

# CITY OF ATLANTA

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## DEPARTMENT OF LAW

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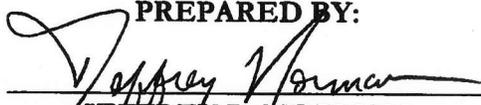
## INVESTIGATIVE REPORT

Case Number: CI 2010 0044 and CI 2010 0045

**“FALSIFICATION OF CITY RECORDS and ABUSE OF AUTHORITY”**

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT  
OFFICE OF BUILDINGS  
DIVISION OF ARBORIST

PREPARED BY:

  
\_\_\_\_\_  
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**REPORT OF INVESTIGATION**

**CASE NUMBER:**

**CI 2010 0044 and CI 2010 0045**

**PERSON(S) UNDER  
INVESTIGATION:**

**James Shelby, Stanley Domengeaux**

**DEPARTMENT:**

**Planning and Community Development**

**OFFICE:**

**Buildings**

**DIVISION:**

**Arborist**

**ALLEGATION:**

**Falsification of City Records and  
Abuse of Authority**

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## **I. OVERVIEW OF DEPARTMENT**

The Department of Planning and Community Development strives to take a leadership role in creating opportunities for the City of Atlanta to continue to grow and sustain its diverse communities that define and give Atlanta its unique character. The Department of Planning and Community Development further seeks to guide the development of the City through effective measures of planning, design review, construction plan approval, code compliance, and housing assistance.

The Bureau of Buildings enforces the Codes adopted by the City of Atlanta to ensure minimum standards for the construction, repair, demolition, occupancy and maintenance of buildings, structures and properties. It reviews, approves and issues all permits required by the City's Codes for the repair, alteration or addition to all public and private buildings and structures; as well as, permits for new construction. It also assists property owners in their effort to ensure that buildings are in compliance with the standards set forth in the City's Codes.

The Arborist Division is charged with protecting the City's tree canopy on private property throughout the City of Atlanta. Protecting and permitting the removal of trees can be done either under a building permit or through an application to remove a dead, dying, diseased, or hazardous tree. The division conducts building plan reviews related to trees, verifies trees to be removed and posts properties prior to tree removal under building permits (this allows the public to appeal our decisions). The Arborist Division also inspects dead, dying, diseased and hazardous trees, investigates illegal tree destruction or removal, presents tree related cases to the Tree Conservation Commission, and inspects properties before Final Certificate of Occupancy (CO) certificates are issued.

## **II. ALLEGATIONS**

James Shelby, Commissioner of the Department of Planning and Community Development directed a subordinate employee to falsify and manipulate data in the Accela database in response to a request under the Georgia Open Records Act.

Stanley Domengeaux, Arborist in the Department of Planning and Community Development's Office of Building's Arborist Division, falsified daily activity information in his field book and the Accela database in an effort to alter his documented inspections productivity.

## **III. BACKGROUND**

The Executive Offices received several complaints from The Tree Next Door alleging that an analysis performed by the organization supported the conclusion that Stanley Domengeaux was not only underperforming, but that he was actually falsifying data in his field book, the Accela database, and failing to follow the Arborist Division's rules and regulations related to the performance of his duties. The Tree Next Door also alleged that Commissioner James Shelby directed a subordinate employee to falsify and manipulate data in the Accela database in response to a request under the Georgia Open Records Act.

Based on the nature of the complaints, the Executive Offices requested that the Department of Law initiate an investigation into the matter.

#### IV. BASIS OF INVESTIGATION

##### a. Employees Interviewed

1. James Shelby, Commissioner
2. Frank Mobley, Senior Arborist
3. Lanii Thomas, Public Information Manager
4. Ainsley Caldwell, Assistant Director
5. David Tachon, Arborist
6. Michael Franklin, Arborist
7. Stanley Domengeaux, Arborist
8. Robin Camp, Senior Plan Review Specialist

##### b. Documents Reviewed

1. "COA Field Arborist Productivity, January – June 2010: A Report to The Tree Next Door"
2. "Unanticipated, Unexplained and Incongruous Data Emerges; An Addendum to the Field Arborist Productivity Report"
3. "City of Atlanta Planning Department Opts for Cover-Up"
4. "Double Trouble: An Interim report to The Tree Next Door"
5. "Public Safety is Such A nuisance: An Interim Report to the Tree Next Door"
6. Open Record Requests
7. Emails from The Tree Next Door
8. Arborist Quadrant Assignment Map
9. Arborist Inspections Report, July 2010 – January 2011
10. Standards of Practice
11. Arborist Field Books
12. Accela Fact Sheet
13. Arborist Online Forms
14. Section 114-528 of the Code of Ordinances of the City of Atlanta, Georgia, "*Cause for Action*"
15. Section 158-26 *et seq.* of the Code of Ordinances of the City of Atlanta, Georgia, "*Tree Protection*"

