

00-R-1203

(Do Not Write Above This Line)

A RESOLUTION

**BY PUBLIC SAFETY & LEGAL
ADMINISTRATION COMMITTEE**

**A RESOLUTION AUTHORIZING
THE SETTLEMENT OF THE
CLAIM OF ANTONIO & LAKISHA
YARBROUGH IN THE AMOUNT
OF \$2,932.60 AGAINST THE CITY
OF ATLANTA ARISING FROM A
SEWER BACK UP**

ADOPTED BY

Rosalind Rubens Newell
By: Rosalind Rubens Newell
Deputy City Attorney

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair C. T. Martin
 Referred to _____

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

2nd 1st & 2nd 3rd

Readings

Consent V Vote RC Vote

CERTIFIED

CERTIFIED
AUG 7 2000

CERTIFIED
AUG 0 7 2000

Rosalind Rubens Newell
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

AUG 16 2000

WITHOUT SIGNATURE
BY OPERATION OF LAW

CITY COUNCIL
ATLANTA, GEORGIA

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

00-R-1203

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF ANTONIO & LAKISHA YARBROUGH IN THE AMOUNT OF \$2,932.60 AGAINST THE CITY OF ATLANTA ARISING FROM A SEWER BACK UP.

WHEREAS, ANTONIO and LAKISHA YARBROUGH have filed a claim against the City of Atlanta seeking damages arising out of a sanitary sewer back up to their property located at 2310 Paul Avenue, Atlanta, Georgia; and

WHEREAS, property owned by ANTONIO and LAKISHA YARBROUGH has been damaged due to sewer back ups and sewer overflows due to the blockage of the mainline. This blockage is due to an accumulation of grease, sludge and roots which the City had knowledge of prior to the back up which occurred on June 8, 1998 specifically; and

WHEREAS, the City of Atlanta was on notice of said nuisance and made an attempt, however unsuccessful, to abate said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimants have asserted damages in the amount of \$3,557.72 and have agreed to accept \$2,932.60 in full and complete satisfaction and settlement of their claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of ANTONIO and LAKISHA YARBROUGH, be settled for the sum of \$2,932.60.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$2,932.60 be paid by the City of Atlanta to ANTONIO and LAKISHA YARBROUGH, in satisfaction of any and all claims they may have stemming from damages sustained to their property on or about June 8, 1998, at 2310 Paul Avenue, SW, and that the City Attorney prepare appropriate releases.

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

A true copy,

Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403

AUG 07, 2000

AUG 16, 2000

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 98L0484

Date: July 20, 2000

Claimant /Victim ANTONIO & LAKISHA YARBROUGH
BY: (Atty) (Ins. Co.)
Address: 1352 Harbin Road, Atlanta, Georgia 30311
Subrogation: Claim for Property damage \$ 3,557.72 Bodily Injury \$
Date of Notice: 7/6/98 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 7/13/97, 6/8/98 Place: 2310 Paul Avenue, SW
Department PUBLIC WORKS Division Sewer Operations
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimants sustained property damages to their residence from a sanitary sewer back up. An investigation determined that the City was on notice of said sewer problem at this location prior to the June 8, 1998 occurrence, but failed to correct it.

INVESTIGATION:

Statements: City employee Claimant X Others Written Oral X
Pictures Diagrams Reports: Police Dept Report X 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 Other Damages reasonable X
City not involved Offer rejected Compromise settlement X
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent X Joint Claim Abandoned

Respectfully submitted,

Gwendolyn Burns
INVESTIGATOR - GWENDOLYN BURNS

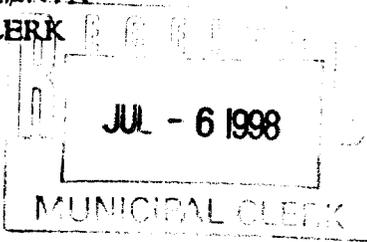
RECOMMENDATION:

