

STATE OF FLORIDA  
COMMISSION ON ETHICS  
P. O. DRAWER 15709, TALLAHASSEE, FLORIDA 32317-5709

COMMISSION ON ETHICS  
DATE RECEIVED  
MAR 10 2012

# COMPLAINT

## 12-036

### 1. PERSON BRINGING COMPLAINT:

Name: TERRY GEIGERT Telephone Number: \_\_\_\_\_

Address: PO Box 351758

City: PALM COAST County: FLAGLER Zip Code: 32135

### 2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

Current or former public officer, public employee, candidate, or lobbyist - please use one complaint form for each person you wish to complain against:

Name: TONY CAPELA Telephone Number: 386 986-3719

Address: 160 CYPRESSPOINT PKWY

City: PALM COAST County: FLAGLER Zip Code: 32164

Title of office or position held or sought: CITY OF PALM COAST STREET SUPERINTENDENT

### 3. STATEMENT OF FACTS:

Please explain your complaint fully, either on the reverse side of this form or on additional sheets, providing a detailed description of the facts and the actions of the person named above. Include relevant dates and the names and addresses of persons whom you believe may be witnesses. If you believe that a particular provision of Article II, Section 8, Florida Constitution (the Sunshine Amendment) or of Part III, Chapter 112, Florida Statutes (the Code of Ethics for Public Officers and Employees) has been violated, please state the specific section(s). Please do not attach copies of lengthy documents; if they are relevant, your description of them will suffice. Also, please do not submit video tapes or audio tapes.

### 4. OATH

I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint and attachments thereto are true and correct to the best of my knowledge and belief.

STATE OF FLORIDA  
COUNTY OF FLAGLER

Sworn to (or affirmed) and subscribed before me  
this 23rd day of FEB

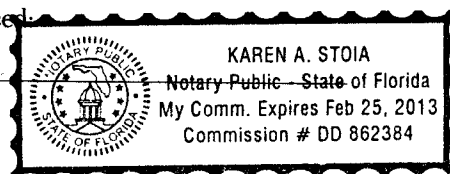
20 12, by TERRY GEIGERT  
(name of person making statement)

Karen A. Stoia  
(Signature of Notary Public - State of Florida)

KAREN A. STOIA  
(Print, Type, or Stamp Commissioned Name of Notary Public)

Terry Geigert  
SIGNATURE OF COMPLAINANT

Personally Known \_\_\_\_\_ OR Produced Identification ✓  
Type of Identification Produced: FL DL



**Jurisdiction of the Commission:** The Commission on Ethics has the authority to review and investigate complaints concerning possible breaches of the public trust (violations of the State's ethics laws) by public officers, public employees, and similar persons involved with state and local government in Florida, including Executive Branch lobbyists. Complaints about the actions of Judges should be brought to the Judicial Qualifications Commission, and complaints against attorneys in private practice should be made to The Florida Bar.

**Procedures followed by the Commission:** The Commission follows a three-stage process when it considers complaints.

The first stage is a determination of whether the allegations of the complaint are legally sufficient, that is, whether the complaint indicates a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally sufficient, the Commission will order that the complaint be dismissed without investigation and all records relating to the complaint will become public at that time.

If the complaint is found to be legally sufficient, the investigative staff of the Commission will begin an investigation. The second stage of the Commission's proceedings involves this investigation of the complaint and a decision by the Commission of whether there is probable cause to believe that there has been a violation of any of the ethics laws. If the Commission finds that there is no probable cause to believe that there has been a violation of the ethics laws, the complaint will be dismissed and will become public at that time.

If the Commission finds that there is probable cause to believe there has been a violation of the ethics laws, the complaint becomes public and enters the third stage of proceedings. The third stage requires that the Commission decide whether the law actually was violated and, if so, what penalty should be recommended. This stage requires a public hearing (trial) at which evidence would be presented.

**Attorney's Fees:** If the complaint is dismissed, the person against whom the complaint is filed can file a petition to have the complainant pay his or her attorney's fees, which will be awarded after a hearing if the Commission finds that the complaint was made with a malicious intent to injure the official's reputation, the complainant knew that the statements made about the official were false or made the statements about the official with reckless disregard for the truth, and the statements were material.

**Confidentiality:** The Commission cannot accept anonymous complaints and cannot keep the identity of the complainant or any witness confidential. A complaint, as well as all of the Commission's proceedings and records relating to the complaint, is confidential and exempt from the public records law either until the person against whom the complaint is made waives confidentiality, or until the complaint reaches a stage in the Commission's proceedings where it becomes public. The Commission's procedures on confidentiality do not govern the actions of the complainant or the person against whom the complaint is made.

**Legal Counsel:** Both the complainant and the person complained against can be represented by legal counsel during the Commission's proceedings.

**Other Information:** More information about the ethics laws and the Commission's responsibilities is available at the Commission's website, [www.ethics.state.fl.us](http://www.ethics.state.fl.us), which contains publications, rules, and other information.