#### V. INVESTIGATION

Pursuant to Section 2-400 and Section 2-401 of the Code of Ordinances of the City of Atlanta, Georgia, the Department of Law is empowered to conduct thorough and impartial investigations into the affairs of any city department, board, bureau, commission, institution, authority, retirement system, or any other instrumentality or agency of the city, as well as any city official, employee or any person or organization to the extent that the person or organization shall have had any dealings with the City of Atlanta or any department, board,

bureau, commission, institution, authority, retirement system, or other instrumentality or agency of the city.

At the outset of the investigation, an employee interview was conducted with James Shelby. Shelby advised that he currently serves as the Commissioner of the Department of Planning of Community Development. Shelby stated that he has been with the department for seven years. Shelby stated that he is responsible for the day to day operations of the department which is comprised of four offices: the Offices of Planning, Buildings, Code Compliance, and Housing. Shelby noted that his involvement with any of the divisions within the respective agencies is done primarily through the Office Directors. Shelby further noted that he has minimal contact with subordinate staff on a day to day basis. Shelby reiterated that the majority of concerns are handled through the Office Directors. Shelby advised that the Arborist Division resides in the Office of Buildings. Shelby stated that during 2010, Anthony Carter served as the Acting Director of the Office of Buildings.

Shelby was questioned about his knowledge of Open Records Act requests filed by an organization named The Tree Next Door. Shelby stated that he was familiar with the organization and that all Open Records Act requests go through the Public Information Officer, Lanii Thomas. Shelby advised that the only time he gets involved in these issues is if there is a problem with staff providing Thomas with the information in a timely manner. Shelby stated that in these cases, he will stress to the Office Directors the importance of meeting statutory time limits for responding to Open Records Act requests. Shelby stressed that he has minimal involvement with staff regarding open records issues and they rarely respond to him personally regarding such matters.

Shelby stated that he has no recollection of any specific conversations with staff discussing an Open Records Act request in September 2010 regarding The Tree Next Door. Shelby advised that he does remember that there was an issue associated with producing some of the requested documents because the information had not been entered into Accela appropriately. Shelby stated that he does not remember being involved in directly providing any directives to staff on how to resolve the matter.

Shelby was questioned regarding his knowledge of any missing information and indicated that he recalled that Stanley Domengeaux was reprimanded once before for missing field books, but was not directly aware of the status of Domengeaux's field books during the September 2010 time period. Shelby stated that in talking with the Director of the Office of Buildings, he recalled that Domengeaux was alleged to have not entered information into the Accela database in a timely manner. When asked, Shelby adamantly denied directing anyone to manipulate any data in the Accela database in response to an Open Records Act request.

Shelby reiterated that as a general rule, he does not directly engage staff below the Director level about such matters and has no recollection of ever discussing the matter with anyone other than Ainsley Caldwell. Shelby noted that while he has been made aware of a notation attributed to Frank Mobley about entering data in the Accela system, he never had a conversation with Mobley about the matter and has no idea why Mobley referenced him in his notes. Shelby speculated that Mobley most likely was attempting to indicate that he needed to get the information in the database to Lanii Thomas. Shelby advised that he rarely if ever has occasion to speak directly with Mobley.

Shelby advised that Ainsley Caldwell no longer serves as the Arboricultural Director and is now the Assistant Director.

An employee interview was conducted with Frank Mobley. Mobley stated that he currently serves as a Senior Arborist. Mobley indicated that he has been employed with the Office of Buildings for approximately eleven years and the City of Atlanta since 1989. Mobley stated that he is responsible for reviewing construction plans regarding the tree impact of proposed structures and dealing with developers to assess these matters, including appropriate recompense.

When questioned, Mobley stated that in no way did Commissioner Shelby ever direct him to alter or change any data in the Accela database. Mobley explained that on the date in question, he received a directive from a Customer Service representative, Alaric Davis, that an outstanding Open Records Act request had to be completed by close of business. Mobley stated that while the request had been received in the department prior to his involvement, he was told that the request had to be completed. Mobley stated that he was held responsible because Ainsley Caldwell was out of the office on that particular day.

