



**Public Works Department**

555 Liberty Street SE / Room 325 • Salem OR 97301-3513 • Phone 503-588-6211 • Fax 503-588-6025

January 22, 2020

Daniel Gatti & Richard Gatti



**SUBJECT: Site Restoration Plan due to City Tree Removal**  
**Case # 2020-0104**

Dear Messrs. Gatti:

This Letter is accompanying Civil Penalty #2020-0104 that has been issued due to the damage and removal of four City of Salem Street Trees. Stated in the penalty is a requirement for restoration of areas/property damaged by that violation. To meet this requirement, you will need to contact and coordinate with the City of Salem's Urban Forester, Tom Bradley. You have 60 days from the date of finality of Civil Penalty #2020-0104 to contact Mr. Bradley and complete a Restoration Agreement for the site.

The Restoration Agreement shall include requirements for the complete removal of the damaged trees listed in the penalty, the species of trees to be planted (or a list of approved species provided by City staff), the number of trees to be planted, the minimum size of new trees, the proper spacing and location of the new trees, and a guarantee of life of the new trees for no less than 3 years. The Agreement must also have a deadline for completion of the restoration work no longer than 6 months from the date the agreement is signed.

If you do not complete a Restoration Agreement or fail to meet the requirements set forth in the agreement, additional penalties will be assessed. Contact information for the City of Salem's Urban Forester, Tom Bradley, is provided below:

**Tom Bradley**

*Project Coordinator*

City of Salem | Public Works Department  
1460 20<sup>th</sup> Street SE/ Building 14, Salem OR 97302  
[tbradley@cityofsalem.net](mailto:tbradley@cityofsalem.net) | 503-588-6335

**Transportation and Utility  
Operations**

1410 20<sup>th</sup> Street SE / Building 2  
Salem OR 97302-1209  
Phone 503-588-6063  
Fax 503-588-6480

**Parks Operations**

1460 20<sup>th</sup> Street SE / Building 14  
Salem OR 97302-1209  
Phone 503-588-6336  
Fax 503-588-6305

**Willow Lake Water Pollution  
Control Facility**

5915 Windsor Island Road N  
Keizer OR 97303-6179  
Phone 503-588-6380  
Fax 503-588-6387

Daniel Gatti and Richard Gatti  
January 22, 2020  
Page 2

Please contact Mr. Bradley to coordinate your Restoration Agreement within 60 days of the finality of this Civil Penalty. Your cooperation in resolving this issue is appreciated.

Sincerely,



**Cullen Armstrong**  
*Compliance Specialist*  
City of Salem | Public Works Department  
555 Liberty St SE, Suite 325, Salem OR, 97301  
[carmstrong@cityofsalem.net](mailto:carmstrong@cityofsalem.net) | 503-588-6211

JP:G\GROUP\DIRECTOR\JUDY\2020 CORRESP\2020-0104 INITIAL RESTORATION LETTER.DOCX

Enclosures:

1. Civil Penalty #2020-0104
  2. Civil Penalty Invoice #4108670
  3. Civil Penalty Matrix
- cc: Gatti Investments LLC  
Tom Bradley, Urban Forester

## ENFORCEMENT ORDER/NOTICE AND ASSESSMENT OF CIVIL PENALTY

CITY OF SALEM	)	PENALTY NO. 2020-0104
COUNTY OF Marion	)	INVOICE NO. 4108670
STATE OF OREGON	)	

**CITY OF SALEM**  
**Public Works Department**  
 Code Compliance  
 555 LIBERTY STREET SE, ROOM 325  
 SALEM, OR 97301-3513  
 TELEPHONE: (503) 588-6211    FAX: (503) 588-6025