To Whom This May Concern:

My name is Terry Geigert and I use to work for the City of Palm Coast Public Works Department until I was fired approximately two years ago. At the time I was assigned to the Parks Department crew. While assigned to this crew I was subject to harassment and intimidation by my crew leader Chester Henry. At the time I was asking questions because I noticed a private contractor that kept coming into are yard at Public Works. This contractor was using our equipment which was against City Policy and City supplies. They were also storing their equipment on city property which I thought odd because they were avoiding storage fees by doing this. I've never seen other contractors doing this. I started to ask questions and was told by my supervisor to let it go. The name of this company is called Road Tek. The owner is a personal friend of the Streets Superintendent Tony Capela. Sometime after I started to make these inquires I became the victim of harassment and discrimination. Because Public works is such a hostile working environment I was afraid to ask for help. One of the employees who I found out later had gone to human resources. He had told the director that all the male workers had been told not to speak to Terry and to ignore her. Know one was allowed to visit me at Holland Park where I was assigned to mow. If I had mechanical problems with my mower I couldn't even contact the mechanic. Male employees were even encouraged not to speak with me in the Public Works yard. After two weeks they employee asked me if the Human Resource Director Wendy Cullen had contacted me. I told him no. There was never an investigation to this day.

I believe this hostile environment was created by Tony Capela to divert anyone from questioning his favoritism with the company called Road Tek. I was vocal and questioned this behavior. One day in the Public Works yard Tony Capela approached me. He told me, "I am like God, City Hall loves me, I can do no wrong." "I am like God." "I can do anything I want." "I can make up a lie about you to get you fired, and they would believe me." A short time later I was transferred to the Concrete Crew where I have no experience. I felt that I was being setup for failure and that it wouldn't be long before I was terminated.

While on the concrete crew I was shocked at what I witnessed. I was vocal and questioned again why Road Tek was using city equipment to set concrete forms for drainage culverts and sidewalks. Tony Capela had City workers (me included) preparing the work site, setting the forms and doing all the back breaking work so all Road Tek had to do was pour and smooth out the concrete. The next day Public Works employees (me included) came back and cleaned the site of construction material. Free labor and free use of city supplies. I believe that was why I was retaliated against. A short time later I was terminated even after I pled my case to the Director of Public Works Richard Adams who is Tony Capela's immediate boss. Adams knew that there was a hostile working environment going on at Public Works and did nothing to prevent it. Upon my terminations I attempted to file suit with the Florida Department of Human Resources. The case was closed because I had no witnesses that would come forwards to give testimony for me. They were afraid they would loose their jobs once Tony Capela knew they tried to cooperate.

About Sept 2011 I contacted an attorney and requested to have my case reopened. I also contacted the Daytona News Journal because I wanted my story told. During this time Road Tek was still using Palm Coast City equipment, city supplies and free city workers to complete their contracts. I have photos of Road Tek's equipment being stored on City Property. I have photos of Road Tek's workers getting City Supplies like form boards and dirt to complete their projects. I have addresses where Road Tek has completed driveways to replace storm drains that were never inspected. I have personal knowledge that the inspectors were told by Tony Capela not to inspect Road Tek Work. I was also told that the driveways would not even pass inspection if they were inspected. During my investigation I found that Tony Capela had sold his house to the owner of Road Tek who is a personal friend of his from the Boston area. At this time Road Tek is getting all the contractor work and then some. I am not sure if Tony Capela holds the mortgage for this home, but I cannot find they lender in any documents I have searched so far. I have spoken to many people that have left the City of Palm Coast Public Works Department. When an employee leaves the City they are asked to complete an exit interview. I have copies of these

interviews that shows a very Hostile Working environment. That was a featured article in the News Journal dated 2/12/12. There have been other articles in the Palm Coast Observer and Flagler Live. At this time the News Journal has not addressed any of the contractor issues for that I am perplexed as the behavior is so obvious that it is or borders on criminal wrongdoing. One of the exit interviews is from a Supervisor that had his crew working for Road Tek. I have these interviews in my possession.

There are 3 Contractors who have a continuing service contract with City of Palm Coast Department of Public Works. Road Tek LLC, Environmental Services Inc, and 4C's Trucking and Excavation Inc. I have spoken with Chris Barney owner of 4C's Trucking. I called him on his cell phone and asked him if his company was allowed to use city supplies. He said no. He said as a matter of fact he was doing a job for the city and needed a replacement pipe and would have to order it. The city had one and wouldn't let him take it even though he offered to replace it when his came in. He can't store his equipment in Public Works yard, use city equipment, supplies or city works. Chris said that he hasn't had any work from the city in over a year. He often calls Tony Capela's 2nd in charge Renee Shevlin and she tells him there's no work. She tells him there are cutbacks and you know the budget problems. Road Tek works everyday. They even do many of the jobs that the Department of Public Works crews can do, but Tony Capela keeps them busy.

The hiring and promoting of employees is a picking and choosing of who Tony Capela wants and knows will not make any waves and enable his behavior. Tony hired his friend Renee Shevlin to be second in command at Public Works. Renee is not qualified for her position. Her job title is Public Works Chief Operator. Job requirements to hold such position are "Bachelors's Degree in Public Admin or closely related field to equivalent comb of education, training and experience. She has a high school diploma with experience as a secretary. She is referred to as Tony Junior because she helps facilitate the hostile working environment.

One of the Supervisors that left such a damaging exit interview shared with me this story. The City Manager Jim Landon was overheard by him telling Tony Capela. "You better start giving some work to the other contractors or people are going to get suspicious."

As of the publication by the News Journal of the Hostile Working Environment Road Tek has not been storing their equipment in the yard at Public Works. They are storing at another location. They do however come into the yard for supplies once they think all the rank and file are gone to do their daily task.

At this time I have dropped my lawsuit against the City of Palm Coast because I lacked the evidence to go forward with my case. Again I lacked the witnesses that I needed to come forward because they feared for their jobs. This story is ongoing and needs to be heard.

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