

CITY COUNCIL  
ATLANTA, GEORGIA

A RESOLUTION

00- R -1940

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF PENELOPE DEWBERRY IN THE AMOUNT OF \$12,923.15 AGAINST THE CITY OF ATLANTA ARISING FROM SEVERAL SEWER BACK UPS.**

**WHEREAS**, PENELOPE DEWBERRY has filed a claim against the City of Atlanta seeking damages arising out of several sanitary sewer back ups to her property located at 2207 Delano Drive, NE, Atlanta, Georgia; and

**WHEREAS**, property owned by PENELOPE DEWBERRY 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 April 8, April 15, April 30, May 7, June 12 and July 7, 1998 specifically; and

**WHEREAS**, the City of Atlanta was on notice of said nuisance and made several attempts, 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

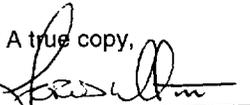
**WHEREAS**, the claimant has asserted damages in the amount of \$50,000.00 and has agreed to accept \$12,923.15 in full and complete satisfaction and settlement of her claim against the City of Atlanta; and

**WHEREAS**, the City Attorney has recommended that the claim of PENELOPE DEWBERRY, be settled for the sum of \$12,923.15.

**THEREFORE, BE IT RESOLVED** that the Council of the City of Atlanta, Georgia that \$12,923.15 be paid by the City of Atlanta to PENELOPE DEWBERRY, in satisfaction of any and all claims she may have stemming from damages sustained to her property on or about April 8, April 15, April 30, May 7, June 12 and July 7, 1998, at 2207 Delano Drive, NE, 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. 98L0736

Date: November 16, 2000

Claimant /Victim PENELOPE DEWBERRY
BY: (Atty) (Ins. Co.)
Address: 2207 Delano Drive, NE, Atlanta, Georgia 30317
Subrogation: Claim for Property damage \$ 50,000.00 Bodily Injury \$
Date of Notice: 9/18/98 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 4/8/98, 4/15/98, 4/30/98, 5/7/98, 6/12/98, 7/7/98 Place: 2207 Delano Drive, NE
Department PUBLIC WORKS Division Sewer Operations
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant sustained property damages to her residence from several sanitary sewer back ups. An investigation determined that Claimant's back ups continued for some length of time and the City was on notice of said sewer problems, but failed to permanently correct them.

INVESTIGATION:

Statements: City employee X 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
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,

[Handwritten Signature]
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 12,923.15 Adverse Account charged: 1A01 2J01 X 2H01
Claims Manager: [Handwritten 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

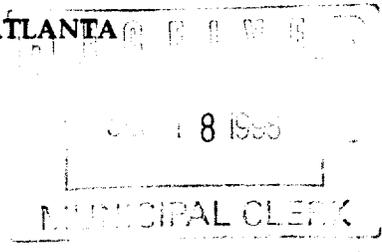
RE: CLAIM FOR DAMAGES

GB

Today's Date: 15 September 98

ENTERED - 11-6-98 - SB  
98L0736 - GWEN BURNS

Dear Municipal Clerk:



This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 50,000.00 property and/or \$ \_\_\_\_\_ bodily injury for which I contend the City is liable.

1. Date of incident: \* March 26, 98 (month/day/year) 2. Time of Incident: 7/7/98 3. Police called: Yes  No

4. Location of incident (including street address): 2207 Delano Drive, NE Atlanta 30317

5. Name of your insurance company: State Farm Policy No. 11-B3-7242-7

6. State what and how incident occurred: Sewer entered basement through shower and toilet drains. Sewer entered basement on these

\* Dates (1) 26 MAR 98 (2) 27 MAR 98 (3) 8 Apr 98 (4) 15 Apr 98 (5) 30 Apr 98 (6) 7 MAY 98 (7) 12 June 98 (8) 7 July 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!

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.

Penelope Dewberry  
Signature of Claimant

Penelope Dewberry  
(Print Claimant's Name)

2207 Delano Drive NE  
(Address)

Atlanta GA 30317  
(City, State and Zip Code)

404-371-0763  
(Work Number) (Home Number)

## DAMAGES

1.)	Carpeting & Pading Large Room (Tile)	\$241.00 \$1,548.00
2.)	3 Seater Sofa (3 Pieces) Tile	\$1,548.00 \$128.15
3.)	3 Seater Sofa (3 Pieces)	\$1,377.00
4.)	4 Seater Sofa	\$1,200.00
5.)	2 Piece Sectional Sofa	\$500.00
6.)	59 Wolf Camera Photos (Black & White Photos, Posters)	\$4,000.00
7.)	36 Pair Women Shoes @ \$30.00	\$1,080.00
8.)	16 Men Pair @ \$35.00	\$560.00
9.)	Toys	\$300.00
10.)	5x5 Pillows 3x3 Pillows	\$150.00
11.)	Panelling & Baseboard Damages	\$500.00
12.)	Stereo	\$139.00
13.)	Dresser	\$175.00
14.)	T.V.	\$75.00 +
15.)	Books / Misc.	\$150.00
16.)	Bathroom Accessories	\$75.00
17.)	Bed Linen	\$150.00

18.) Door

\$350.00

19.) Leather Brief Case

\$125.00

\$12,923.15

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-R -1940

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF PENELOPE DEWBERRY IN THE AMOUNT OF \$12,923.15 AGAINST THE CITY OF ATLANTA ARISING FROM SEVERAL SEWER BACK UPS

By: Robert N. Godfrey  
Deputy City Attorney

ADOPTED BY

DEC 04 2000

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. Timmons  
 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  3rd

Readings

Consent  V Vote  RC Vote

CERTIFIED

DEC 4 2000

[Signature]  
COUNCIL PRESIDENT

CERTIFIED

[Signature]  
DEC 13 2000

MAYOR'S ACTION

APPROVED

DEC 13 2000

WITHOUT SIGNATURE  
BY OPERATION OF LAW