<b>THE UNDERSIGNED CERTIFIES AND SAYS THAT THE FOLLOWING PERSON:</b>		
NAME: Daniel Gatti and Richard Gatti	TELEPHONE NUMBER:	
STREET ADDRESS: [REDACTED]		
CITY: [REDACTED]	STATE: [REDACTED]	ZIP: [REDACTED]
<b>AT THE FOLLOWING PLACE IN THE ABOVE-MENTIONED STATE AND COUNTY:</b>		
ON OR ABOUT: January 2, 2020	AT OR NEAR LOCATION: 1781 Liberty St SE, Salem OR.    Taxlot# 073W34BA05800	
<b>DID THEN AND THERE:</b>		
1. Violate SRC 86.030(a) (Maximum Civil Penalty: \$2000 per violation)	Description of Violation: It is unlawful for any person to destroy a city tree without a permit.  Four City trees removed.	Amount of Civil Penalty: \$2,000
2. Violate SRC 86.120(c) (Maximum Civil Penalty: \$2000 per violation)	Description of Violation: Any person who undertakes an activity regulated by this chapter without first obtaining a permit shall be subject to a civil penalty	Amount of Civil Penalty:
3. Violate SRC 86.105(c) (Maximum Civil Penalty: \$2000 per violation)	Description of Violation: Restoration. Persons responsible for violations of this chapter shall be responsible for restoring damaged areas.	Amount of Civil Penalty: To be determined in Restoration Plan with Urban Foresters

**Total amount of civil penalties assessed by this Order / Notice and Assessment of Civil Penalty: \$2,000**

THIS PENALTY IS BEING ASSESSED UNDER SALEM REVISED CODE CHAPTER 20J.140(C), AS THE UNPERMITTED DAMAGE AND/OR REMOVAL OF CITY STREET TREES IS OBJECTIVELY IMPOSSIBLE TO CORRECT.

**IN ADDITION TO THE CIVIL PENALTY, RESTORATION IS REQUIRED** PURSUANT TO SRC CHAPTER 86.105(C), WHICH STATES, "PERSONS VIOLATING THIS CHAPTER, OR A PERMIT ISSUED HEREUNDER, SHALL BE RESPONSIBLE FOR RESTORING DAMAGED AREAS IN CONFORMANCE WITH A PLAN APPROVED BY THE DIRECTOR THAT PROVIDES FOR REPAIR OF ANY ENVIRONMENTAL OR PROPERTY DAMAGE AND RESTORATION OF THE SITE. COSTS OF RESTORATION SHALL BE NOT LESS THAN THOSE DETERMINED EQUAL TO THE MONETARY VALUE OF THE REGULATED TREES REMOVED IN VIOLATION OF THIS CHAPTER, OR PERMIT ISSUED HEREUNDER, AS SET FORTH IN AN APPRAISAL ACCEPTABLE TO THE DIRECTOR AND BASED UPON APPLICABLE ADMISTRATIVE RULES."

I SWEAR/AFFIRM UNDER APPLICABLE LAW AND UNDER PENALTIES FOR FALSE SWEARING THAT I HAVE SUFFICIENT GROUNDS TO AND DO BELIEVE THAT THE ABOVE-MENTIONED PERSON COMMITTED THE ABOVE VIOLATION(S), AND I HAVE SERVED THE PERSON WITH THIS ENFORCEMENT ORDER / NOTICE AND ASSESSMENT OF CIVIL PENALTY.

**January 22, 2020**  
DATE ISSUED

  
CULLEN ARMSTRONG  
COMPLIANCE SPECIALIST, CITY OF SALEM PUBLIC WORKS

**YOU HAVE THE RIGHT TO APPEAL THIS ENFORCEMENT ORDER / NOTICE OF CIVIL PENALTY TO THE CITY'S HEARINGS OFFICER**

### **PAYMENT PROCEDURE / RIGHT TO APPEAL**

**1. PAYMENT: PAYMENT IS DUE WITHIN FIFTEEN (15) BUSINESS DAYS.**

Payment in full of the total amount of all civil penalties assessed must be made by delivering payment, within 15 business days of the date this enforcement order/notice and assessment of civil penalties was issued, to the following address:

CITY OF SALEM  
FINANCE DEPARTMENT  
CITY HALL/RM 230  
SALEM, OR 97301-3503

**2. APPEAL RIGHTS AND PROCEDURE:**

You have the right to appeal this Enforcement Order / Notice of Civil Penalty to the City of Salem's Hearings Officer. A notice of appeal must be filed with the City Recorder within fifteen (15) business days after receiving this Order/Notice. The notice of appeal shall contain:

- (1) The name, address and telephone number of the appellant;
- (2) A copy of this Enforcement Order/Notice of Civil Penalty; and
- (3) The basis for the appeal, stating with specificity:
  - (A) Why the imposition of the civil penalty is in error due to the fact the violation was not intentional or knowing, was not a repeat or similar violation, or was not objectively impossible to correct; or
  - (B) Why the amount of the civil penalty is not supported by a factual basis based on the criteria set forth in SRC 20J.150.

