

A RESOLUTION

00- 12-1937

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF PETER S. LEAFMAN IN THE AMOUNT OF \$5,036.25 AGAINST THE CITY OF ATLANTA ARISING FROM A SEWER BACK UP.

WHEREAS, PETER S. LEAFMAN has filed a claim against the City of Atlanta seeking damages arising out of a sanitary sewer back up to his property located at 3085 Peachtree Road, NE, Atlanta, Georgia; and

WHEREAS, property owned by PETER S. LEAFMAN has been damaged due to a water line that was ruptured by city workers as they attempted to locate a clean out valve to resolve a sewer back up; 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

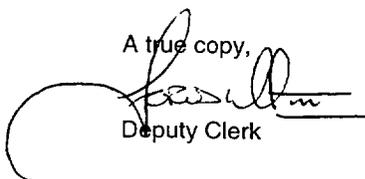
WHEREAS, the claimant has asserted damages in the amount of \$5,036.25 and has agreed to accept this sum in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of PETER S. LEAFMAN, be settled for the sum of \$5,036.25.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$5,036.25 be paid by the City of Atlanta to PETER S. LEAFMAN, in satisfaction of any and all claims he may have stemming from damages sustained to his property on or about August 19, 1998, at 3085 Peachtree Road, NE, Atlanta, 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,


Deputy Clerk

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

DEC 04, 2000

DEC 13, 2000

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 98L0628

Date: November 16, 2000

Claimant /Victim PETER S. LEAFMAN
BY: (Atty) (Ins. Co.)
Address: 3085 Peachtree Road, Atlanta, Georgia 30305
Subrogation: Claim for Property damage \$ 5036.00 Bodily Injury \$
Date of Notice: 8/26/98 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 8/19/98 Place: 3085 Peachtree Road, NE
Department PUBLIC WORKS Division Sewer Operations
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant sustained property damage when a city sanitary sewer crew ruptured a water line while attempting to locate a clean out valve during a sewer back up.

INVESTIGATION:

Statements: City employee X Claimant Others Written Oral X
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,

[Signature]
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 5,036.25 Adverse Account charged: 1A01 2J01 X 2H01
Claims Manager: [Signature] Concur/date 11-17-00
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
09/12/98
Jm

Today's Date: 8/21/98

ENTERED - 9-14-98 - SB
98L0628 - ANTHONY OATIS

6 1998
MUNICIPAL CLERK

Dear Municipal Clerk:

merchandise + loss of business

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 5000⁰⁰ property and/or \$ _____ bodily injury for which I contend the City is liable.

1. Date of incident: 8/19/98 (month/day/year). 2. Time of Incident: 2:00 pm 3. Police called: Yes No

4. Location of incident (including street address): 3085 Peachtree Rd., Atlanta, 30305 (at E. Paces Ferry)

5. Name of your insurance company: CNA Policy No. 4006930161

6. State what and how incident occurred: See attached

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!

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: _____
(Make) (Year) (Tag Number) (Driver's Name)
City vehicle: _____
(Make) (City Driver's Name) (Department/Bureau)

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

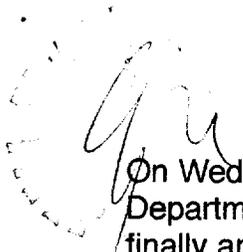
10. The acknowledgement of this claim in no way waives the sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and / or its employee(s).

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.

Peter Leafman
Signature of Claimant

PETER S. LEAFMAN
(Print Claimant's Name)
3085 Peachtree Rd.
(Address)
Atlanta, GA. 30305
(City, State and Zip Code)
770-977-8494 770-977-3535
(Work Number) (Home Number)



On Wednesday, August 19, 1998, after numerous phone calls to the Atlanta Department of Sewers due to a sewage back-up through the toilet in my store, a crew finally arrived to investigate the problem. After checking for a possible blockage in my place of business it was decided to dig a hole through the concrete in the sidewalk against the exterior wall of my building to check the clean out and for any blockage in the sewer line. Upon digging the hole the crew broke a water line that started to fill the already dug hole. Once the hole was quickly flooded the water overflowed into my store flooding half of my business before the crew could determine where the water cut-off was on the street and then pumping water out of the hole.

Later the same day a city crew did come into the store to use a wet-vac sucking up some of the water. There was still a considerable amount of water under some unmovable racks and in some portions of the carpeting and in the walls. The next day, August 20, the sewer department crew came back to determine why the sewer system was not yet clear. They could not figure out where the blockage was on the street. They returned again on Friday the 21st to continue to dig up the street trying to find the blockage. They were unsuccessful. My business has now been without a usable toilet since Friday, August 14. I had a plumber put a plug in the toilet to keep sewage from backing up into my store at night when the amount of sewage is at its greatest due to all the bars and restaurants in the area.

