya cones can be lethal. In 2006, Silvercrest lost a tool shed to the impact of a falling cone from the Tree. The tree was professionally stripped of its cones his only two weeks earlier. Because the cones are the same color as the tree foliage, cones often escape detection. A similar incident recently occurred with the roof of a bus stop. I have attached the report of the certified arborist we contacted about the matter.

We know the City of Santa Rosa shares our concern for the safety of the people of Santa Rosa and the property they hold dear. The Tree clearly poses a danger that must be remediated. Since our application to remove the tree was denied, please consider this letter as notice to the City of a serious hazardous condition for which the City's failure to give permission to remove the Tree may result in the City's future liability for any damages that may result from the Tree, including death or destruction of property. Such liability will remain, unless Silvercrest is given written permission to remove the tree.

Though a permit is typically required to remove such a tree, Section 17-24-030(A)(3) of the Santa Rosa City Code, exempts "[a] removal or alteration of any tree necessitated by a hazardous or dangerous condition of, or caused by the tree, or a portion thereof, which requires immediate action to protect life or property." According to the same provision of the code, "[s]uch a tree, including a street, protected, or heritage tree, may be altered or removed by City personnel without a permit, or by the property owner with the prior written permission given by the head of any one of the following City departments: the Police Department, Fire Department, Public Works Department, Utilities Department, Recreation and Parks, Community Development, or City Manager."

I now formally request your written permission, under the authority of the Santa Rosa City Code, to remove this tree for the safety of Silvercrest residents and the rest of the neighborhood. If you have any questions or concerns about my request, please do not hesitate to contact me. The Salvation Army would like to resolve this matter as soon as possible and will seek other legal authority, as authorized by statute, if written permission is not provided in reasonable time. Thank you for your consideration.

Cordially,

Michael J. Woodruff

Enclosures: As stated.

Telephone: (562) 491-8755
Facsimile: (562) 491-8855

www.salvationarmy.usawest.org
EMail: michael.woodruff@usw.salvationarmy.org

Article III Prohibitions

17-24.030 Tree alteration, removal, relocation--Permit required.

No person shall alter, remove or relocate, or permit or cause the alteration, removal or relocation, of any tree, including any heritage, protected, or street tree, situated in the City, without a permit as provided in this chapter.

(A) The provisions of this section shall not apply to the following:

(1) The alteration, removal or relocation of a tree, except a protected or heritage tree, situated on "developed property in a R-1, R-1-6, R-1-7.5, R-1-9, PRD, and R-1-PD zoning district," unless the adopted policy statement for a particular PRD or R-1-PD zoning district states that a permit is required.

(2) The trimming or clearing of any tree's branches or roots from interfering (a) with the lines of any public utility, City water, sewer and storm drain lines and open storm drain channels and City streets, sidewalks, curbs and gutters when necessary for the proper maintenance of such facilities, or (b) with the maintenance of adequate lines of sight along City streets and entrances to such streets, including lines of sight to traffic control signs and signals, provided that accepted arboricultural practices are utilized in each instance.

(3) A removal or alteration of any tree necessitated by a hazardous or dangerous condition of, or caused by the tree, or a portion thereof, which requires immediate action to protect life or property. Such a tree, including a street, protected, or heritage tree, may be altered or removed by City personnel without a permit, or by the property owner with the prior written permission given by the head of any one of the following City departments: the Police Department, Fire Department, Public Works Department, Utilities Department, Recreation and Parks, Community Development, or City Manager. Decision making authority in such situations may be delegated to field personnel by the head of each such Department or by the City Manager.

(4) Trees, other than heritage trees, situated within City owned parks and other City owned or controlled places when altered, removed, or relocated by City employees or by contractors retained by the City.

