

Entered - 7-14-00- sb
CL 00L0388- GWENDOLYN BURNS

CLAIM OF: **ANDRIAN V. POSESCU**
4288 Powers Ferry Road
Atlanta, Georgia 30342

For damages alleged to have been sustained
as a result of a sewer back up on October 6,
1999 at 4288 Powers Ferry Road.

CONSENT AGENDA
THIS ADVERSED REPORT IS
APPROVED

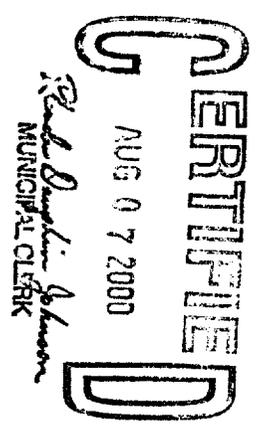
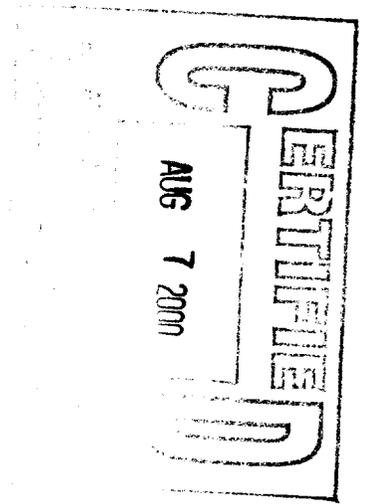
BY: *Rosalind Rubens Newell*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVERSE REPORT

COM. Public Supply
8/11/2000

C. T. Martin

[Handwritten signatures and initials]



ADVERSE REPORT
CITY COUNCIL
AUG 07 2000

August 28, 2000

Andrian V. Posescu
4288 Powers Ferry Rd.
Atlanta, GA 30342

00-R-1153

Dear Ms. Posescu:

I sincerely regret that you have been adversely affected by the circumstances raised in your 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 claim at its regular meeting on August 07, 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.**

Sincerely,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0388

Date: July 17, 2000

Claimant /Victim ANDRIAN V. POPESCU

BY: (Atty) (Ins. Co.)

Address: 4288 Powers Ferry Road, Atlanta, Georgia 30342

Subrogation: Claim for Property damage \$ Undetermined Bodily Injury \$

Date of Notice: 6/19/00 Method: Written, Proper X Improper

Conforms to Notice: O.C.G.A. §36-33-5 Ante Litem (6 Mo.)

Date of Occurrence 10/6/99 Place: 4288 Powers Ferry Road

Department PUBLIC WORKS Division Sewer Operations

Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that he sustained damages to his home from a sewer back up. However, the claim as presented does not comply with the same requirements of notice as set forth in O.C.G.A. Section 36-33-5(b). The six month statute of limitation expired prior to receipt of the claim.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral

Pictures Diagrams Reports: Police Dept Report Other X

Traffic citations issued: City Driver Claimant Driver

Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial

Improper Notice More than Six Months X Other Damages reasonable

City not involved Offer rejected Compromise settlement

Repair/replacement by Ins. Co. Repair/replacement by City Forces

Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,

Gwendolyn Burns
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01

Claims Manager: Concur/date 07-19-00

Committee Action: Council Action

BURNS
06/19/00
DW
Herb Burns

COUNCIL of the CITY OF ATLANTA
CLERK OF COUNCIL
68 Mitchell Street, SW
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

DATE: 12/1/99
ENTERED - 6-27-00 - SB
00L0388 - GWEN BURNS

Dear Sir:

This is to notify the City of Atlanta that I have suffered damages in the sum of \$ 3000.00 property and/or \$ 0 bodily injury for which I contend the City is liable.

1. Date of accident: OCT. 6 1999 2. Police called: No
SEWER MAIN BACKUP (yes) (no)
3. Location of accident 4288 POWERS FERRY RD.
4. Name of your insurance company: TRAVELERS
5. State how accident occurred: CITY SEWER MAIN BACKED UP TO MANHOLE COVER AND FLOODED BASEMENT OF RESIDENCE.
6. If a vehicular accident, complete the following and attach two (2) estimates of repair. ALL ESTIMATES AND VEHICLE DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE STATEMENTS WILL RESULT IN YOUR CLAIMS BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION! The registered owner must make the claim for vehicle damages.
7. Your vehicle: _____
(make) (year) (tag#) (driver's name)
8. City vehicle: _____
(make) (year) (tag#) (drivers name)
9. Witness: _____
(name) (phone) (address)
10. The knowledge of this claim in no way waives the Governmental Immunity of the City of Atlanta, as granted by State Law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

I HEREBY CERTIFY THE ABOVE INFORMATION IS TRUE AND CORRECT.

11. THIS CLAIM SHOULD BE MAILED IMMEDIATELY TO THE ADDRESS SHOWN ABOVE

Gwen Burns
(Claimant)
4288 POWERS FERRY RD.
(address)
ATLANTA GA. 30342
(City) (State) (Zip)
404/255-3991 404/2331776
(home) (phone) (work)

00- R -1153