At this point my store has a very strong mildew smell due to the water flooding the store, I have no toilet for employee or customer use due to the sewer blockage somewhere out on the street, I have a large gaping hole outside my store and I am sure that my business and employees are suffering from all of this. I have been in this same location for over 16 years and have tried to keep my property in as good condition as possible and have paid my property taxes (which are considerable) for all that time. Now I am about to have a severe decrease in business due to all of the above. This business is my livelihood and the livelihood of about eight employees. I need the sewage problem fixed as soon as possible so we can get back to standard operating procedures. My experience in trying to contact someone with the knowledge to fix the problem and the authority has been extremely discouraging. I have been forwarded to supervisors who it turns out are on vacation for two weeks but not told that until I reached a city employee who happened to know that he was out. I have been transferred to other supervisors who have not returned calls or been unresponsive to the problem. All I need is to get the sewer problem fixed so my customers and employees can be in a comfortable environment and I will be able to pay my bills.

Thanks for listening.

GENERAL RELEASE AND INDEMNIFICATION

CLAIM NUMBER 98L0628

\$ 5,036.25

IN CONSIDERATION of the sum of FIVE THOUSAND AND THIRTY-SIX AND 25/100
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, 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
which occurred on or about the 19th day of August, 1998,
at or near 3085 Peachtree Road

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 _____ day of _____, 20 _____.

Peter S. Leafman (LS)
Peter S. Leafman

The above release was read and explained to, and signed by the said Peter S. Leafman
(Peter S. Leafman)
_____ in our presence on the date above written.

Sherry L. Shepherd
J. M. L.
WITNESSES

RCS# 2434
12/04/00
3:58 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1-19

ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

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

ITEM (S) REMOVED FROM
CONSENT AGENDA
00-O-1874
00-O-1986
00-R-1950

CONSENT

12/04/00 Council Meeting		
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
1. 00-O-1289	36. 00-R-1959	64. 00-R-1816
2. 00-O-1680	37. 00-R-1882	65. 00-R-1817
3. 00-O-1792	38. 00-R-1985	66. 00-R-1818
4. 00-O-1797	39. 00-R-1943	67. 00-R-1819
5. 00-O-1003	40. 00-R-1945	68. 00-R-1820
6. 00-O-1228	41. 00-R-1946	69. 00-R-1821
7. 00-O-1795	42. 00-R-1947	70. 00-R-1822
8. 00-O-1796	43. 00-R-1948	71. 00-R-1823
9. 00-O-1860	44. 00-R-1949	72. 00-R-1824
10. 00-O-1616	45. 00-R-1951	73. 00-R-1825
11. 00-O-1853	46. 00-R-1970	74. 00-R-1826
12. 00-O-1801	47. 00-R-2016	75. 00-R-1827
13. 00-O-1963	48. 00-R-1901	76. 00-R-1828
14. 00-O-1965	49. 00-R-1902	77. 00-R-1829
15. 00-R-1788	50. 00-R-1903	78. 00-R-1830
16. 00-R-1886	51. 00-R-1904	79. 00-R-1831
17. 00-R-1953	52. 00-R-1905	80. 00-R-1832
18. 00-R-1955	53. 00-R-1906	81. 00-R-1833
19. 00-R-2009	54. 00-R-1907	82. 00-R-1834
20. 00-R-2010	55. 00-R-1908	83. 00-R-1836
21. 00-R-2011*	56. 00-R-1909	
22. 00-R-1890	57. 00-R-1910	
23. 00-R-1937	58. 00-R-1911	
24. 00-R-1938	59. 00-R-1912	
25. 00-R-1939	60. 00-R-1913	
26. 00-R-1940	61. 00-R-1914	
27. 00-R-1988	62. 00-R-1915	
28. 00-R-2006	63. 00-R-1916	
29. 00-R-2013		
30. 00-R-1887		
31. 00-R-2015		
32. 00-R-1957		
33. 00-R-1958		
34. 00-R-1877		
35. 00-R-2008		

* President Pitts
recused himself.

00-1937

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF PETER S. LEAFMAN IN THE AMOUNT OF \$5,036.25 AGAINST THE CITY OF ATLANTA

By: *Robert N. Godfrey*

Robert N. Godfrey
Deputy City Attorney

ADOPTED BY
DEC 04 2000

- 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

[Signature]

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 Readings
- 3rd
- Consent
- V Vote
- RC Vote

CERTIFIED

DEC 4 2000

John M. Jones
COUNCIL PRESIDENT PROTEM

[Signature]
DEC 04 2000

MAYOR'S ACTION

APPROVED

DEC 12 2000

WITH RESOLUTION
BY OPERATIONAL...