

**IN THE SUPERIOR COURT OF FULTON COUNTY**  
**STATE OF GEORGIA**

GEORGIACARRY.ORG, INC., )  
TAI TOSON, EDWARD WARREN, )  
JEFFREY HUONG, JOHN LYNCH, )  
MICHAEL NYDEN, AND )  
JAMES CHRENCIK, )

Plaintiffs )

v. )

FULTON COUNTY, GEORGIA, )  
CITY OF ATLANTA, GEORGIA, )  
CITY OF EAST POINT, GEORGIA, )  
CITY OF MILTON, GEORGIA, )  
CITY OF ROSWELL, GEORGIA, )  
CITY OF SANDY SPRINGS, GEORGIA, )  
and CITY OF UNION CITY, GEORGIA, )

Defendants )

Civil Action File No.  
2007CV138552

**ANSWER OF DEFENDANT CITY OF ROSWELL, GEORGIA**

COMES NOW the City of Roswell, Georgia (hereinafter "Roswell"), one the named defendants in the above-styled action and files its Answer and shows the Court as follows:

First Defense

The complaint fails to state a claim upon which relief can be granted regarding Roswell and therefore the Complaint against Roswell should be dismissed.

Second Defense

To the extent Plaintiffs seek any damages from Roswell, Roswell states that Plaintiffs' claims are, or may be barred, in whole or in part, by the doctrines of sovereign, governmental, qualified and official immunity.

### Third Defense

Roswell responds to the numbered paragraphs of Plaintiffs' Complaint as follows:

1.

In response to Paragraph 1, Roswell admits that the Complaint seeks declaratory and injunctive relief, but Roswell denies the remainder of the allegations contained in Paragraph 1.

2.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 2, and therefore can neither admit nor deny the same.

3.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 3, and therefore can neither admit nor deny the same.

4.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 4, and therefore can neither admit nor deny the same.

5.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 5, and therefore can neither admit nor deny the same.

6.

Roswell denies the allegations contained in Paragraph 6 as stated.

7.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 7, and therefore can neither admit nor deny the same.

8.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 8, and therefore can neither admit nor deny the same.

9.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 9, and therefore can neither admit nor deny the same.

10.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 10, and therefore can neither admit nor deny the same.

11.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 11, and therefore can neither admit nor deny the same.

12.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 12, and therefore can neither admit nor deny the same.

13.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 13, and therefore can neither admit nor deny the same.

14.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 14, and therefore can neither admit nor deny the same.

15.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 15, and therefore can neither admit nor deny the same.

16.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 16, and therefore can neither admit nor deny the same.

17.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 17, and therefore can neither admit nor deny the same.

18.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 18, and therefore can neither admit nor deny the same.

19.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 19, and therefore can neither admit nor deny the same.

20.

Roswell admits the allegations contained in Paragraph 20.

21.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 21, and therefore can neither admit nor deny the same.

22.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 22, and therefore can neither admit nor deny the same.

23.

In response to the allegations contained in Paragraph 23, Roswell admits that its city attorney received a letter from Georgiacarry.org. Said letter speaks for itself. Roswell is without knowledge or information sufficient to form a belief regarding the remainder of the allegations contained in Paragraph 23 and therefore can neither admit nor deny the same.

24.

In response to the allegations contained in Paragraph 24, Roswell admits that its city attorney received an e-mail from counsel for Georgiacarry.org. Said e-mail speaks for itself. Roswell is without knowledge or information sufficient to form a belief regarding the remaining allegations contained in Paragraph 24, and therefore can neither admit nor deny the same.

25.

Roswell admits the allegations contained in Paragraph 25, except to the extent that it implies that Roswell's city attorney agreed with the legal analysis provided by counsel for Georgiacarry.org, which Roswell denies.

26.

In response to the allegations contained in Paragraph 26, Roswell admits that its city attorney received an e-mail from counsel for Georgiacarry.org. Said e-mail speaks for itself. Roswell is without knowledge or information sufficient to form a belief regarding the remaining allegations contained in Paragraph 26, and therefore can neither admit nor deny the same.

