

00-R-1723

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF MARY JEFFERSON IN THE AMOUNT OF \$4,907.00 AGAINST THE CITY OF ATLANTA ARISING FROM A SEWER BACK UP

By: Rosalind Rubens Newell Deputy City Attorney

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

Date Referred COUNCIL

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee
Date
Chair
Referred to

Committee

Date 10/31/00

Chair [Signature]

Action: Fav, Adv, Hold (see rev. side)
Other:

Members [Signatures]

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 NOV 6 2000 [Signature]

CERTIFIED NOV 6 2000 [Signature]

MAYOR'S ACTION

APPROVED

NOV 15 2000

WITHOUT SIGNATURE BY OPERATION OF LAW



CITY COUNCIL
ATLANTA, GEORGIA

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

00-*R*-1723

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF MARY JEFFERSON IN THE AMOUNT OF \$4,907.00 AGAINST THE CITY OF ATLANTA ARISING FROM SEVERAL SEWER BACK UPS.

WHEREAS, MARY JEFFERSON has filed a claim against the City of Atlanta seeking damages arising out of several sanitary sewer back ups to her property located at 2369 Colorado Trail, SW, Atlanta, Georgia; and

WHEREAS, property owned by MARY JEFFERSON has been damaged due to sewer back ups and sewer overflows due to the blockage of the mainline. This continuous blockage was due to an accumulation of grease, sludge and roots which the City had knowledge of prior to the back up which occurred in February, 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 claimant has asserted damages in the amount of \$4,907.00 and has agreed to accept this sum in full and complete satisfaction and settlement of her claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of MARY JEFFERSON, be settled for the sum of \$4,907.00.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$4,907.00 be paid by the City of Atlanta to MARY JEFFERSON, in satisfaction of any and all claims she may have stemming from damages sustained to her property on or about December 10, 1997 through February, 1998, at 2369 Colorado Trail, 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 Dauphin Johnson
Municipal Clerk. CMC

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

NOV 06, 2000

NOV 15, 2000



DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 98L0143

Date: October 20, 2000

Claimant /Victim MARY JEFFERSON
BY: (Atty) (Ins. Co.)
Address: 2369 Colorado Trail, SW, Atlanta, Georgia 30331
Subrogation: Claim for Property damage \$ 4,907.00 Bodily Injury \$
Date of Notice: 2/19/98 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 12/10/97 - 2/98 Place: 2369 Colorado Trail, SW
Department PUBLIC WORKS Division Sewer Operations
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant sustained property damages to her residence from several continuous sanitary sewer back ups. An investigation determined that the City was on notice of said sewer problem at this location but failed to timely identify the problem and correct it.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures Diagrams Reports: Police Dept Report X Other
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
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:

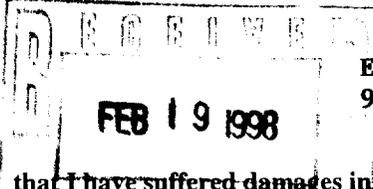
Pay \$ 4,907.00 Adverse Account charged: 1A01 2J01 X 2H01
Claims Manager: Concur/date 10-20-00
Committee Action: Council Action

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

OATIS
02-2398
DU

Today's Date: 2/13/98



ENTERED - 3-9-98 - SB
98L0143 - ANTHONY OATIS

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 800.00 property and/or \$ _____ bodily injury for which I contend the City is liable.

1. Date of incident: 12-10-97 Thu. 2/1/98 2. Time of Incident: 5:00 p.m. 3. Police called: _____ Yes No

* Problem is still going on.

4. Location of incident (including street address): 2369 Colorado Trail, S.W. ATL, GA 30335

5. Name of your insurance company: ~~Kemper~~ *Leeper* Insurance Policy No. UP782629

6. State what and how incident occurred: Our loss is the spending of money to eliminate a problem that was a city problem and a ruined shower, Toilet and stained carpet. How loss occurred: We notified the city 12-10-97 of sewage back up into our home after Harold Plumbing Services suggested a means to eliminate the problem after running 140' of cable through our main line, but informed us that the problem was with the city's lines. The city came out repeatedly but did not eliminate the problem nor did they locate our ~~As~~ *hook* up with the city. Because my husband and I are disabled, 3 minors kids in the home, nowhere else to live, sewage back up and the terrible smell in our home, we were forced to call another service. Roto Rooter came out 1-15-98

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

and ran 130' of cable and installed a clean out but the problem continued because again we were informed that it is a city's problem. Again the city came out 12-17-98

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).
Your vehicle: _____
*2nd being finally when we connected with the city's line, dug and found that ~~it was~~ *there was* ~~plastic~~ *plastic* pipes ~~at~~ *at* the street. As of today, our yard is still a mess.*

If the city had found the lines, I was told they should have known by Mr. Callahan,
City vehicle: _____
They would have known the problem and we would not have the loss.