Pay \$ 2,932.60 Adverse Account charged: 1A01 2J01 X 2H01
Claims Manager: Concur/date 07/21/00
Committee Action: Council Action

Oatis
07/13/98
[Signature]

COUNCIL OF THE CITY OF ATLANTA
OFFICE OF THE MUNICIPAL CLERK
55 Trinity Avenue, S.W.
Suite 2700
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES



TODAY'S DATE: 6/29/98

ENTERED - 7-17-98 - SB
98L0484 - ANTHONY OATIS

Dear Sir/Madame:

This is to notify the City of Atlanta that I have suffered damages in the sum of \$ 3557.72 property and/or \$ _____ bodily injury for which I contend the City is liable.

- 1. Date of incident: 6/8/98 (month day year) 2. Police called _____ yes no
- 3. Location of incident: 2310 Paul Avenue Atlanta GA 30318
- 4. Name of your insurance company _____ Policy # _____
- 5. State what and how incident occurred: See the Attached Information

(use other side if necessary)

- 6. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE STATEMENTS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!
- 7. The registered owner must make the claim for vehicle damages. Complete the following and attached two estimates of repair.

Your vehicle: _____
 (make) (year) (tag#) (driver's name)

City vehicle: _____
 (make) (driver's name) (department)

8. Witness: _____
(name) (address) (phone)

9. The acknowledgement 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 SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT!

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

Antenior LaKisha Yarbrough (SEAL)
 (claimant)
2520 Forrest Ave. Sw
 (address)
Atlanta GA. 30318
 (city) (state) (zip)
404 699-0954 / 770 396-1442
 (home) (phone) (work)

New address
1352 Harbin Road
Atlanta, 30311
(7) 987-5408 (hm)

June 29, 1998

COUNCIL OF THE CITY OF ATLANTA OFFICE OF THE MUNICIPAL CLERK
55 TRINITY AVENUE, S.W.
SUITE 2700
ATLANTA, GEORGIA 30335

Dear: Municipal Clerk,

Our names are Antonio and LaKisha Yarbrough. We are writing you in regards to a problem that we encountered on the 8th day of June 1998.

We were inside of our home when the toilets started bubbling and black sewage started coming out of them and over flowing on the floor. This also happened with the bath tubs. Sewage continued to flow out of the tubs and the toilets. It covered the carpet leading form (room 1) the bathroom, the dressing area, the closet and the front door, (room 2) the bathroom and the entire room including the closet and leading out into the dining room. Needless to say most of our cloths and shoes and some personal, as well as house hold items were completely covered with sewage, contaminated and distorted.

I have included copies of the pictures that I took of the items that were distorted along with pictures of the rooms that were also messed up. There is also a detailed list of the things that are pictured that can be seen along with prices and whether or not they were work issued, we bought them or they were gifts and if there are receipts attached in side of this packet. You will be able to see that there is a big pile of cloths, shoes and other items that are in the middle of the living room and the dining room floors. Not all of our cloths were soiled at first but when the cleaning people came in to clean the carpet the just piled soiled cloths on top of close that were not already soiled therefor distorting them as well.

The total has come to \$3557.75. This amount comes from the things that were distorted as well as lost wages and other expenses that were encountered due to this unfortunate incident. We hope that we can settle this matter in a timely fashion. If there is anything else that we can provide for you in order to settle this matter please give us a call.

Sincerely,

Antonio D. Yarbrough



LaKisha G. Yarbrough



Attachments 23

GENERAL RELEASE AND INDEMNIFICATION

CLAIM NUMBER 98L0484

\$ 2,932.60

IN CONSIDERATION of the sum of TWO THOUSAND NINE HUNDRED THIRTY-TWO DOLLARS AND 60/100s DOLLARS, to be paid by the CITY OF ATLANTA, the future receipt of which is hereby acknowledged, I do hereby, for myself, my heirs, executors, administrators, and assigns, release and forever discharge said City, its officers and employees, from any and all claims, demands, actions, causes of action, suits, damages, loss and expenses, of whatsoever kind or nature for or on account of anything that has heretofore occurred, and particularly for or on account of a property damage incident - sewer back up which occurred on or about the 8th day of June, 1999, at or near 2310 Paul Avenue, SW.

