



1503 Westview Dr SW

11/23/10

Public Safety Is Such a Nuisance: An Interim Report to The Tree Next Door

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Background

This report is one of a progressive and on-going series analyzing the field book notes and database entries of the field arborists retained in the City of Atlanta Office of Buildings following staff reductions in June 2010. The time period considered is July through September 2010. The records are official, obtained by The Tree Next Door through Open Records requests and augmented by the Accela database available on-line (http://aca.accela.com/Atlanta_ga). Past installments of what has proven to be a continuing series of revelations can be accessed on TTND's website, www.treenextdoor.org.

Introduction

In Atlanta, a Nuisance Tree is a dead or diseased tree or part of a tree that poses an immediate hazard to the city's streets or other public property (Tree Protection

Ordinance Sec. 158-110). A tree can also be declared a Nuisance if it presents danger to an adjoining property (Housing Code Sec. 19f).

The designation of a tree as a Nuisance initiates a step-by-step legal process to force removal of the tree or abatement of the hazard. This process is often difficult and time consuming. If the owner cannot be found or is not cooperative, an arborist in the Office of Buildings must involve the Office of Parks or the division of Housing Code Compliance. Forced removal requires an order from Municipal Court, with complicated inter-office work order, billing and collection procedures.

The first step in this legal process is for the field arborist to identify the tree by address, species, size and location in both field book and database, accompanied by an initial attempt to identify and contact the owner. If the tree threatens a public street or other property, the second step is to email this information “to the City Forester (Office of Parks) for a determination as to whether or not this tree can be cited as a nuisance tree” (*see Nuisance Trees Standard of Practice at www.treenextdoor.org*).



1525 Joseph E. Boone NW 12/6/10

Data and Brief Commentary 1: Michael Franklin

Field arborist Michael Franklin identifies eight Nuisance Trees in the third quarter of 2010, four each in July and August. Six of these addresses are also recorded in the Accela database. As the City acknowledges in a separate Open Records response, none of the information at any of these sites was forwarded to the Office of Parks for determination of status.

I visited seven of these eight sites. I found no evidence of a nuisance tree or its removal at two of the addresses. I found what appeared to be a very old stump and a very old broken snag at two addresses, a relatively recently cut stump at a third address and a pile of cut rounds of indeterminate origin at a fourth location. All six of these sites were occupied.

I found and photographed an obvious Nuisance Tree threatening the public right-of-way at 1525 Joseph E. Boone Blvd. NW. Standing near the corner, the tree presents a hazard to both Boone Blvd. and Holly St. The house on this property appeared to be vacant.



577 Hope St SW 11/25/10

Data and Brief Commentary 2: Stan Domengeaux

In his field book field arborist Stan Domengeaux identifies 25 Nuisance Trees in the third quarter of 2010 – nine in July, 12 in August and four in September. He records just 13 (52%) of these addresses in the database. As with Franklin, none of the information on any of these 25 properties was forwarded to the Office of Parks to initiate the Nuisance Tree legal procedures.

I visited 23 of these 25 Nuisance Tree sites. Of these 23, one address does not exist (2588 Alston Dr NE) three evidenced no apparent Nuisance Trees or recent removals, two more had stumps of apparently old but indeterminate age, and four had trees that may or may not have posed danger to adjacent properties.



169 Fulton St SE 12/6/10

I documented Nuisance Trees threatening the public right-of-way at the remaining 13 addresses I visited. They are listed below. The addresses marked with an *asterisk are documented only in Mr. Domengeaux's field book.

3197 Belfort Rd SE
 169 Fulton St SE
 577 Hope St SW
 2209 Polar Rock Ave SW
 1580 Niskey Lake Rd SW
 2304 Swallow Cir SW
 *1461 Boulevard Lorraine SW
 *1507 Willowbrook Dr SW
 *1503 Westview Dr SW
 *2638 Knox St NE
 *1689 Derry Ave SW
 *2115 Barge Rd SW
 *674 Clifton Rd SE

Seven of the 13 sites above are characterized by derelict and boarded up houses; one site is a vacant lot; one is an occupied home with a “for sale” sign in the front yard. The remaining four are either immediately adjacent to vacant and boarded up houses or immediately across the street from a vacant and boarded up house. I do not know quite what to make of these observations, but notations of “vacant house” or “vacant lot” stand out in my site visit notes.



674 Clifton Rd SE 12/7/10

Conclusions

Most of the daily work of a City of Atlanta field arborist is routine: DDH tree evaluations, property postings, Certificate of Occupancy inspections. Failure to follow the governing Standards of Practice in these areas is undeniably unprofessional and should neither be tolerated nor excused.

These types of violations, however, will probably not cause anyone physical harm. And it would be a rare instance that might expose the City to claims of negligence and attendant liability lawsuits.

Such is not the case with Nuisance Trees. All professional arborists share the ethical and legal responsibility to report dangerous tree conditions. There is additional ethical and legal burden on those professional arborists who are entrusted with the legal authority to abate a hazardous condition if at all possible. City of Atlanta arborists are all trained, ISA Certified professionals with legal authority and police power. They cannot simply ignore the Nuisance Trees they encounter.

In neglecting to act on the Nuisance Trees they document in their field books, arborists Domengeaux – in particular – and Franklin exercise neither professional responsibility nor the written requirements of their jobs. Their inaction, coupled with no supervisory oversight, leave citizens endangered and the City exposed to expensive negligence and liability claims. It is difficult to conceive of a more serious failing of the arborist division of the City of Atlanta.



1580 Niskey Lake Rd SW 12/6/10