

BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA  
TUESDAY, MAY 28, 1968, AT 9:00 O'CLOCK A. M. (PDST)

800

FROM: Department of Public Works

DATE: May 28, 1968

SUBJECT: LANDSCAPING WITHIN THE RIGHTS OF WAY

STATEMENT OF MATTER FOR BOARD CONSIDERATION:

In recent months numerous questions have arisen as to the County's legal responsibility concerning trees and other landscaping within the public rights of way.

As a result of these various inquiries the Department of Public Works has requested and received from the County Counsel's Office a statement of the legal responsibilities concerning plantings within the public rights of way, and in addition, the Department feels that the Board should make a policy statement concerning such plantings.

The attached Resolution is composed of two major sections, the first giving a brief synopsis of the legal interpretation received by the County Counsel's Office and the second section establishing a policy statement outlining in broad terms the County's policy concerning plantings within the rights of way.

These policy statements do not duplicate any existing ordinances or policies insofar as we can determine, but merely compliment the encroachment ordinance so as to provide guide lines both for the Department of Public Works when issuing encroachment ordinances, and to the public at large as to what is expected and permitted.

This has been reviewed by the County Counsel and has been found legally sufficient as to form.

REQUESTED OR RECOMMENDED ACTION:

PASS, APPROVE AND ADOPT the attached Resolution establishing a policy for planting, maintaining, trimming and removing landscaping encroaching into the County road rights of way.

RWA:jv

/s/ A. P. Stokes  
by C. W. McFarland

Director of Public Works

Upon motion of Supervisor Appleton, seconded by Supervisor Laubacher, and duly carried, the Board hereby approved the above matter, this 28th day of May 1968.

RESOLUTION ESTABLISHING POLICY FOR PLANTING, MAINTAINING, TRIMMING  
AND REMOVING LANDSCAPING ENCROACHING INTO COUNTY ROAD RIGHTS OF WAY

LEGAL INTERPRETATIONS

COUNTY RESPONSIBILITY. The County has both the right and the duty to remove, trim or otherwise make disposition of any tree which has become dangerous to travel on the highway. It is the County's obligation to remove dangerous trees from the County highways regardless of who owns fee title to the road bed, and regardless of who planted the trees in the first instance. If the County trims, removes or otherwise makes disposition of any tree in the right of way, the person who planted the tree cannot prevent such or recover damages as a result thereof.

TREES ARE ENCROACHMENTS. Trees within the right of way are considered to be encroachments under the Encroachment Ordinance. The tree is considered to encroach within the County right of way if any portion of the tree extends onto the right of way, regardless of whether the trunk is in the right of way, on the property line, or wholly outside of the right of way. The landowner's property interest in a boundary line tree is subordinate to the County's right to trim or remove or otherwise make disposition of the tree for any legitimate road purpose, and the County may perform same without the consent of private co-owner.

LANDOWNER RESPONSIBILITY. To the extent that it may be necessary to remove trees in order to utilize the rights of way dedicated to the County, the County has the right to remove any tree. However, the mere granting of an easement does not divest the owner of title to any trees which may be growing on the land which is subject to the road easement. The County has no right with regard to the land except in furtherance of its easement. Therefore, it would have no right to plant, trim or cut trees except to prepare for proper and safe movement of traffic. It follows, therefore, that in this situation, the landowner is the person responsible for any maintenance to the trees. However, the County cannot force him in any way to maintain his trees unless they are a public nuisance.

POLICY STATEMENT

LANDSCAPING ENCOURAGED. The County desires to encourage landscaping by owners within rights of way. Developments shall be conditioned to require landscaping and homeowners shall be encouraged to landscape adjacent rights of way. All plantings are subject to the Encroachment Ordinance and the encroachment permit shall specify the type of plantings which will be placed within the rights of way. The type of plantings selected shall be one of several types approved by the Director of Public Works, and shall not constitute a hazard to pedestrian or vehicular traffic.

USE OF ROAD FUNDS. It shall be the policy of the Board that the County will not plant or maintain any trees or landscaping with County Road Funds, except for the trimming and cutting necessary to remove dangerous branches or trees.

DATED this 28th day of May, 1968

