



# MEMORANDUM

Office of the City Attorney

201591  
Phone: 334-5011/Fax 334-2229  
Box 46

**TO:** Mayor and City Commissioners

**DATE:** July 23, 2001

**FROM:** City Attorney

**CONSENT**


**SUBJECT:** Woodland Partners, Inc. v. City of Gainesville;  
Alachua County Circuit case no. 01-01-CA-2286

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Recommendation: The City Commission authorize the City Attorney to represent the City in the case styled Woodland Partners, Inc. v. City of Gainesville; Alachua County Circuit case no. 01-01-CA-2286.

On June 22, 2001, the City Attorney's Office received a Summons and Complaint from Jack M. Ross, Esquire, on behalf of Woodland Partners, Inc. Plaintiff alleges that the City killed and/or cut three hundred and eight trees and removed them from Plaintiff's property. Woodland Partners, Inc. also alleges that they are damaged by the costs of replacement of trees, the loss in value of the property, additional expenses, delay of development, and other administrative costs.

Prepared by:

  
Debra S. Babb,  
Assistant City Attorney

Submitted by:

  
Marion J. Radson,  
City Attorney

11945

IN THE CIRCUIT/COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT,  
IN AND FOR ALACHUA COUNTY, FLORIDA  
CIVIL DIVISION, ALACHUA COUNTY COURTHOUSE  
201 East University Avenue - Post Office Box 600

Gainesville Florida 32602

PHONE (352) 374-3636 • FAX (352) 358-3207

A TRUE COPY

WEN M. OELRICH, SHERIFF  
ALACHUA COUNTY, FLORIDA

Served at 4:00 p.m., on the 22 day

of July, 2001

By P. Bowers  
As Deputy Sheriff

2001 JUN 22

Woodland Partners, Inc.  
PLAINTIFF

-vs-  
The City of Gainesville  
DEFENDANT

Case No.: 2001-CA-2286  
Division: K



SUMMONS

THE STATE OF FLORIDA

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on defendant City of Gainesville

c/o Wayne Bowers, City Manager  
200 E. University Ave.  
Gainesville, FL 32601

Each defendant is required to serve written defenses to the complaint or petition on plaintiff's attorney whose name and address is Jack M. Ross, LSA.

P.O. Drawer 1168  
Gainesville, FL 32602

within 30 days after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

WITNESS my hand and the seal of said Court on June 20, 2001.

see  
the  
attor



J.K. "Buddy" Irby  
Clerk of Circuit Court

By Brenda Davis  
Deputy Clerk

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Alachua County Court Administrator at (352) 374-3648, within 2 working days of your receipt of this summons. If you are hearing or voice impaired, call 1-800-955-8771.

IN THE CIRCUIT COURT, EIGHTH JUDICIAL CIRCUIT  
IN AND FOR ALACHUA COUNTY, FLORIDA

CIVIL DIVISION

WOODLAND PARTNERS, INC.

Plaintiff,

CASE NO: 01-01-CA-2286  
DIVISION: K

vs.

THE CITY OF GAINESVILLE,

Defendant.

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PLAINTIFF'S COMPLAINT

COMES NOW Plaintiff, Woodland Partners, Inc., by and through its undersigned attorney, and as its Complaint against Defendant, The City of Gainesville, alleges:

GENERAL ALLEGATIONS

1. This is an action for damages that exceed \$15,000.00 excluding interest and attorneys' fees.
2. Plaintiff, Woodland Partners, Inc., is a Florida corporation doing business in Alachua County, Florida.
3. Defendant, The City of Gainesville, is a municipal corporation created by the State of Florida.
4. Plaintiff is the owner of certain real property located west of Tower Road in Alachua County, Florida.
5. On or prior to March 27, 2000, Defendant, by its employees and/or agents acting in the course and scope of their employment, came upon Plaintiff's property, killed and/or cut

three hundred and eight trees, and removed those trees from Plaintiff's property.

6. As a result of Defendant's actions, 308 trees on Plaintiff's property have died and Plaintiff has been damaged by the cost of replacement of the trees, the loss in value of the property, additional expenses, delay of development, and other administrative costs.

7. By letter of October 10, 2000, Plaintiff gave notice of his claim to Defendant by sending a copy of the Notice certified mail, to Wayne Bowers, City Manager, and to Paula Delaney, Mayor/Commissioner. A copy of the Notice is attached as Exhibit "A".

8. Defendant has denied Plaintiff's claim.

#### COUNT I

9. Plaintiff realleges all allegations in paragraphs 1-8.

10. Defendant, through its agents and employees, failed to use reasonable care while using herbicide around Plaintiff's trees and failed to use reasonable care in cutting and taking healthy trees from Plaintiff's property.

Wherefore, Plaintiff, Woodland Partners, Inc., demands judgment against Defendant, City of Gainesville, for compensatory damages, prejudgment interest, and recovery of its costs incurred in this action.

#### COUNT II

11. Plaintiff realleges all allegations in paragraphs 1-8.

12. Defendants' employees and agents trespassed on Plaintiff's property.

Wherefore, Plaintiff, Woodland Partners, Inc., demands judgment against Defendant, City of Gainesville, for compensatory damages, prejudgment interest, and recovery of its costs incurred in this action.

