Entered - 10/03/03 - sb
CL - 03L0796 LISA CARTER

CLAIM OF: BENNIE MITCHELL
P.O. Box 150303
Atlanta, Georgia 30315

03-R -1913

For damages alleged to have been sustained as a result of a tree falling on his property on August 14, 2003 at 2381 Jonesboro Road.

THIS ADVERSED REPORT IS APPROVED

BY: _____
JERRY L. DELOACH
DEPUTY CITY ATTORNEY

NOV 17 2003

COUNCIL PRESIDENT PROGRAM

NOV 17 2003

ADVERSED
NOV 17 2003

ADVERSE REPORT

PUBLIC SAFTEY &
LEGAL ADMINISTRATION COMMITTEE
DATE: 11/18/03
CHAIR:

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

November 17, 2003

Bennie Mitchell
P. O. Box 150303
Atlanta, Georgia 30315

03-R-1913

Dear Mr. Mitchell:

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 November 17, 2003. 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.**

Sincerely,

Rhonda Dauphin Johnson

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. **03L0796** Date: October 28, 2003

Claimant /Victim **BENNIE MITCHELL**
BY: (Atty) (Ins. Co.) _____
Address: P.O. Box 150303 Atlanta, Georgia 30315
Subrogation: _____ Claim for Property damage $ 556.72 Bodily Injury $ _____
Date of Notice: 10/01/03 Method: Written, proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 08/14/03 Place: 2381 Jonesboro Road
Department Parks, Recreation and Cultural Affairs Bureau: Parks Division: _____
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant alleges that he sustained damages as a result of a tree falling on his property. However, the city was not on notice of any problems with the tree prior to the incident involving the claimant. Furthermore, the city is immune from liability as set forth in O.C.G.A. §36-33-1.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others X Written _____ Oral X
Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other X
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,

Lisa Carter
INVESTIGATOR - LISA CARTER

RECOMMENDATION:

Pay $ _____ Adverse X Account charged: 1A01 _____ 2J01 _____ 2H01 _____
Claims Manager: _____ Concur/date 10/30/03
Committee Action: _____ Council Action _____

FORM 23-61

RCS# 5155
11/17/03
3:51 PM

Atlanta City Council

Regular Session

CONSENT I EXCEPT:03-R-1973,03-R-1974,1981,1834,
03-R-1801,03-R-1878 03-R-1879, 03-R-1971
ADOPT

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

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

CONSENT I

		11-17-03 Council Meeting
ITEMS ADOPTED ON CONSENT	**ITEMS ADOPTED ON CONSENT**	**ITEMS ADVERSED ON CONSENT**
1. 03-O-1812	42. 03-R-1902	80. 03-R-1940
2. 03-O-1802	43. 03-R-1903	81. 03-R-1941
3. 03-O-1958	44. 03-R-1904	82. 03-R-1942
4. 03-O-1959	45. 03-R-1905	83. 03-R-1943
5. 03-O-1960	46. 03-R-1906	84. 03-R-1944
6. 03-O-1961	47. 03-R-1907	85. 03-R-1945
7. 03-O-1962	**Items Adversed on consent**	86. 03-R-1946
8. 03-O-1963	48. 03-R-1908	87. 03-R-1947
9. 03-O-1809	49. 03-R-1909	88. 03-R-1948
10. 03-O-1957	50. 03-R-1910	89. 03-R-1949
11. 03-O-1862	51. 03-R-1911	90. 03-R-1950
12. 03-O-1868	52. 03-R-1912	91. 03-R-1951
13. 03-O-1699	53. 03-R-1913	
14. 03-O-1805	54. 03-R-1914	
15. 03-O-1806	55. 03-R-1915	
16. 03-O-1807	56. 03-R-1916	
17. 03-O-1813	57. 03-R-1917	
18. 03-O-1871	58. 03-R-1918	
19. 03-O-1966	59. 03-R-1919	
20. 03-R-1477	60. 03-R-1920	
21. 03-R-1877	61. 03-R-1921	
22. 03-R-1952	62. 03-R-1922	
23. 03-R-1886	63. 03-R-1923	
24. 03-R-1882	64. 03-R-1924	
25. 03-R-1883	65. 03-R-1925	
26. 03-R-1884	66. 03-R-1926	
27. 03-R-1885	67. 03-R-1927	
28. 03-R-1980	68. 03-R-1928	
29. 03-R-1972	69. 03-R-1929	
30. 03-R-1982	70. 03-R-1930	
31. 03-R-0929	71. 03-R-1931	
32. 03-R-0982	72. 03-R-1932	
33. 03-R-1665	73. 03-R-1933	
34. 03-R-1889	74. 03-R-1934	
35. 03-R-1891	75. 03-R-1935	
36. 03-R-1892	76. 03-R-1936	
37. 03-R-1893	77. 03-R-1937	
38. 03-R-1894	78. 03-R-1938	
39. 03-R-1900	79. 03-R-1939	
40. 03-R-1953		
41. 03-R-1975		