Mobley explained that he was given a list of outstanding addresses that needed to be included as part of the outstanding Open Records Act request. Mobley indicated that he looked in the database and could see that Stanley Domengeaux had been to the sites to perform inspections. Mobley advised that he regards Accela as a very complex database and their normal process requires completion of two separate screens. Mobley advised that one screen showed Domengeaux's field work had been completed; however, it also revealed that Domengeaux administratively failed to close out the project in Accela. Mobley stated that as a result he had to go to the second screen and administratively close out Domengeaux's closed cases so that he could print them out. Mobley advised that in the absence of closing it out, he was unable to print it out. Mobley noted that when he printed it out, he noticed that his name appeared on the entries as if he had been involved with the project at those addresses.

Mobley advised that in a feeble attempt to cover himself, he tried to document in the system that his only involvement with the matters was to obtain the information for an Open Records Act request. Mobley stated he was under time constraints and did not clearly think his comments over prior to entering them into the database. Mobley reiterated that at no time did he ever have a direct conversation with Commissioner Shelby regarding the matter and he did not alter or change any underlying data in Accela.

Mobley advised that while he is responsible for plan reviews, he was occasionally required to go out into the field in the summer of 2010 due to staff reductions and an overwhelming workload. Mobley explained that customer service representatives were responsible for entering work requests into the Accela system and he would go out to do the work. Mobley stated that upon documentation of the matter in his field book, he would return to the office and enter the information into Accela to appropriately close out the matter. Mobley opined that you cannot effectively resolve a matter if it is not administratively closed because you aren't able to send the customer appropriate documentation showing the final resolution of the matter. Mobley stated that customers should always receive formal documentation for

their records. Mobley stated that partial information is not acceptable for resolution of customer concerns.

Mobley advised that all employees have been trained on the proper use of Accela and are aware of how to operate the system.

Mobley declined to discuss the work habits of other arborists, but noted that he used to supervise Stanley Domengeaux and former employee Tom Coffin.

An employee interview was conducted with Lanii Thomas. Thomas stated that she currently serves as the Public Information Manager. Thomas advised that her duties include handling media inquiries, all open records requests, and the creation of collateral materials (*i.e.*, brochures, special reports).

Thomas explained that all Open Records Act requests received by the Department of Planning and Community Development are forwarded to her for handling. Thomas advised that Open Records Act requests are received via email, facsimile, and U.S. Postal Mail. Thomas stated that upon receipt, she reviews the requests and contacts the appropriate office that serves as the records custodian. Thomas advised that her role is to coordinate the gathering of the documents if they exist and to make sure the custodian responds within the requisite time period.

When questioned, Thomas stated that she remembers several Open records Act requests submitted by The Tree Next Door. Thomas noted that while she normally coordinated all arborist related matters through Ainsley Caldwell, she remembers that he was out of the office in September 2010 and Frank Mobley was identified as the point of contact to handle a request submitted by The Tree Next Door. Thomas recalls that Mobley mentioned that there were some responsive records that had not been closed out yet in the Accela system. Thomas stated that Mobley advised her he went into the system and administratively closed out the matters. Thomas stated that Mobley never indicated that he was directed to alter any information and simply seemed to be administratively acting to be able to satisfy the open records request. Thomas noted that all of the records in the possession of the department at the time were produced to the best of her knowledge.

Thomas explained that normally the involvement of the Commissioner is limited to situations where he encourages employees to place a high priority on responses and providing any records in the department's care, custody, or control. Thomas stated that this is the only type of interaction with Shelby she has witnessed.

An employee interview was conducted with Ainsley Caldwell. Caldwell stated that he currently serves as an Assistant Director in the Office of Buildings. Caldwell advised that he was hired by the City of Atlanta in 2006 and served as the Arboricultural Manager from March 2006 – December 2010. Caldwell indicated that his duties were to manage the day to day operations of both the field arborists and arborist plan reviewers. Caldwell stated that prior to the layoffs in 2010, he supervised 2 plan reviewers, 2 administrative staff persons, and 5 field arborists. Caldwell stated that subsequent to the layoffs, he supervised 1 administrative staff, 2 plan reviewers, 2 arborists, and he got back one arborist in September 2010.