It is further understood and agreed that the payment of the above named sum is not to be considered as an admission on the part of the City, its officers, agents, servants or employees, of any liability whatsoever and the undersigned further covenants and agrees to indemnify and hold harmless the City of Atlanta, its officers, agents, servants and employees, from any and all claims, damages or costs which the said City of Atlanta, its officers, agents, servants and employees, may be called upon to make as a result of the event hereinbefore referred to.

And I now state that the only consideration for my signing this release and indemnification is the payment of the sum stated above; that no other promise or agreement of any kind or nature has been made to or with me by said City or its agents to cause me to sign this release, and that I fully understand the meaning and intent of this instrument.

WITNESS my hand and seal this 21 day of July, 2000.

Antonio Yarbrough (LS)
ANTONIO YARBROUGH

Lakisha Yarbrough (LS)
LAKISHA YARBROUGH

The above release was read and explained to, and signed by the said Antonio & Lakisha Yarbrough in our presence on the date above written.

Clara B.
Arnell Parker
WITNESSES

RCS# 2153
8/07/00
4:06 PM

Atlanta City Council

Regular Session

CONSENT 1

Pages 1-15 KP

Adopt

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

NV McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	B Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

ITEM (S) REMOVED FROM
CONSENT AGENDA
00-O-1102
00-R-1197
00-R-1106
00-R-1123
00-R-0721

08/07/00 Council Meeting		
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
1. 00-O-1009	41. 00-R-1175	64. 00-R-1148
2. 00-O-1010	42. 00-R-1176	65. 00-R-1149
3. 00-O-1011	43. 00-R-1177	66. 00-R-1150
4. 00-O-1012	44. 00-R-1178	67. 00-R-1151
5. 00-O-1079	45. 00-R-1179	68. 00-R-1152
6. 00-O-0834	46. 00-R-1180	69. 00-R-1153
7. 00-O-1065	47. 00-R-1181	70. 00-R-1154
8. 00-O-1004	48. 00-R-1182	71. 00-R-1155
9. 00-O-1112	49. 00-R-1183	72. 00-R-1156
10. 00-R-1139	50. 00-R-1184	73. 00-R-1157
11. 00-R-1140	51. 00-R-1185	74. 00-R-1158
12. 00-R-1141	52. 00-R-1186	75. 00-R-1159
13. 00-R-1142	53. 00-R-1187	76. 00-R-1160
14. 00-R-1144	54. 00-R-1188	77. 00-R-1161
15. 00-R-1204	55. 00-R-1189	78. 00-R-1162
16. 00-R-1208	56. 00-R-1190	79. 00-R-1163
17. 00-R-1209	57. 00-R-1191	80. 00-R-1164
18. 00-R-1210	58. 00-R-1192	81. 00-R-1165
19. 00-R-1106	59. 00-R-1193	82. 00-R-1166
20. 00-R-1146	60. 00-R-1199	83. 00-R-1167
21. 00-R-1147	61. 00-R-1200	84. 00-R-1168
22. 00-R-1194	62. 00-R-1201	85. 00-R-1169
23. 00-R-1203	63. 00-R-1202	86. 00-R-1170
24. 00-R-1205		87. 00-R-1171
25. 00-R-1212		88. 00-R-1172
26. 00-R-1213		89. 00-R-1173
27. 99-R-1145		90. 00-R-1174
28. 99-R-1932		
29. 00-R-1108		
30. 00-R-1110		
31. 00-R-1129		
32. 00-R-1130		
33. 00-R-1131		
34. 00-R-1134		
35. 00-R-1206		
36. 00-R-1121		
37. 00-R-0329		
38. 00-R-1136		
39. 00-R-1137		
40. 00-R-1138		