

Entered - 03/25/05 - sb  
CL05L0236 - DIANNE C. MITCHELL

05 - *l* - 0802

CLAIM OF: **HAL HORTON AND  
KATHLEEN WINGARD,**  
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 and 17, 2004 at 2510 Bohler  
Road, NW.

THIS ADVERSED REPORT IS APPROVED

BY:

  
\_\_\_\_\_  
**JERRY L. DELOACH**  
**DEPUTY CITY ATTORNEY**

### ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

DATE: 5/10/05 *Held*

CHAIR: *Carla Smith*

*5/31/05*

\_\_\_\_\_  
*C. T. Martin*

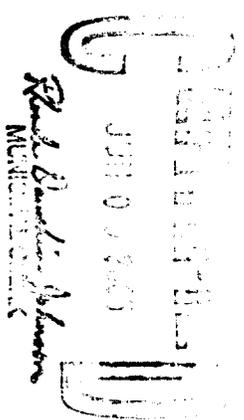
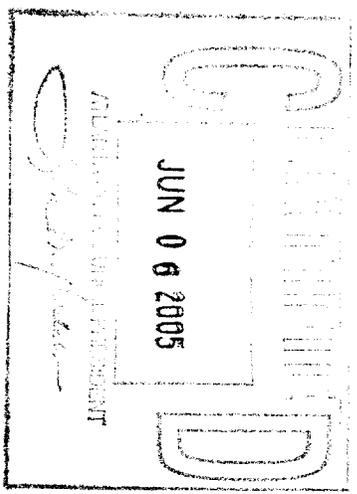
\_\_\_\_\_  
*James M. Greenleaf*

\_\_\_\_\_  
*Carla Smith*

\_\_\_\_\_  
*W. J. Shook*

\_\_\_\_\_

\_\_\_\_\_



ADVERSED BY  
CITY COUNCIL

JUN 6 6 2005



**CITY OF ATLANTA**  
**OFFICE OF MUNICIPAL CLERK**  
June 13, 2005

**RHONDA DAUPHIN JOHNSON, CMC**  
**MUNICIPAL CLERK**

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

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

**05-R-0802**

**RE: Hal Horton & Kathleen Wingard**

Dear Mr. Hoarton & Ms. Wingard:

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, CMC  
Municipal Clerk

**cc: Claims Division/Law Department**

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 05L0236

Date: April 14, 2005

Claimant /Victim HAL HORTON AND KATHLEEN WINGARD  
BY: (Atty) John W. Harbin  
Address: One Atlantic Center, 14<sup>th</sup> 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: 2510 Bohler Road, NW  
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.

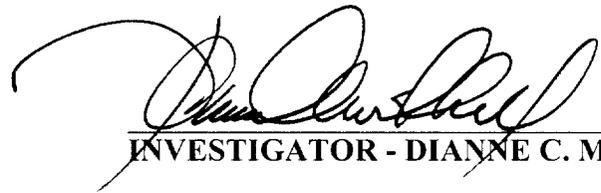
INVESTIGATION:

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 \_\_\_\_\_

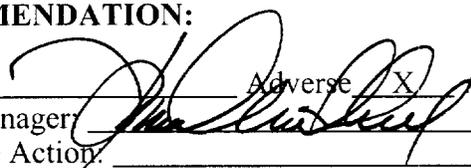
BASIS OF RECOMMENDATION:

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 04/29/05  
Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

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

CONSENT I

			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	