COUNT III

13. Plaintiff realleges all allegations in paragraphs 1-8.

14. Defendant committed theft of Plaintiff's property.

Wherefore, Plaintiff, Woodland Partners, Inc., demands judgment against Defendant, City of Gainesville, for compensatory damages, prejudgment interest, and recovery of its costs incurred in this action.

COUNT IV

15. Plaintiff realleges all allegations in paragraphs 1-8.

16. Defendant converted Plaintiff's trees for their own use.

Wherefore, Plaintiff, Woodland Partners, Inc., demands judgment against Defendant, City of Gainesville, for compensatory damages, prejudgment interest, and recovery of its costs incurred in this action.

COUNT V

17. Plaintiff realleges all allegations in paragraphs 1-8.

18. Defendants' actions constitute a deprivation of Plaintiff's property without due process of law in violation of the Fifth Amendment of the United States Constitution and Article I, §9 of the Florida Constitution.

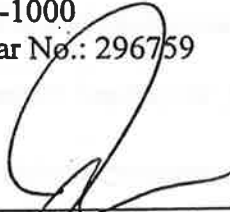
Wherefore, Plaintiff, Woodland Partners, Inc., demands judgment against Defendant, City of Gainesville, for compensatory damages, prejudgment interest, and recovery of its costs and attorneys' fees incurred in this action.

DEMAND FOR JURY TRIAL

19. Plaintiff demands trial by jury on all counts of this complaint.

Respectfully Submitted,

JACK M. ROSS, P.A.  
Post Office Box 1168  
Gainesville, FL 32602  
(352) 375-1000  
Florida Bar No.: 296759



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JACK M. ROSS  
Attorney for Plaintiff

DATED: 6/18/01

LAW OFFICES OF  
**JACK M. ROSS, P.A.**  
204 WEST UNIVERSITY AVENUE  
SUITE 4  
POST OFFICE DRAWER 1168  
GAINESVILLE, FLORIDA 32602-1168

TELEPHONE  
352/375-1000

FACSIMILE  
352/375-6249

JACK M. ROSS  
BOARD CERTIFIED CIVIL TRIAL LAWYER

October 10, 2000

Wayne Bowers (Certified Mail Z449 641 300)  
City Manager  
P.O. Box 490  
Gainesville, FL 32602

Paula Delaney (Certified Mail Z449 641 297)  
Mayor-Commissioner  
P.O. Box 490  
Gainesville, FL 32602

Dear Mayor-Commissioner Delaney and Mr. Bowers:

This firm represents Woodland Partners, Inc., on its claim for damages as a result of damage to real property done by Gainesville Regional Utilities and/or its contractors. A claim for those damages was submitted to Gainesville Regional Utilities on May 26, 2000. A copy of that claim is enclosed.

This will put City of Gainesville and Gainesville Regional Utilities on formal notice of the claim of Woodland Partners, Inc. We will appreciate your prompt reply to this claim. Thank you.

Sincerely,

JACK M. ROSS P.A.

Jack M. Ross

JMR:sfb

cc: Michael L. Steinberg  
Steve Varvel  
Raymond O. Monasco, Esq.

7 449 641 300

**US Postal Service  
Receipt for Certified Mail**

PS Form 3800, April 1995

Postmark or Date: 7/13/00

Post Office, State, & ZIP Code	Postage	Return Receipt Showing to Whom & Date Delivered	Return Receipt Showing to Whom, Date, & Addressee's Address	TOTAL Postage & Fees
	\$ 99	1.25	3.64	\$ 3.64
Street & Number	Certified Fee	Restricted Delivery Fee	Special Delivery Fee	
10000 / 10000	1.40			

7 449 641 297

**US Postal Service  
Receipt for Certified Mail**

PS Form 3800, April 1995

Postmark or Date

Post Office, State, & ZIP Code	Postage	Return Receipt Showing to Whom & Date Delivered	Return Receipt Showing to Whom, Date, & Addressee's Address	TOTAL Postage & Fees
	\$ 99			\$ 3.64
Street & Number	Certified Fee	Restricted Delivery Fee	Special Delivery Fee	
10000 / 10000				

Is your RETURN ADDRESS completed on the reverse side?

PS Form 3811, December 1994

102595-98-B-0229 Domestic Return Receipt

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

Paula Delaney  
Mayor - Comm  
P.O. Box 490  
Gainesville, FL

5. Received By: (Print Name)  
FAITH MYERS

6. Signature (Address of Agent)  
X Faith Myers

4a. Article Number: 2449641297

4b. Service Type:  Certified

Registered

Express Mail

Return Receipt for Merchandise

7. Date of Delivery: OCT 11 2000

8. Addressee's Address (Only if requested and fee is paid)

I also wish to receive the following services (for an extra fee):

1.  Addressee's Address

2.  Restricted Delivery

Consult postmaster for fee.

your RETURN ADDRESS completed on the reverse side?

PS Form 3811, December 1994

102595-98-B-0229 Domestic Return Receipt

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:

Wayne Bowers  
City Mgr.  
PO Box 490  
Gainesville, FL

5. Received By: (Print Name)  
Faith Myers

6. Signature: (Address of Agent)  
X Faith Myers

4a. Article Number: 2449641300

4b. Service Type:  Certified

Registered

Express Mail

Return Receipt for Merchandise

7. Date of Delivery: OCT 11 2000

8. Addressee's Address (Only if requested and fee is paid)

I also wish to receive the following services (for an extra fee):

1.  Addressee's Address

2.  Restricted Delivery

Consult postmaster for fee.