(5) Exempt Trees. The following species of tree and any additional species, as determined by resolution of the City Council from time to time, are exempt from the provisions of this chapter (except for those that may exist as street trees) and a permit is not required for their alteration, removal or relocation: acacia, silver maple, poplar, ailanthus, hawthorn, fruitless mulberry, ligustrum, pyracantha, Monterey pine, Monterey cypress, and fruit and nut trees, except walnut trees which are not exempt. (Ord. 2858 § 1 (part), 1990)

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GENERAL COUNSEL

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Founder

SHAW CLIFTON
General

PHILIP SWYERS
Territorial Commander

May 19, 2008

Edwin J. Flint
Chief of Police
City of Santa Rosa Police Department
965 Sonoma Avenue
Santa Rosa, California 95404

VIA FEDERAL EXPRESS
TRACKING NO. 7900 1771 2933

Re: The Salvation Army Silvercrest Residence

Chief Flint:

I am writing on behalf of The Salvation Army, which operates an independent living community for low-income senior citizens in the City of Santa Rosa known as Silvercrest. The Salvation Army remains committed to serving the senior citizens who reside at Silvercrest and preserving the safety of the neighborhood for all, which is why I am formally requesting your permission to remove a hazardous tree on Silvercrest's property, which poses a threat to public safety.

It is out of this commitment that a serious concern has arisen about the danger posed to residents and neighborhood visitors alike from a tree on our property. This bunya bunya tree (the Tree), more formally known as Araucaria bidwillii, produces very large and heavy cones which resemble pineapples that are shed for a month every two to three years. These cones are typically between ten and fifteen pounds and can inflict great damage on property when they fall. More importantly, they threaten the health and safety of any person in their path. As Senior Scientist and Editor of the online plant encyclopedia Floridata, Steve Christman, Ph.D., warns that falling bunya bunya cones can be lethal. In 2006, Silvercrest lost a tool shed to the impact of a falling cone from the Tree. This occurred after the tree was professionally stripped of its cones only two weeks earlier. Because the cones are the same color as the tree foliage, cones often escape detection. A similar incident recently occurred with the roof of a bus stop. I have attached the report of the certified arborist Silvercrest contacted about the matter.

I know the City of Santa Rosa shares our concern for the safety of the people of Santa Rosa. The Tree clearly poses a danger that must be remediated. If the permission here sought is not granted, please consider this letter as notice to the City of a serious hazardous condition for which the City's failure to give permission to remove the Tree may result in the City's future liability for any damages that may result from the Tree, including death or destruction of property. As described above, reasonable maintenance is no guarantee that the tree poses no public hazard.

Though a permit is typically required to remove such a tree, Section 17-24-030(A)(3) of the Santa Rosa City Code, exempts "[a] removal or alteration of any tree necessitated by a hazardous or dangerous condition of, or caused by the tree, or a portion thereof, which requires immediate action to protect life or property." According to the same provision of the code, "[s]uch a tree, including a street, protected, or heritage tree, may be altered or removed by City personnel without a permit, or by the property owner with the prior written permission given by the head of any one of the following City departments: the Police Department, Fire Department, Public Works Department, Utilities Department, Recreation and Parks, Community Development, or City Manager." A copy of this section of the City Code is attached.

I have not yet received response from Santa Rosa City Attorney Brien Farrell to my formal letter dated April 15, 2008, following up on our phone conversation in which he promised to consult with city leaders and find a solution. The

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Facsimile: (562) 491-8855

www.salvationarmy.usawest.org
EMail: michael.woodruff@usw.salvationarmy.org

Salvation Army initially proceeded under the permitting process and was unsuccessful. I now formally request your written permission, on behalf of The Salvation Army, under the authority of this separate provision in the Santa Rosa City Code, to remove this tree for the safety of Silvercrest residents and the neighborhood citizens. If you have any questions or concerns about my request, please do not hesitate to contact me. Separate and identical requests are being sent to Edward Flint, Chief of Police, Bruce Varner, Fire Chief, Rick Moshier, Director, Public Works Department, and Jeff Kolin, City Manager. The Salvation Army would like to resolve this matter as soon as possible. Thank you for your consideration of this important matter.

Cordially,

Michael J. Woodruff

Enclosure: As stated

Cc: Mr. Brien Farrell, Esq.

Telephone: (562) 491-8770
Facsimile: (562) 491-8870

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EMail: howard.yamaguchi@usw.salvationarmy.org

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