

Entered - 2-2-01 - sb  
CL - 01L0086 ALEXIS HOLMES

01- *L*-1250

CLAIM OF: **ROGER L. SHEPARD**  
55 Waddell Street, NE  
Atlanta, Georgia 30307-2466

For damages alleged to have been sustained as a result of property damage to his lattice brick wall on January 24, 2001 at 55 Waddell Street, NE.

THIS ADVERSE REPORT IS APPROVED

BY: *Rosalind Rubens Newell*  
ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY

ADVISED BY  
CITY COUNCIL SEP 04 2001

## ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

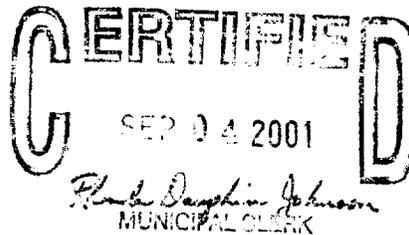
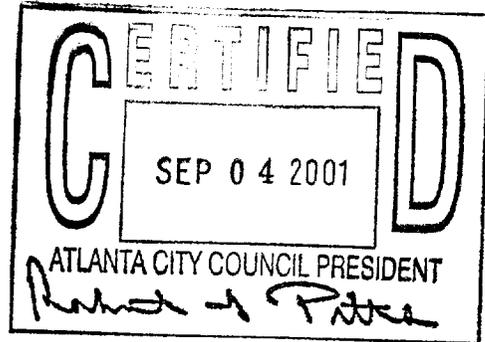
DATE: SEP 04 2001

CHAIR: *C. T. Martin*

*[Signature]*

*Clara Winslow*





**CITY OF ATLANTA  
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK**

**55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6033  
FAX (404) 658-6103**

September 7, 2001

Roger L. Shepard  
55 Waddell Street, NE  
Atlanta, Georgia 30307-2466

**01-R-1250**

Dear Mr. Shepard:

I sincerely regret that you have been adversely affected by the circumstances raised in your claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your claim at its regular meeting on September 4, 2001. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division at (404) 330-6400.**

Yours very truly,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

**cc: Claims Division/Law Department**

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0086

Date: 5/15/01

Claimant /Victim ROGER L. SHEPARD
(Atty) (Ins. Co.)
Address: 55 Waddell Street NE Atlanta, Georgia 30307-2466
Subrogation: Claim for Property damage \$ 950.00 Bodily Injury \$
Date of Notice: 3/9/01 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 1/24/01 Place: 55 Waddell Street NE
Department Police Division Field Operations Division
Employee involved Officer Miller Disciplinary Action: None Taken

NATURE OF CLAIM: The claimant sustained damages to his property when a City of Atlanta Police Officer who was in pursuit of a suspected criminal jumped his lattice brick wall, and knocked down a portion of the wall. The City is immune from liability as set forth in O.C.G.A. §36-33-3.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures X Diagrams Reports: Police X Dept Report X Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice More than Six Months Other X Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,

Alexis Holmes
INVESTIGATOR - ALEXIS HOLMES

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager: Concur/date 05/16/01
Committee Action: Council Action

Roger L. Shepard  
55 Waddell St., NE  
Atlanta, GA 30307  
Tel: (404) 688-2215  
Fax: (404) 688-2216

ENTERED - 2-2-01 - SB  
01L0086 - ALEXIS HOLMES

*Holmes*  
*02/01/01*  
*[Signature]*

*Dianna*

**Via fax to: 404-817-6887**

January 24, 2001

Attn: Chief Beverly Harvard  
City of Atlanta-Police Department  
675 Ponce DeLeon Ave. NE  
Atlanta, GA 30308

Dear Chief Harvard

On Wednesday, January 24, 2001, at approximately 1:45am, significant police activity occurred near my home at 55 Waddell Street in Inman Park, Atlanta. I observed a uniformed officer climb over the brick fence on my property to gain access to the back yard of the property next door, apparently during the efforts to apprehend a suspect. Failing to realize that a lattice work fence, even a brick one, is by design structurally less sound than a solid one, the officer did extensive damage, causing several rows of brick to break free and fall into the back yard at 61 Waddell, which is next door.

When I saw the officer attempting to climb the fence, I called to him three (3) times in an effort to get him to allow me to open the gate since I have a key and could have allowed him access. He ignored my calls and continued to climb. After he damaged my fence, I attempted to get his name for the record so he could verify what occurred. He refused to stop and although I wanted to follow him to obtain needed information, as a black man I thought that it was ill advised for me to do so. Considering the circumstances, I regarded this option as the better course of action.

The officer left via Edgewood Avenue in a patrol car with tag number 134662. After observing his departure, I informed several officers, including a plain clothes officer of what transpired and had SPO Moody (1625) file case report # 010240169.

I simply want the appropriate agency to ensure that my fence gets repaired immediately and I want to know what is required for me to get it repaired.

Thank you for your assistance and if you need more information please contact me at 404-688-2215.

Sincerely,

*Roger L. Shepard*  
Roger L. Shepard

- cc: Ms. Susan P. Langford - City Attorney - via fax to 404-658-6894
- Lieutenant Frank Zunno - Morning Watch - Zone 6 -via fax to 404-378-6554
- Major Carlos Banda - via fax to 404-378-6554
- Mr. Lou McBryan - via email

01-R-1250

RCS# 3092  
9/04/01  
3:36 PM

Atlanta City Council

Regular Session

MULTIPLE  
1250

Public Safety Consent Agenda except #15

ADOPT

YEAS: 15  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 1  
EXCUSED: 0  
ABSENT 0

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

MULTIPLE