27.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 27, and therefore can neither admit nor deny the same.

28.

In response to the allegations made in Paragraph 28, Roswell states that the minutes of the meeting of Mayor & Council for April 17, 2006 speak for themselves. The remainder of the allegations contained in Paragraph 28 are denied as stated.

29.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 29, and therefore can neither admit nor deny the same.

30.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 30, and therefore can neither admit nor deny the same.

31.

In response to Paragraph 31, Roswell admits that it has not repealed its ordinance of which Plaintiffs complain, nor has its city attorney provided anyone with an opinion that said ordinance should be repealed. Roswell is without knowledge or information sufficient to form a belief regarding the remaining allegations contained in Paragraph 31, and therefore can neither admit nor deny the same.

32.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 32, and therefore can neither admit nor deny the same.

33.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 33, and therefore can neither admit nor deny the same.

34.

Roswell denies the allegations contained in Paragraph 34 as stated.

35.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 35, and therefore can neither admit nor deny the same.

36.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 36, and therefore can neither admit nor deny the same.

37.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 37, and therefore can neither admit nor deny the same.



38.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 38, and therefore can neither admit nor deny the same.

39.

Roswell denies the allegations contained in Paragraph 39 as stated.

40.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 40, and therefore can neither admit nor deny the same.

41.

Roswell is without knowledge or information sufficient to form a belief regarding the allegations contained in Paragraph 41, and therefore can neither admit nor deny the same.

42.

In response to Paragraph 42, Roswell states that O.C.G.A. § 16-11-173 (b) (1) speaks for itself. Roswell denies the remainder of the allegations contained in Paragraph 42 as stated.

43.

In response to Paragraph 43, Roswell states that Article I, Section I, Paragraph VII of the Constitution of Georgia speaks for itself. Roswell denies the remainder of the allegations contained in Paragraph 43 as stated.

44.

In response to Paragraph 44, Roswell states that Article I, Section II, Paragraph V of the Constitution of Georgia speaks for itself. Roswell denies the remainder of the allegations contained in Paragraph 44 as stated.

45.

In response to Paragraph 45, Roswell states that Article IX, Section II, Paragraph I (a) of the Constitution of Georgia speaks for itself. Roswell denies the remainder of the allegations contained in Paragraph 45 as stated.

46.

Roswell denies the allegations contained in Paragraph 46 as stated.

47.

Roswell denies the allegations contained in Paragraph 47 as stated.

48.

In response to Paragraph 48, Roswell states that O.C.G.A. § 36-35-3 (a) speaks for itself. Roswell denies the remainder of the allegations contained in Paragraph 48 as stated.

### **Count I**

49.

Roswell incorporates its responses made to Paragraphs 1-48 as though fully set out herein.

50.

Roswell denies the allegations contained in Paragraph 49.

51.

Roswell denies the allegations contained in Paragraph 50.

52.

Roswell denies the allegations contained in Paragraph 51.

**Count II**

53.

Roswell incorporates its responses made to Paragraphs 1-51 as though fully set out herein.

54.

Roswell denies the allegations contained in Paragraph 52.

**Count III**

55.

Roswell incorporates its responses made to Paragraphs 1-54 as though fully set out herein.

56.

Roswell denies the allegations contained in Paragraph 53.

**Count IV**

57.

Roswell incorporates its responses made to Paragraphs 1-56 as though fully set out herein.

58.

Roswell denies the allegations contained in Paragraph 54.

**Prayer for Relief**

59.

Roswell incorporates its responses made to Paragraphs 1-58 as though fully set out herein.

60.

Roswell denies the allegations contained in Paragraph 55 and denies that Plaintiffs, or any of them, are entitled to the relief requested.

61.

Roswell denies the allegations contained in Paragraph 56 and denies that Plaintiffs, or any of them, are entitled to the relief requested.