Caldwell explained that all arborists are ISA certified in arboriculture by the International Society of Arboriculture. Caldwell advised that prior to his arrival, arborists had to only have a bachelors degree in urban forestry or a similar discipline, but once he arrived he mandated that all arborists earn ISA certification within one year.

When questioned, Caldwell indicated that arborists used to utilize field books to document their activities, but have utilized tough book computers to document their inspections since the later part of September 2010. Caldwell noted that during the transition, there were some kinks in the equipment, but they were resolved after a negligible amount of real time utilization.

Caldwell stated that the Arborist Division provides guidelines in the form of Standards of Practice. Caldwell explained that the Standards of Practice are professional expectations for arborists as opposed to Standard Operating Procedures which are rules. Caldwell noted that the original Standards of Practice were authored by former arborist Tom Coffin, but have been modified over the years due to adaptive changes.

When questioned, Caldwell described his observation of the arborists he supervised in 2010. Caldwell noted that in his opinion, Stanley Domengeaux was satisfied with performing his duties as an Arborist and had no aspiration to advance beyond that position. Caldwell stated that Domengeaux tends to only do what is required and is hesitant to do anything above and beyond. As an example, Caldwell explained that Domengeaux initially was hesitant to pursue ISA certification and had to be threatened with the loss of his job to complete the certification process. Caldwell further noted that Domengeaux is a people person and likes to work with people to resolve their issues. Caldwell advised that while some arborists like to simply cite individuals and walk away, Domengeaux utilizes his discretion to try and amicably resolve issues. Caldwell stated that this is merely a reflection of the different styles possessed by different arborists.

Caldwell advised that he has received complaints concerning Domengeaux in the past and has always investigated them to his satisfaction. Some have been substantiated and some have been proven baseless.

Caldwell stated that Michael Franklin maintains a similar attitude to Domengeaux, as far as his lackadaisical attitude. Caldwell noted that Franklin is well qualified, but does the bare minimum. Caldwell indicated that Franklin can come across as rude to customers because he is so cut and dry with customers.

Caldwell advised that David Tachon is a quiet individual and comes into work and does his job without complaining.

When questioned, Caldwell stated that prior to his arrival the division utilized a database created by former arborist Tom Coffin in 2002. Caldwell noted that the database was flawed due to its inability to produce consistent data; some of the data could only be interpreted by Coffin; there was no audit trail; and there were no security controls. Caldwell indicated that after his arrival, the division switched to KIVA and ultimately to Accela.

Caldwell explained that the number games analyzed in the Arborist Division tend to be misleading. Caldwell noted that some arborists may perform inspections in a larger number due to the geographic location of inspections in close proximity to others, while another arborist may have to travel farther distances to perform his inspections. Caldwell explained that in the absence of identifying all of the factors involved in each geographic quadrant, the numbers can be misleading. Caldwell stated that the NW and NE area tend to have the heaviest workload, which is why he implemented a rotating assignment schedule to ensure the volume of work is shared amongst the arborists.

Caldwell adamantly stated that there is no quota system in the division and the workload simply varies by the assigned quadrant. Nonetheless, Caldwell stated that all inspections have to be documented appropriately in the tough books (previously the field books). Caldwell stated that he is not aware of any arborists falsifying inspections. However, Caldwell stated that he was aware that Domengeaux was unable to locate some of his field books in the past. Caldwell advised that Domengeaux advised him that his personal truck had been broken into and some of his personal and city belongings were lost as a result of the associated thefts. Caldwell advised that Domengeaux verified the break-ins with a copy of a police report to his satisfaction.

Caldwell stated that he has grown weary of a small segment of the populace attempting to discredit all of the work done by the Arborist Division. Caldwell believes that certain people will not be satisfied unless things always go their way. Caldwell explained that is why a process exists for aggrieved parties to appeal decisions governed by the Tree Ordinance to the Tree Commission.

An employee interview was conducted with David Tachon. Tachon stated that he currently serves as an Arborist. Tachon advised that he has been employed with the division for approximately 2 ½ years. Tachon stated that he was laid off in June or July 2010 and was rehired in September 2010. Tachon indicated that the City of Atlanta is separated into three geographical arborist sections. Tachon advised that he currently serves the NE quadrant. On a typical day, Tachon stated that he spends a couple of hours putting permits into the system and then spends the majority of the day in the field performing dead, dying, hazardous applications; final certificate of occupancy sign-offs; construction site compliance; and silk fencing.