9. Witness: _____
(Name) (Address) (Telephone Number)

10. The acknowledgement of this claim in no way waives the sovereign 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).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

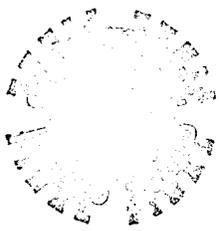
[Signature]
Signature of Claimant

Mary Jefferson
(Print Claimant's Name)

2369 Colorado Trail S.W.
(Address)

Atlanta, Georgia 30331
(City, State and Zip Code)

404-344-0834
(Work Number) (Home Number)



GENERAL RELEASE AND INDEMNIFICATION

CLAIM NUMBER 98L0143

\$ 4,907.00

IN CONSIDERATION of the sum of FOUR THOUSAND NINE HUNDRED SEVEN DOLLARS AND NO/100 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, 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 several property damage incidents - sewer back ups which occurred on or about the 10th day of December, 1997 through February, 1998, at or near 2369 Colorado Trail, 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 18th day of October, 2000.

Mary Jefferson (LS)
MARY JEFFERSON

_____ (LS)

The above release was read and explained to, and signed by the said Mary Jefferson in our presence on the date above written.
(Mary Jefferson)

Deborah A. Kelly
George L. O'Connell
WITNESSES

RCS# 2356
11/06/00
2:45 PM

Atlanta City Council

Regular Session

CONSENT

Pages 1-17

ADOPT

YEAS: 14
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 1

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

Y McCarty
B Starnes
Y Bond
Y Winslow

Y Dorsey
Y Woolard
Y Morris
Y Muller

Y Moore
Y Martin
Y Maddox
Y Boazman

Y Thomas
Y Emmons
Y Alexander
NV Pitts

ITEM (S) REMOVED FROM
CONSENT AGENDA
00-R-1422
00-R-1666

CONSENT

		11/06/00 Council Meeting
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
1. 00-O-1577	30. 00-R-1716	59. 00-R-1753
2. 00-O-1586	31. 00-R-1724	60. 00-R-1754
3. 00-O-1615	32. 00-R-1725	61. 00-R-1755
4. 00-O-1661	33. 00-R-1727	62. 00-R-1756
5. 00-O-1663	34. 00-R-1728	63. 00-R-1757
6. 00-O-1670	35. 00-R-1729	64. 00-R-1758
7. 00-R-1578	36. 00-R-1730	65. 00-R-1759
8. 00-R-1685	37. 00-R-1731	66. 00-R-1760
9. 00-R-1780	38. 00-R-1732	67. 00-R-1761
10. 00-R-1659	39. 00-R-1733	68. 00-R-1762
11. 00-R-1688	40. 00-R-1734	69. 00-R-1763
12. 00-R-1689	41. 00-R-1735	70. 00-R-1764
13. 00-R-1704	42. 00-R-1736	71. 00-R-1765
14. 00-R-1722	43. 00-R-1737	72. 00-R-1766
15. 00-R-1723	44. 00-R-1738	73. 00-R-1767
16. 00-R-1708	45. 00-R-1739	74. 00-R-1768
17. 00-R-1774	46. 00-R-1740	75. 00-R-1769
18. 00-R-1709	47. 00-R-1741	76. 00-R-1770
19. 00-R-1710	48. 00-R-1742	77. 00-R-1771
20. 00-R-1711	49. 00-R-1743	78. 00-R-1772
21. 00-R-1712	50. 00-R-1744	79. 00-R-1773
22. 00-R-1713	51. 00-R-1745	
23. 00-R-1714	52. 00-R-1746	
24. 00-R-1715	53. 00-R-1747	
25. 00-R-1717	54. 00-R-1748	
26. 00-R-1718	55. 00-R-1749	
27. 00-R-1719	56. 00-R-1750	
28. 00-R-1720	57. 00-R-1751	
29. 00-R-1721	58. 00-R-1752	