The notice of appeal SHALL be accompanied by an appeal fee, as established by resolution of the Salem City Council. The appeal fee is not refundable unless the Hearings Officer finds that this Enforcement Order/Notice of Civil Penalty was not well founded in law or fact, in which case the appeal fee shall be refunded in full.

**ANY NOTICE OF APPEAL FILED AFTER THE TIME PERIOD SET FORTH ABOVE SHALL BE DISMISSED BY THE HEARINGS OFFICER AS UNTIMELY. FAILURE TO FILE A NOTICE OF APPEAL SHALL BE A WAIVER OF ALL RIGHTS TO REVIEW THE ENFORCEMENT ORDER AND THE IMPOSITION OR AMOUNT OF THE CIVIL PENALTY.**

**3. HEARING ON APPEAL:**

Upon the filing of a notice of appeal, the Hearings Officer shall set a time, date, and place for a hearing. The date shall be set not less than twenty (20) business days nor more than sixty(60) business days after the dated the notice of appeal is filed, unless continued with the consent of all parties or upon the motion of any party for good cause shown.

**4. FINALITY OF PENALTY:**

This notice and assessment of civil penalty shall become final upon expiration of the time for filing an appeal. If a notice of appeal is timely filed, the civil penalty shall become final upon issuance of the hearing officer's decision affirming the appeal.

**5. QUESTIONS:**

If you have any questions about this Enforcement Order / Notice and Assessment of Civil Penalty, you may contact the Public Works Department at the address or telephone number shown on page 1.

# INVOICE

City of Salem Miscellaneous Receivables

Customer#	[REDACTED]
Password	[REDACTED]
Pin	[REDACTED]

Invoice#	4108670
Original Invoice Date	21-JAN-20
Payment Due By	18-FEB-20

**Bill To:**  
DANIEL GATTI & RICHARD GATTI



**Billing for:**  
COMPLIANCE SERVICES  
CODE COMPLIANCE CIVIL PENALTY  
1781 LIBERTY ST SE  
CODE COMPLIANCE CASE #2020-0104

You may now pay online at <http://www.cityofsalem.net/payments> OR Dial 800-430-1685 to pay by phone.

	Description	Quantity	Unit Cost	Total
1	UNPERMITTED STREET TREE REMOVAL	4	\$500.00	\$2,000.00
			Please Pay This Amount:	<b>\$2,000.00</b>

Telephone: 503-588-6210

**Please Put Invoice# 4108670 On Your Check**

Make Checks Payable To: City of Salem

Retain This Portion for your Records

Please Return This Portion With Payment



FINANCE DEPARTMENT  
City Hall / Room 230  
555 Liberty St. SE  
Salem, OR 97301-3503

**Payment Due: 18-FEB-20**

Invoice #  
4108670

Amount Due  
**\$2,000.00**

Amount Paid

Customer #: [REDACTED]

Password: [REDACTED]

Pin: [REDACTED]

DANIEL GATTI & RICHARD GATTI

CITY OF SALEM  
ACCOUNTS RECEIVABLE  
PO BOX 3256  
PORTLAND, OR 97208-3256

010000100041086700085388000011096900002000001

**Penalty Matrix SRC 20J.150**  
**Case # 2020-0104      Invoice # 4108670**  
**Violation of SRC Chapter 86**

**Gravity or Magnitude of Violation/s  
Potential for Harm or Impact to the Community**

<b>Enforcement Penalty Matrix</b>				
<b>Enforcement Evaluation Criterion</b>	<b>0 Points</b>	<b>1 Point</b>	<b>2 Points</b>	<b>3 Points</b>
1. Was the violation the result of events or circumstances not reasonably within the person's control?				X
2. Was the person negligent by failing to obtain or comply with the necessary permits and approvals?				X
3. Was the action a willful and knowing violation?		X		
4. Was the person unresponsive in correcting the violation?	X			
5. Is this a repeat violation of the same or related provisions of the <i>Salem Revised Code</i> ?	X			
<b>Total Points:</b>	<u>7</u>			
<b>Total Penalty:</b>	<u>\$2,000</u>			

