Entered - 05/31/00 - sb **00- R -1026**
CL00L0329 - DIANNE C. MITCHELL

CLAIM OF: MARIETTA FENCE COMPANY,
through its attorney,
D. Kent Shelton
1650 Roswell Road
Marietta, Georgia 30062

For damages alleged to have been sustained as a result of non-payment by the general contractor on a project at the Slaton-West Elementary School.

THIS ADVERSED REPORT IS APPROVED

BY: Rosalind Rubens Newell
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVERSED

COPY P.S. L.A.

DATE 7/11/00

C. T. Martin

Cleta Winslow

[illegible]

Sherry Dorsey

CONSENT AGENDA

ADVERSED BY CITY COUNCIL JUL 17 2000

CERTIFIED
JUL 17 2000
ATLANTA CITY COUNCIL PRESIDENT
Robert J. Pitts

CERTIFIED
JUL 17 2000
Rhonda Dauphin Johnson
MUNICIPAL CLERK

OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

July 28, 2000

D. Kent Shelton
Attorney at Law
1650 Roswell Rd.
Marietta, GA 30062

00-R-1026

RE: Marietta Fence Company

Dear Attorney Shelton:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on July 17, 2000. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division at (404) 330-6400**.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0329 Date: June 1, 2000

Claimant /Victim MARIETTA FENCE COMPANY, INC.
BY: (Atty) D. Kent Shelton
Address: 1650 Roswell Road, Marietta, Georgia 30062
Subrogation: _____ Claim for Property damage $ 14,030.00 Bodily Injury $ _____
Date of Notice: 05/24/00 Method: Written, proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence Not Stated Place: Slaton West Elementary School
Department _____ Division: _____
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant alleges it has not been paid by the general contractor for work performed at the above location. The investigation determined that this location is owned by the Atlanta Board of Education, which is a separate legal entity from the City of Atlanta. The claimant's attorney has been advised of the above.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____
Pictures _____ Diagrams _____ Reports: Police _____ Dept Report _____ Other _____
Traffic citations issued: City Driver _____ Claimant Driver _____
Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental _____ Ministerial _____
Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable _____
City not involved X Offer rejected _____ Compromise settlement _____
Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
Claimant Negligent _____ City Negligent _____ Joint _____ Claim Abandoned _____

Respectfully submitted,

INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay $ _____ Adverse X Account charged: 1A01 _____ 2J01 _____ 2H01 _____
Claims Manager: _____ Concur/date 06-26-00
Committee Action: adverse to CC 7/17/00 Council Action _____

FORM 23-61

Mitchell
05-30-00

D. KENT SHELTON, P.C.

ATTORNEY AT LAW
1650 ROSWELL ROAD
MARIETTA, GEORGIA 30062

770-509-9510

FAX: 770-977-7346

May 18, 2000

Office of the Mayor
City of Atlanta
55 Trinity Avenue
Suite 2400
Atlanta, Georgia 30335

VIA CERTIFIED MAIL
No. 7099 3400 0010 9993 ~~4108~~
6 6116

ENTERED - 6-12-00 - SB
00L0329 - DIANNE MITCHELL

Re: Marietta Fence Company, Inc. v DPS Industries, Inc.
APS Bond Funded
Bond Number: 5937779
Slaton-West Elementary School

RECEIVED
MAY 24 2000
OFFICE OF MAYOR CAMPBELL

Dear Sir or Madam:

Please be advised that I represent Marietta Fence Company. I am writing regarding the outstanding balance owed by DPS Industries, Inc. in the amount of $14,030.00 plus interest to Marietta Fence Company, Inc. on the above-referenced project. DPS Industries is the general contractor on the Slaton-West Elementary School project.

This correspondence shall serve as formal written notice that my client hereby makes a claim under the above-referenced payment bond for the payment of $14,030.00 plus accrued interest, within 10 days or your receipt of this correspondence. If such payment is immediately made, all actions against the bond will cease. If payment is not immediately made, however, further legal action will be pursued in order to enforce the rights under the bond. Upon your receipt of this correspondence, please contact me and I will provide you with a payoff on this indebtedness.

I have enclosed copies of my client's contract with DPS and its invoice for said work.

Should you have further questions regarding this matter, please do not hesitate to contact me.

I look forward to receiving payment in the aforementioned time period.

00- R -1026

Sincerely,
D. KENT SHELTON, P. C.

D. Kent Shelton

Enclosures as stated above.

cc: Marietta Fence Company, Inc.
First National Insurance Company
DPS Industries, Inc.
File