

**BEFORE THE CITY OF ATLANTA
BOARD OF ETHICS**

In the matter of:)
)
 Stanley Domengeaux) Case No. CO-12-007
)
 Respondent)
)

FINAL OPINION AND ORDER

This matter came before the City of Atlanta Board of Ethics on May 15, 2014, for a public enforcement hearing to determine whether former Stanley Domengeaux, Respondent, had violated Sections 2-820, 2-819, 2-811, and 2-814 of the City of Atlanta Code of Ethics. Respondent received notice by first class, regular and electronic mail but failed to appear at the hearing.

The Ethics Office, Complainant, submitted the following Exhibits into the record:

Exhibits

1. Complainants Exhibits A1 through A22 related to all notices sent to the Respondent. Exhibit G1 related to the Respondent's former employment with the City. Exhibits B1 through B8 related to records related to Treepointe LLC. Exhibits C1 and D1 related to the Treepointe LLC business proposal submitted and city permit issued for the property of Marsha Edwards. Exhibit C4 related to the Treepointe LLC proposal submitted to Erica Brown. Exhibits D3, D4 and D5 related to the city permits issued for the properties of Carol Snype Crawford and Birda Harrison. Exhibits C2, C3, and C5 related to the Treepointe LLC proposals and payments submitted for Ms. Crawford's property. Exhibits F1, F2 and F3 related to the city financial disclosure statements filed by the Respondent.
2. Also admitted into the record was the sworn testimony of Carol Snype Crawford.
3. The Ethics Office, the Complainant, submitted the following findings of fact for adoption by the Board:

Findings of Fact

4. The Respondent, Stanley Domengeaux, is a former arborist who worked in the Arborist Division for the Department of Planning & Community Development. The Arborist Division is responsible for conducting building plan reviews related to trees, verifying when trees should be removed, and posting properties before tree removal under building permits. The division inspects dead, dying, diseased and hazardous trees, investigates illegal tree destruction and removal, presents tree-related cases to the Tree Conservation Commission, and inspects properties before Final Certificate of

Occupancy certificates are issued. Respondent worked for the City from July 2000 until November 2012. Enforcement Hearing Transcript. at 21, 47; Complainant's Exhibit G.

5. On October 19, 2012, the Department of Law's Compliance Unit initiated an investigation into allegations that the Respondent utilized his position within the Arborist Division for personal gain when he approved the removal of a healthy tree during the inspection of a citizen's property. CI 2012-0026 Investigative Report at 1 (June 28, 2013).
6. The Compliance Unit found that in December 2011, Respondent was assigned to inspect trees located on the property of a citizen, Marsha Edwards. During that inspection, Respondent approved removal of four trees and denied removal of an oak tree located on Ms. Edward's property which was documented in a permit issued by the Respondent. Exhibit D1.
7. According to the Compliance Unit's report, Ms. Edwards spent several months contacting the Arborist Division in order to get her trees reassessed, including the oak tree that had been denied for removal. Finally, in May 2012, Respondent returned to Ms. Edward's residence and re-inspected the trees. He then advised her that he was approving the removal of all five trees on her property, including the oak tree. He also advised her that he owned a tree-cutting business named Treepointe LLC and could remove the trees for her. Respondent presented a proposal to Ms. Edwards which was on Treepointe LLC letterhead. The proposal was for services to cut down all the trees on the property including the healthy oak tree which had been initially denied for removal by the Respondent. Exhibit C1; CI 2012-0026 Investigative Report at 3.
8. The Compliance Unit's report found that Ms. Edwards hired another company, Boute Tree Services, to cut down the trees and remove them from her property. Prior to beginning the job, Boute Tree Services contacted the City to verify that the trees had been assessed and could be removed. The company obtained the permit from the Arborist Division and discovered that four of the trees had been approved for removal and one tree denied. Boute Tree Services informed Ms. Edwards of their findings. CI 2012-0026 Investigative Report at 3.
9. As stated in the Compliance Unit's report, Ms. Edwards contacted the Arborist Division and spoke with Jorge Rivera, Director, regarding the matter. She advised him that Respondent had authorized the removal of all five trees. Mr. Rivera advised Ms. Edwards that he would send another arborist to inspect the trees and that Respondent should not have authorized removal of the oak tree. On November 9, 2012, city arborist, Dave Tachon, was sent out to Ms. Edward's property for a follow-up inspection of the trees. Based on his assessment, he determined that the oak tree was healthy and should not be removed. Mr. Rivera also visited the property to inspect the tree and concurred with Mr. Tachon's assessment. Therefore, the removal of the oak tree was denied. CI 2012-0026 Investigative Report at 3; Exhibit D7.
10. The Compliance Unit's investigation found that Respondent presented a business proposal to another citizen while he was conducting an inspection of trees on her property. A Treepointe LLC proposal dated September 12, 2012 was billed to a citizen, Erica Brown, for removal of trees on her property. City records show that Respondent was the arborist that inspected the trees on Ms. Brown's property. Exhibits C4, D6; CI 2012-0026 Investigative Report at 4.

