05 -R- 0794

Entered – 03/28/05 – sb
CL05L0239 – DIANNE C. MITCHELL

JUN 06 2005

CLAIM OF: **JEFFREY AND NANCY BRAMLETT**
**through their attorney,**
**John W. Harbin**
**One Atlantic Center, Fourteenth Floor**
**1201 West Peachtree Street, NW**
**Atlanta, Georgia 30309-3488**

For damages alleged to have been sustained as a result of flooding on September 16 & 17, 2004 at 757 Woodward Way, NW.

THIS ADVERSED REPORT IS APPROVED

BY: _____
**JERRY L. DELOACH**
**DEPUTY CITY ATTORNEY**

# ADVERSE REPORT

PUBLIC SAFTEY &
LEGAL ADMINISTRATION COMMITTEE
DATE: 5/10/05 Hold 5/31/05
CHAIR: Cleta Winslow
C. T. Martin
Joyce Sheperd
Carla Smith
Hal Strickland

ADVERSED BY CITY COUNCIL
JUN 06 2005

**CITY OF ATLANTA**
**OFFICE OF MUNICIPAL CLERK**

June 13, 2005

**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**

**05-R-0794**

John W.Harbin
Attorney at Law
One Atlantic Center 14th Floor
1201 West Peachtree Street, NW
Atlanta, GA 30309-3488

**RE:** Jeffrey and Nancy Bramlett

Dear Attorney Harbin:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her 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 client's claim at its regular meeting on June 06, 2005. 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

Rhonda Dauphin Johnson, CMC
Municipal Clerk

**cc: Claims Division/Law Department**

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. **05L0239** Date: April 18, 2005

Claimant /Victim **JEFFREY AND NANCY BRAMLETT**
BY: (Atty) John W. Harbin
Address: One Atlantic Center, 14th Floor, 1201 West Peachtree Street, NW, Atlanta, GA 30309
Subrogation: _____ Claim for Property damage $ **Not Stated** Bodily Injury $ _____
Date of Notice: 03/10/05 Method: Written, proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 09/16&17/04 Place: 757 Woodward Way
Department **Watershed Management** Bureau: **Waste Water Treatment & Collections**
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimants allege their property was damaged due to flooding. The investigation determined that the cause of the flooding was due to heavy rainfall causing Peachtree Creek to flood and that the claimants' property lies in a flood plane. The City had no notice of any problems with the storm water system in this area prior to this event. Furthermore, the City is not responsible for the maintenance of Peachtree Creek as it is a State waterway. The City is immune from liability as set forth in O.C.G.A.§36-33-1.

### INVESTIGATION:

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

**INVESTIGATOR - DIANNE C. MITCHELL**

### RECOMMENDATION:

Pay $ _____ Adverse X Account charged: 1A01 ____ 2J01 ____ 2H01 ____ 2P01 ____
Claims Manager: _____ Concur/date 04/22/05
Committee Action: _____ Council Action _____

FORM 23-61

RCS# 6714
6/06/05
2:56 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PG(S) 3-18 EXCEPT:05-O-0893
05-R-1006 05-R-1001
ADOPT

| | |
|---|---|
| YEAS: | 14 |
| NAYS: | 0 |
| ABSTENTIONS: | 0 |
| NOT VOTING: | 1 |
| EXCUSED: | 0 |
| ABSENT | 1 |

| | | | |
|---|---|---|---|
| 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 | B Sheperd | NV Borders |

| | | | 06-06-05 Council Meeting |
|---|---|---|---|
| **ITEMS ADOPTED ON CONSENT** | **ITEMS ADOPTED ON CONSENT** | **ITEMS ADVERSED ON CONSENT** | **ITEMS ADVERSED ON CONSENT** |
| 1. 05-O-0891 | 31. 05-R-0963 | 49. 05-R-0794 | 80. 05-R-0947 |
| 2. 05-O-0890 | 32. 05-R-0964 | 50. 05-R-0796 | 81. 05-R-0948 |
| 3. 05-O-0894 | 33. 05-R-0966 | 51. 05-R-0797 | 82. 05-R-0949 |
| 4. 05-O-0668 | 34. 05-R-0967 | 52. 05-R-0798 | 83. 05-R-0950 |
| 5. 05-O-0667 | 35. 05-R-0918 | 53. 05-R-0802 | 84. 05-R-0951 |
| 6. 05-O-0899 | 36. 05-R-0919 | 54. 05-R-0803 | 85. 05-R-0952 |
| 7. 05-O-0816 | 37. 05-R-0920 | 55. 05-R-0804 | 86. 05-R-0953 |
| 8. 05-O-0817 | 38. 05-R-0921 | 56. 05-R-0808 | 87. 05-R-0958 |
| 9. 05-R-0983 | 39. 05-R-0922 | 57. 05-R-0809 | |
| 10. 05-R-0984 | 40. 05-R-0923 | 58. 05-R-0811 | |
| 11. 05-R-0985 | 41. 05-R-0924 | 59. 05-R-0813 | |
| 12. 05-R-0986 | 42. 05-R-0925 | 60. 05-R-0815 | |
| 13. 05-R-0987 | 43. 05-R-0926 | 61. 05-R-0928 | |
| 14. 05-R-0959 | 44. 05-R-0927 | 62. 05-R-0929 | |
| 15. 05-R-0994 | 45. 05-R-0954 | 63. 05-R-0930 | |
| 16. 05-R-0995 | 46. 05-R-0955 | 64. 05-R-0931 | |
| 17. 05-R-0996 | 47. 05-R-0956 | 65. 05-R-0932 | |
| 18. 05-R-0997 | 48. 05-R-0957 | 66. 05-R-0933 | |
| 19. 05-R-0998 | | 67. 05-R-0934 | |
| 20. 05-R-0989 | | 68. 05-R-0935 | |
| 21. 05-R-0974 | | 69. 05-R-0936 | |
| 22. 05-R-0975 | | 70. 05-R-0937 | |
| 23. 05-R-0973 | | 71. 05-R-0938 | |
| 24. 05-R-0898 | | 72. 05-R-0939 | |
| 25. 05-R-0977 | | 73. 05-R-0940 | |
| 26. 05-R-0978 | | 74. 05-R-0941 | |
| 27. 05-R-0979 | | 75. 05-R-0942 | |
| 28. 05-R-0980 | | 76. 05-R-0943 | |
| 29. 05-R-1000 | | 77. 05-R-0944 | |
| 30. 05-R-0962 | | 78. 05-R-0945 | |
| | | 79. 05-R-0946 | |