Notably, with the position modification of Caldwell, Tachon noted that he is not sure who his actual supervisor is, even though he knows he ultimately reports to Office of Buildings Director Don Rosenthal. Tachon stated that Rosenthal does not have an arborist background and he is waiting for a direct supervisor to replace Caldwell.

Tachon explained that when Caldwell was his supervisor, the division had routine meetings, discussed Standards of Practice, inspection response rates, and keeping open inspections to a minimum. Tachon stated that while there was no formal quota system, he believes that based on experience of each quadrant that certain unspoken expectations existed. As an example, Tachon stated that depending on your schedule, an arborist should do 10 dead, dying, hazardous permits a day. Tachon explained that the quadrant assignment was the biggest factor in determining the actual number of inspections.

Tachon stated that some areas require more inspections than others. Tachon noted that his quadrant is the smallest, but gets the highest volume of inspections based on density. To the contrary, he stated that Domengeaux has the entire South Quadrant, but there are not as many inspections required even though he is required to cover a larger land mass. Tachon advised that the NW Quadrant is kind of in the middle because a good number of inspections are required and the lots tend to be larger resulting in longer travel times. Tachon said in contrast he can often walk to multiple sites in the NE Quadrant.

When questioned, Tachon explained that field books were utilized to document the daily activities performed by an arborist. Tachon advised that the information in the field book should go directly from the field book to the Accela database. Tachon noted that there is plenty of room in Accela for comments and detail by the arborist. Tachon stated that the expectation was that all entries should be made on the same day as the inspection. Tachon noted that the tough book has alleviated the need for multiple entries and you only have to enter the information once thereby alleviating data entry errors.

Tachon stated that he has never felt pressure to fabricate inspection numbers and realizes that you cannot control the number of complaints in each quadrant. Tachon stated that the biggest challenge in the division is the highly charged political climate that exists regarding trees in Atlanta and the tightrope they all continually walk between the developers and public.

An employee interview was conducted with Michael Franklin. Franklin stated that he currently serves as an Arborist. Franklin advised that he has been employed for approximately 3 years and 11 months. Franklin indicated that his duties are to evaluate trees in regard to dead, dying, and hazardous requests; citizen requests; and building practices. Franklin advised that his current supervisor is Don Rosenthal and used to be Ainsley Caldwell. Franklin stated that he is assigned to the NW Quadrant.

Franklin advised that service requests routinely come into the office via either email, facsimile, or in person through walk-ins. Franklin explained that he likes to work on the oldest outstanding matters first to ensure all requests are addressed in a timely manner. Franklin noted that prior to tough books, he documented his daily activities in a field books. When utilizing the field book, Franklin explained that he would transcribe the information from the field book into Accela within two days. Franklin noted that he always tried to comply with an expeditious transfer of his daily activity information into the database.

When questioned, Franklin advised that there was no quota system in the division and the simple expectation was that you do your work in a timely and professional manner. Franklin advised that productivity could be monitored by reviewing the database to examine open inspections and how long they remained open.

Franklin indicated that he was not aware of any complaints concerning himself or his coworkers and felt everyone worked well together.

An employee interview was conducted with Stanley Domengeaux. Domengeaux stated that he is currently employed as an Arborist. Domengeaux advised that he has been employed with the division since 2002. Domengeaux advised that his duties are to maintain the City's

Tree Ordinance; to go out and sign off on final certificates of occupancies; make sure sites are in compliance; issue hazardous tree permits; and uphold the parking lot ordinance. Domengeaux indicated that his current supervisor is Don Rosenthal and was previously Ainsley Caldwell.

Domengeaux explained that daily assignments are scheduled through the data entry clerk and shows up on a route sheet or the database which indicates what properties need to be inspected. Domengeaux stated that complaints come in via email, facsimile, phone, or online. Domengeaux explained that his normal daily routine is to respond to emails, phone calls, and then sets up his route for the day prior to performing his inspections.

