

January 11, 2018

Staci J. Miller, Esq.  
City of Atlanta Law Dept.  
55 Trinity Avenue, S.W.  
Suite 5000  
Atlanta, Georgia 30303

**RE: Filez, LLC v. City of Atlanta  
Fulton County Superior Court  
Case No.: 2017CV297869**

Dear Ms. Miller:

Thank you for forwarding Mr. Childers's Appraisal Summary for our client's properties located at: 2171 Mack Drive, 2181 Mack Drive, Sizemore Avenue/Gun Club Drive lot, and 1350 Sizemore Avenue (the "Properties"). Please accept this correspondence as our response on behalf of our client. It is unclear from your forwarding of the Appraisal Summary if the City is offering to pay these sums for title to the Properties. However, the values assigned each property in the Appraisal Summary are so low we cannot consider it a good faith offer pursuant to O.C.G.A. §22-1-9.

If it is the City's position the Appraisal Summary represents fair market value of the Properties and therefore the City's offer to purchase; it is clear the City is seeking to profit from its creation and maintenance of the continuing nuisance at the Properties. As Mr. Childers notes, the presence of municipal waste on the Properties (or in proximity thereto) render the Properties almost without value – in the instance of 2171 Mack Drive Mr. Childers assigns a value of \$1.00. As I am sure the City is aware, the measure of damages sought by our client in the above referenced lawsuit are not limited to (or legally constrained to) market value. *See e.g. Columbus v. Myszka*, 246 Ga. 571, 573 (1980). Contrary to the City's arguments in the Motion to Dismiss Plaintiff's Complaint, the City contributed to and maintained the nuisance over a period of time, which continues to this day.

We are happy to discuss resolving claims related to the Properties; however, any such settlement negotiations (whether as to condemnation of these Properties or all the properties identified in the Complaint) must be based in reality. We will oppose any attempt to condemn the Properties at values which are artificially suppressed because of the City's own conduct. The City Council has in the past recognized the City's culpability in creating on-going nuisance(s) around the Gun Club and Baby Gun Club landfills by dumping municipal waste outside the

boundaries of the permitted landfill. In doing so, the City negotiated a settlement which greatly benefitted a local developer who is currently building homes in violation of various ordinances and State EPA guidelines in the immediate area of the landfill. The fair market value of these homes located in the West Highlands and Johnson's Grove neighborhoods begin at \$340,000.00.

Should you wish to continue discussing a resolution to these matters, please do not hesitate to contact my office.

Sincerely,

Charles Hoffecker