<b>Total Score Criteria</b>	<b>Gravity or Magnitude of violation</b>		
	<b>Minor</b>	<b>Moderate</b>	<b>Major</b>
1 – 4 Points	\$ 50.00	\$ 100.00	\$ 200.00
5 – 6 Points	\$150.00	\$ 300.00	\$ 600.00
7 – 8 Points	\$250.00	\$ 500.00	\$1,000.00
9 - 10 Points	\$375.00	\$ 750.00	\$1,500.00
Over 10 Points	\$500.00	\$1,000.00	\$2,000.00

To use matrix for one time penalty, assign a value to each of the five following mitigating factors. Total the five values assigned and find how that matches numerically. Then select the column that best fits the nature of the violation.

### 1. Within their control:

**Points = 0** If the person had no control over the events or circumstances contributing to the violation.

**Points= 1** If the person is likely to have had some control over the events or circumstances contributing to the violation.

**Points = 2** If the person had, or should have had some discernible control over the events or circumstances contributing to the violation.

**Points = 3** If the person clearly had control over the events or circumstances contributing to the violation.

### 2. Negligence:

**Points = 0** If no permits or approvals were required or if the documentation was complete and appropriate for the job or task that caused the violation.

**Points= 1** If the person obtained and received approval for some but not all of the required permits and approvals.

**Points= 2** If the person obtained some but not all of the required permits and approvals and did not receive approvals for the job or task that caused the violation.

**Points= 3** If the person either did not obtain the necessary permits and approvals or did obtain permits and approvals but did not comply with their conditions.

### 3. Willful or Knowing:

**Points = 0** If the person did not know and had no way of knowing that the action or inaction constituted a violation.

**Points = 1** If the person should have known the action or inaction constituted a violation.

**Points = 2** If it is likely the person knew the action or inaction constituted a violation.

**Points = 3** If the person clearly knew the action or inaction constituted a violation or if the violator had been previously informed by the Director that the action or inaction constituted a violation.

### 4. Correction:

**Points = 0** If steps were taken to correct the cause of the violation as soon as the person learned of it.

**Points = 1** If the cause of the violation was eventually corrected, but not in timely or cooperative fashion.

**Points = 2** If the person made little effort or was ineffective in attempts to correct the cause of the violation and the cause of the violation was not corrected.

**Points = 3** If the person made no attempt to correct the cause of the violation.

### 5. Repeat Violation:

**Points = 0** If there have been no prior violations by the same person or at the same site within the preceding five years.

**Points = 1** If there has been one prior violation by the same person or at the same site that became a final order or decision of the Director or a court within the preceding five years.

**Points = 2** If there have been two prior violations by the same person or at the same site that became a final order or decision of the Director or a court within the preceding five years.

**Points = 3** If there have been three or more prior violations by the same person or at the same site that became a final order or decision of the Director or a court within the preceding five years.

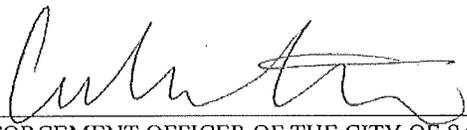
For daily penalty applications, follow the same steps, and use 25% of the result. Administrator may, at his or her option, impose a penalty greater than 25% of the result of this table should specific circumstances warrant.

**Minor Violation** – any violation that did not create risk to public health and safety, caused no damage to the environment, and did not adversely impact public infrastructure.

**Moderate Violation** – any violation that may, or is likely to have created a risk to public health and safety, damaged the environment, or adversely impacted public infrastructure, to a degree determined to be less than significant.

**Major Violation** – any violation that created a significant risk to public health and safety, caused significant damage to the environment, or had a significant adverse impact to public infrastructure.

Date Issued: January 22, 2020

  
ENFORCEMENT OFFICER OF THE CITY OF SALEM