11. On December 11, 2012, the Ethics Office initiated an ethics complaint against Respondent alleging that, on several occasions, he presented proposals and bids on behalf of his private business, Treepointe LLC, to city residents while he was performing his job as a city arborist. A formal notice of the complaint was sent to the Respondent. Respondent did not provide a written response to the complaint. Exhibit A1.
12. On July 10, 2013, the Ethics Office sent a second notice to the Respondent regarding the pending ethics complaint, and he failed to respond. Because the Respondent failed to respond the notices sent to him, the Ethics Office submitted a request for a subpoena to the Board of Ethics at its July meeting. The request was granted and Respondent was served with the subpoena on September 24, 2013 at his business address located at 1206 Piedmont Avenue NE, Suite 1, Atlanta, Georgia 30309. Exhibits A2, A4.
13. Respondent contacted the Ethics Office after he was served with the subpoena and an interview was scheduled with him regarding the pending ethics matter. Ethics Office staff met with Respondent on October 9, 2013. Exhibit A5.
14. A proposed settlement offer was sent to Respondent shortly thereafter and he acknowledged receipt of the document. Respondent failed to return the proposed settlement agreement after several attempts to contact him by phone and email. Exhibits A6, A7.
15. In December 2013, the Ethics Office's investigation revealed that Respondent had performed services for Ethics Board member, Carol Snype Crawford. Ms. Crawford indicated that she had no prior knowledge of the investigation and that she had met Respondent through her neighbor, Birda Harrison. She says that Ms. Harrison contracted with Respondent sometime in September 2012 to cut down a tree which was situated in between their two properties. Respondent was employed with the City at that time. Tr. at 29, 30, 34, 36.
16. Ms. Crawford testified that Respondent presented himself as the owner of Treepointe LLC at the time she utilized his services. Ms. Crawford provided permits issued by Respondent. The permits show that Respondent visited the properties of Ms. Crawford and Ms. Harrison on three occasions. Tr. at 32, 33, 34, 37; Exhibits D3, D4, D5.
17. The records show that Respondent visited the two properties on July 24, 2012, August 21, 2012 and August 22, 2012. Respondent determined that the tree between their two properties should be removed and recommended that his company, Treepointe LLC, perform the services for Ms. Crawford and Ms. Harrison. The two women agreed to split the cost of the services and the work was performed in August 2012. Ms. Crawford says that she submitted a check directly to Treepointe LLC on September 3, 2012 and a subsequent check on March 15, 2013. Tr. at 31, 32, 34, 35; Exhibits C2, C3, C5.
18. Under the Code of Ethics, Respondent has a financial and personal interest in Treepointe LLC. Therefore, as a former city arborist who was responsible for performing inspections of trees, it was a conflict of interest for him to present business proposals and invoices to city residents on behalf of his company, Treepointe LLC. Tr. at 39.

19. Respondent misused city time for his private advantage when he presented business proposals and invoices to city residents on behalf of Treepointe LLC, his private business. Respondent did so on city time while he was performing his arborist duties. Tr. at 39, 40.
20. Respondent used confidential information acquired while he was performing city inspections to advance his own financial interests. Tr. at 40.
21. Respondent failed to disclose this business on his annual city financial disclosure statements. Tr. at 40.

Conclusions of Law

22. The Code of Ethics is found in the Standards of Conduct of the City of Atlanta's Code of Ordinances. See Atlanta, Ga., Code §§ 2-801 to 2-824 (part II, art. VII, div. 2).
23. Section 2-820 prohibits officials and employees from holding investments in any financial, business, commercial, or other private transaction that creates a conflict with and adversely affects the official's or employee's duties to the detriment of the City. It also prohibits officials or employees from engaging in or accepting private employment or rendering services for private interests when the employment is adverse to and incompatible with the proper discharge of the official's or employees' official duties.
24. Section 2-819 prohibits employees from using confidential information acquired in their official capacity to advance their own financial interests. It states: "No official or employee shall disclose confidential information concerning the property, governing operations, policies or affairs of the city . . . nor shall such official or employee use such confidential information acquired in an official capacity to advance the financial interest or personal interest of the official, employee or others in any instance where such would conflict with the best interest of the city."
25. Section 2-811 of the Code of Ethics states: "No official or employee shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, labor or service for the private advantage of such official or employee or any other person or private entity."
26. Section 2-814 requires certain employees to file a financial disclosure statement every year they are employed with the City and the year after they leave city employment. The statement requires disclosure of income sources, real estate interests, business transactions with the City, and business transactions involving family members and the City.
27. Section 2-807 provides that the Board of Ethics may assess an administrative sanction of \$1000 for any intentional violation of the ethical standards, as well as issue a public reprimand against the violator.
28. The Board finds that Respondent violated Section 2-811 when he used city services that gave him a private business advantage gained in the course of providing a city service.

29. The Board finds that Respondent violated Section 2-814(a)(1) when he failed to disclose his private business, Treepoint LLC, on his city financial disclosure statements for the time period 2010 through 2012.
30. The Board finds that there was insufficient evidence to support violations of Sections 2-814(a)(2) and 2-814(a)(3).
31. The Board finds that Respondent violated Section 2-819 when he used confidential information not available to the general public for his financial gain.
32. The Board finds that Respondent violated Section 2-820 when he rendered private services on behalf of his company, Treepointe LLC, which was incompatible with his official job duties as an arborist.

Sanctions

33. The Board issues a public reprimand for Respondent which should be forwarded to the Department of Human Resources for inclusion in his employment file.
34. The Board imposes an administrative sanction of \$1,000 against Respondent for each violation of the four code sections for a total of \$4,000.
35. The Board orders that this matter be referred to the City Solicitor's Office for prosecution if Respondent fails to pay the imposed fine within 30 days of this Order.

The Respondent has the right to appeal this opinion and order by seeking review by writ of certiorari to the superior court of the county. See Atlanta, Ga., Code §2-807(d).

So ordered this 24th day of June, 2014.

For the City of Atlanta Board of Ethics



Caroline Johnson Tanner
Chair

CERTIFICATE OF SERVICE

I, Jabu M. Sengova, certify that on June 24, 2014, I served copies of the Final Opinion

and Order on the following party and person by way of regular and electronic mail:

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