



“Wirestop” dead-end fasteners work by the cone-shaped taper holding the middle strand of the cable and squeezing the other six strands in place.

CABLING AND CONSULTING: CONNECTIONS FOR SAFER CITY TREES

Many cities and many arborists in both the United States and Australia are concerned about the spectre of liability associated with installing support systems in trees. Their fear is that, by admitting that a defect exists, owners and workers can be blamed for anything that happens to a tree. However, according to the USDA’s Urban Tree Risk Management Guide, “Choosing not to install a cabling and bracing system because of a fear of liability is not a good decision.” We can’t hide from liability, so there is no use running from it. It may surprise you to learn that pruning alone can be interpreted by insurance companies as admitting liability because a defect exists! Consider the recent experience of Pete Morris, City Arborist for Laurinburg, NC, US, who tells us:

“In every previous case, after the adjusters look over my notes and the incident, they find that the City provided reasonable care for the tree and thus were not liable. This past summer, a large limb fell from an older oak, damaging a house and a vehicle. The owner watched from his wheelchair as I assessed the situation. There was no decay, so it seemed to be a case of sudden summer limb drop. The insurance company decided

that the need for previous pruning alone should have put us on alert the tree was hazardous and should have been removed or at least given special attention. I guess what has us concerned is most of our older trees have been pruned and cut on for all kinds of reasons...storm damage, disease, decay, etc. We’ll have to see how things go from here.”

So in this adjuster’s opinion, the mere act of pruning a tree admits liability, and every urban tree is hazardous! In truth, we are exposed to liability all the time, but especially when we carry out treatments for things as unpredictable as trees. A disclaimer is a useful tool for consultants and other contractors because it limits liability by describing their limitations. Item 10 below is adapted from the disclaimer in the Guide for Plant Appraisal:

“10. Unless expressed otherwise: (a) information contained in this report covers only those items that were examined and reflects the condition of those items at the time of inspection; and (b) the inspection is limited to visual examination of accessible items without climbing, dissection, excavation, probing, or coring. There is no warranty or guarantee, expressed or implied, that



Homeowner cabling job--asphalt pruning paint and ski rope, now swallowed by the patient.



Decay spreads over the fork and down the trunk. Loss of strength at this junction calls for supplemental support.

problems or deficiencies of the plants or property in question may not arise in the future.”

When cabling was proposed for a cracked tree in another municipality, the Public Works Director asked if the contractor would provide a guarantee. While it is common sense that trees cannot be guaranteed against failure, it seemed reasonable to provide a limited guarantee of what could be controlled. Item 11 is that contractor’s guarantee:

“11. The materials and workmanship involved in the cabling system are guaranteed to be free of substantial defects. The Extra High Strength (EHS) cable shall comply with ASTM A475, Standard Specification for Zinc-Coated Steel Wire Strand. The fasteners shall be manufactured of stainless steel to resist corrosion. The design and installation of the system is guaranteed to comply with the ANSI A300 (Part 3) -2006 Standard Practices for Supplemental Support Systems and the 2007 edition of the ISA Best Management Practices for Tree Support. The tree and the support system should be inspected every year.”

For most trees, inspection need not be so frequent. (Every three or five years may be more appropriate.)

LIVE OAK BACKGROUND

In 1876, the city of Daytona Beach, Florida was founded in a forest of live oak, *Quercus virginiana*, which covered much of the southeast coastal region of the United States. Most of that forest was removed to make room for the growing city. Historian Harold Cardwell said about one live oak, “This city has had many changes over time, but the tree has always been there”. In 1975 Cardwell, then a landscape architect, appraised the tree for Dr. Robert Thoburn, a dentist who owned the property on which the tree grows. Before selling his property to enable an expansion to the city hall building, Dr. Thoburn wanted to ensure its preservation by including the value of the historic tree, which Mr. Cardwell said was in pristine shape.

At the time, Mr. Cardwell estimated the tree was 240 years old, using the rough guide for live oak of one year per inch circumference at the base. He appraised it at \$75,000 based on a replacement cost formula, using the amount that Disney World spent to move the Liberty Oak and establish it at its Liberty Square location. Cardwell was not surprised to learn that arborists today are using a similar replacement cost method to appraise large trees, as described in the current 9th edition of the Guide for Plant Appraisal. He estimates that the tree’s value today could be \$150,000, but its historical value is “priceless”. He noted that the city fathers routed the two main roads around the tree, so when these roads were later widened the tree lost critical roots.

The Land Development Code of Daytona Beach states that “it is hereby found that trees and native vegetation perform many functions beneficial to the community, including provision of environmental, aesthetic, and economic amenities. It is



The roots of this palm came right out of the hollow in the oak tree. They could not go deeper than the concrete that once sealed the cavity.

necessary to control the removal and preservation of existing trees and native vegetation, and to require a minimum amount of tree coverage in order to protect the value of lands and water quality; to preserve and enhance community appearance; to promote climate control, soil stabilisation, and oxygen exchange; and to minimise noise and air pollution.”

DEFENSIVE REPORTING vs. SYSTEMATIC ASSESSMENT

On July 7, 2008 a branch fell from a nearby live oak onto the walkway leading to city hall, so the city paid for a risk assessment from an ISA Certified Arborist on that tree and the Thoburn Oak. In a one-page letter dated July 18, the arborist proposed removing both trees. He said that they posed a danger to the motorists and pedestrians who pass under them each day, but gave few details. Tree risk formulas typically rate the severity of the defect, the size of the defective part, and the “target rating”, or use of the area under the tree. Next, management options to lessen or “abate” the risk are considered, before recommendations are made. “Development of abatement options should be as systematic as development of the ratings... cable/bracing and/or reduction of end weight may be required...”, according to *A Photographic Guide to the Evaluation of Hazard Trees*. This arborist later said that “Target rating is the most important factor for me. If there’s a lot of use under the tree it’s dangerous, no matter what you do.”

The city’s Tree Advisory Board rejected this defensive report, and decided to get a second opinion before the city decided the fate of two of the city’s most visible historic trees. ISA Board-



The red line shows the location of the cable that will strengthen the tree against future failure.

Certified Master Arborist (BCMA) and American Society of Consulting Arborist Registered Consulting Arborist (RCA) Chuck Lippi of Advanced Tree Care proposed to do a systematic assessment. The US does not support comprehensive testing of Qualifications like Australia does, so consumers must do more research to be sure people know how to do the proposed work. The BCMA test is 150 multiple-choice questions, and the RCA requires properly formatted reports. The board’s chair agreed, saying “I’m not comfortable recommending anything until I know more about these trees. It feels like these trees have a cold and we’re proposing to euthanise them.” However, another member said he’s observed them for the last 40 years and “these trees have lost the capacity to grow. I don’t see spending more for something that’s so obvious.” He predicted that in the next year “there won’t be a leaf left,” on the trees.

The board compromised, hiring another ISA Certified Arborist to get a second opinion at a lesser cost. In his letter accepting the assignment, this arborist agreed to assess the tree, give recommendations, and provide an estimate for doing the work. For a risk assessment or any report to be reliable, it should be completely independent, unrelated to estimating the sale of other services. Despite the apparent conflict of interest from blending an estimate into the assessment, the report went forward. Its recommendation was to remove the first tree and to prune the Thoburn Oak along with injecting systemic fertiliser. Not surprisingly, that company uses the same proprietary product and method that was recommended. The work was scheduled for the following Saturday. BCMA/RCA Chuck Lippi and five other consulting arborists from around the region were concerned about this landmark tree, so they assessed it at no cost to the city.

Their report will be in the next issue of *The Australian Arbor Age*. [AA](#)