62.

Roswell denies the allegations contained in Paragraph 57 and denies that Plaintiffs, or any of them, are entitled to the relief requested.

63.

Roswell denies the allegations contained in Paragraph 58 and denies that Plaintiffs, or any of them, are entitled to the relief requested.

64.

Roswell denies the allegations contained in Paragraph 59 and denies that Plaintiffs, or any of them, are entitled to the relief requested.

65.

Roswell denies the allegations contained in Paragraph 60 and denies that Plaintiffs, or any of them, are entitled to the relief requested.

66.

Roswell denies the allegations contained in Paragraph 61 and denies that Plaintiffs, or any of them, are entitled to the relief requested.

67.

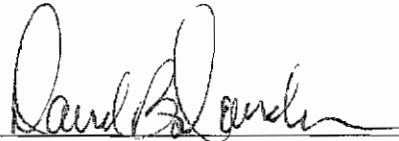
Roswell denies the allegations contained in Paragraph 62 and denies that Plaintiffs, or any of them, are entitled to the relief requested.

68.

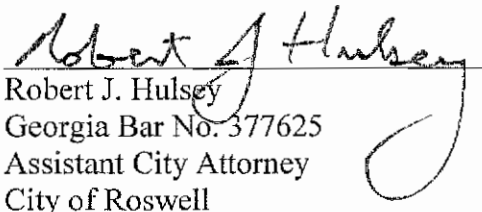
To the extent that Roswell has failed to respond to any allegation of Plaintiffs' Complaint herein, such allegation or allegations are hereby denied.

WHEREFORE, having fully answered, Roswell requests that Plaintiffs' Complaint be dismissed and that the Court afford Plaintiffs no relief.

This 20<sup>th</sup> day of September, 2007.



David B. Davidson  
Georgia Bar No. 206527  
City Attorney  
City of Roswell



Robert J. Hulsey  
Georgia Bar No. 377625  
Assistant City Attorney  
City of Roswell

Attorneys for Defendant City of  
Roswell, Georgia

38 Hill Street  
Suite 110  
Roswell, GA 30075  
(770) 594-6185

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing ANSWER of Defendant CITY OF ROSWELL, GEORGIA has been served upon counsel for Plaintiffs and counsel for the co-defendants by mailing a copy of said Answer, postage prepaid, by United States Postal Delivery service, addressed as follows:

John R. Monroe, Esq.  
(Counsel for Plaintiffs)  
9640 Coleman Road  
Roswell, GA 30075

Gerry Clark, Esq.,  
Steve Rosenberg, Esq.  
Fulton County Attorney's Office  
141 Pryor Street, S.W.  
Atlanta, GA 30303

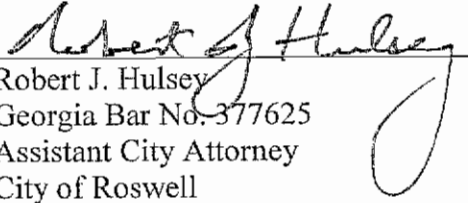
Elizabeth Chandler, Esq.  
City Attorney  
City of Atlanta  
68 Mitchell Street, Suite 4100  
Atlanta, GA 30303

Nina Hickson, Esq.  
City Attorney  
City of East Point  
2777 East Point Street  
East Point, GA 30344

Mark E. Scott, Esq.  
(City of Milton)  
Jarrard & Davis, LLP  
105 Pilgrim Village Drive, Suite 200  
Cumming, GA 30040

Dennis A. Davenport, Esq.  
(City of Union City)  
McNally, Fox & Grant P.C.  
100 Habersham Drive  
Fayetteville, GA 30214

This 20<sup>th</sup> day of September 2007.

  
Robert J. Hulsey  
Georgia Bar No. 377625  
Assistant City Attorney  
City of Roswell  
Attorney for Defendants

38 Hill Street, Suite 110  
Roswell, GA 30075