Domengeaux advised that it was of historical importance that he and former arborist Tom Coffin joined the arborist division a week apart in 2002. Domengeaux further explained that Coffin originally designed a Filemaker Pro database of his own accord. Domengeaux stated that he was told by his supervisor, Norman Copeland, the former Director of Buildings, to ignore the database and focus on performing his job. Nonetheless, Domengeaux stated that Coffin continued to push the database and eventually told his supervisor at the time, Frank Mobley, that the database should be mandatory. As a result, Mobley advised all of the arborists to utilize the database. Domengeaux stated that he cooperated with the submission of data, but did not view the inaccurate database as official. Domengeaux stated that eventually the division began to submit quarterly reports from the database to the Tree Commission but it always reflected changing data. Domengeaux felt the data was manipulated to make him look bad. As a result, Domengeaux admitted that he submitted false numbers to counteract the manipulated data. Domengeaux stated that he was reprimanded for his actions.

Domengeaux stated that the division now utilizes Accela and it is a much more accurate database. Domengeaux stated that they now utilize tough books which require only one entry. However, Domengeaux stated that he has had issues with inspections that are not entered online failing to be timely entered by the data entry clerk into the system. Domengeaux stated that is why he field book frequently shows a notation of NIS. Nonetheless, Domengeaux stated that he always did his best to enter all his inspection data within a three day period. Domengeaux indicated that he has lost field books in the past due to vehicle break ins and inadvertent misplacements of the books.

Domengeaux stated that there are no quota systems in place. Domengeaux stated that you simply get the work you are assigned done in a reasonable amount of time. Domengeaux also reiterated the inequities of the respective quadrants on workload.

Domengeaux openly explained that he and former Arborist Tom Coffin dislike each other and it continues to fuel constant complaints. Nonetheless, he stated that he does his job in a professional manner. Domengeaux feels that the fact that his NPU representatives praise him is a sign of his success and the fact that those outside his quadrant criticize him is a sign of the pettiness of the criticism.

Senior Plan Review Specialist Robin Camp explained how the Accela database functions and provided an Arborist Inspections Report for the time period covering July 2010 through January 2011.

## VI. APPLICABLE LAW

Section 114-528 of the Code of Ordinances of the City of Atlanta, Georgia, "*Cause for Action*"

Section 158-26 *et seq.* of the Code of Ordinances of the City of Atlanta, Georgia, "*Tree Protection*"

## VII. CONCLUSION

Based on the testimonial and documentary evidence obtained during the course of the investigation, there is no evidence to establish that James Shelby, Commissioner of the Department of Planning and Community Development, directed a subordinate employee to falsify and manipulate data in the Accela database in response to a request under the Georgia Open Records Act. To the contrary, the evidence established that the employee involved in responding to the Open Records Act request simply documented his involvement by noting that he accessed the database to fulfill an open records request facilitated by staff in the Commissioner's Office in the normal course of business. The investigation further revealed that there was sufficient evidence to establish that Stanley Domengeaux was negligent in properly updating information in the Accela database and in adequately ensuring the security of his field books for proper retention purposes. However, there is insufficient evidence to establish that Domengeaux falsified daily activity information in his field book and the Accela database in an effort to alter his documented inspections productivity.

## VIII. RECOMMENDATIONS

1. The Department of Planning and Community Development should determine the appropriate disciplinary action for Stanley Domengeaux for violation of Section 114-528 (b) (1) and (20) of the Code of Ordinances of the City of Atlanta, Georgia.

The reasonable disciplinary action should be determined by considering relevant factors, including but not limited to the seriousness of the offenses, whether the offenses were willful and deliberate, unintentional or the result of gross negligence, and the employee's records of performance and conduct.

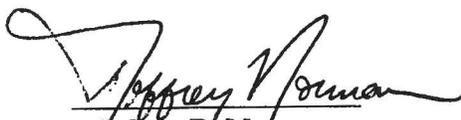
2. The Department of Planning and Community Development should continue to advise and ensure information is available to all members of the public and aggrieved parties of their appeal rights involving matters regarding the Tree Protection Ordinance.

## IX. EXHIBIT LIST

1. "COA Field Arborist Productivity, January – June 2010: A Report to The Tree Next Door"
2. "Unanticipated, Unexplained and Incongruous Data Emerges; An Addendum to the Field Arborist Productivity Report"
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15. Section 158-26 *et seq.* of the Code of Ordinances of the City of Atlanta, Georgia, "*Tree Protection*"

X. INVESTIGATIVE REPORT REVIEW CERTIFICATION

THIS INVESTIGATIVE REPORT WAS REVIEWED AND APPROVED BY:

  
Jeffrey B. Notman  
Compliance Manager

February 28, 2011  
(Date)

