

A RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

01-*R*-0054

**A RESOLUTION AUTHORIZING PAYMENT IN THE  
AMOUNT OF \$22,044.06 IN SETTLEMENT OF THE CLAIM  
OF MONTINE WILBURN AGAINST THE CITY OF  
ATLANTA**

**WHEREAS**, Montine Wilburn has filed a claim against the City of Atlanta seeking damages arising out of several occurrences of sewer back ups on her property located at 2329 Colorado Trail, SW; and

**WHEREAS**, the property owned by Montine Wilburn has been damaged due to several occurrences of sewer back ups due to a blockage in the City's mainline, which the City had knowledge of prior to the overflows that occurred on May 11, 1998 through May 12, 1998, specifically; and

**WHEREAS**, the City of Atlanta was on notice of said nuisance and yet the City failed 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 \$22,044.06 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 Montine Wilburn be settled for the sum of \$22,044.06.

**THEREFORE, BE IT RESOLVED** that the Council of the City of Atlanta, Georgia that \$22,044.06 be paid by the City of Atlanta in satisfaction of any and all claims Montine Wilburn owner of property located at 2329 Colorado Trail, SW may have stemming from damages sustained to her property on February 2, 1998 and May 11 through 12, 1998.

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

A true copy,

*Phonda Daughin Johnson*  
Municipal Clerk, CMC

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

JAN 16, 2001

JAN 25, 2001

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 98L0450

Date: December 14, 2000

Claimant /Victim MONTINE WILBURN

BY: (Atty)(Ins. Co.) \_\_\_\_\_

Address: 2329 Colorado Trail, SW, Atlanta, Georgia 30331

Subrogation: \_\_\_\_\_ Claim for Property damage \$ 22,044.06 Bodily Injury \$ \_\_\_\_\_

Date of Notice: 06/12/98 Method: Written, proper X Improper \_\_\_\_\_

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

Date of Occurrence 02/02/98 & 05/11-12/98 Place: 2329 Colorado Trail, SW

Department Public Works Division: Sewer Operations

Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: The claimant's property has been damaged due to several occurrences of sewer back ups due to a blockage in the mainline. The City had notice of the problem prior to the occurrences on May 11 through 12, 1998.

INVESTIGATION:

Statements: City employee \_\_\_\_\_ Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral \_\_\_\_\_

Pictures X 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 \_\_\_\_\_

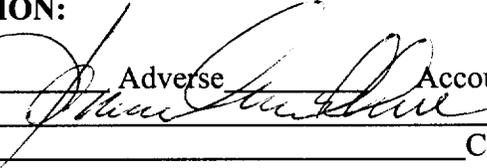
Claimant Negligent \_\_\_\_\_ City Negligent X Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 22,044.06 Adverse \_\_\_\_\_ Account charged: 1A01 \_\_\_\_\_ 2J01 X 2H01 \_\_\_\_\_

Claims Manager:  Concur/date 12-14-00

Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

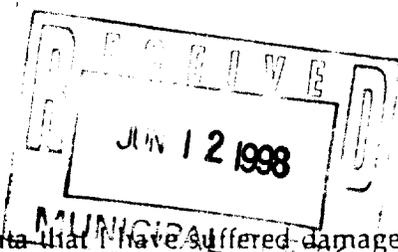
COUNCIL OF THE CITY OF ATLANTA  
CLERK OF COUNCIL  
City Hall  
55 Trinity Avenue, S.W.  
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Oatis  
06/23/98  
Am

Today's Date: 6-8-98

ENTERED - 6-24-98 - SB  
98L0450 - ANTHONY OATIS



Dear Clerk of Council:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 60,000.00 property and/or \$ \_\_\_\_\_ bodily injury for which I contend, the City is liable.

- Date of incident May 11, 12, 1998  
(month/day/year)
- Police called: \_\_\_\_\_  
Yes No
- Location of incident 2329 Colorado Trail, Atlanta, GA 30331
- Name of your insurance company: State Farm Policy No. 11-E27718-9
- State what and how incident occurred: Street collapsed due to bad pipes causing water to flood basement/den. Damaging totally walls, doors, carpet, piano, tv, stereo, washer/dryer, telephone wires, records, bar, sofa, table, record stand,

- articles in storage closet, lost days from work
- 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!
- 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)

- Witness: \_\_\_\_\_  
(name) (address) (telephone number)
- 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).
- This claim should be mailed immediately to the address shown above.

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

Montine Wilbra  
(claimant's name)  
2329 Colorado Tr.  
(address)  
Atlanta Ga  
(city and state)  
404-529-2005 404-344-7758  
(work number) (home number)

573551

RCS# 2564  
1/16/01  
4:26 PM

Atlanta City Council

Regular Session

MULTIPLE            Items 1-8; 2106; 2107; 0004; 0005; 0006  
                         0053; 0054; 0082  
                         ADOPT

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 3  
EXCUSED: 0  
ABSENT 0

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

MULTIPLE

**01-0054**  
(Do Not Write Above This Line)

**A RESOLUTION**

**BY PUBLIC SAFETY AND  
LEGAL ADMINISTRATION  
COMMITTEE**

**A RESOLUTION AUTHORIZING  
PAYMENT IN THE AMOUNT OF  
\$22,044.06 IN SETTLEMENT OF  
THE CLAIM OF MONTINE  
WILBURN AGAINST THE CITY OF  
ATLANTA**

**APPROVED BY:**

*Rosalind Rubens Newell*

**ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY**

- 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. Mendenhall*  
 Referred to \_\_\_\_\_

Committee P.S. L.A.  
 Date 1/16/01  
 Chair C.T. Mendenhall  
 Action: Fav. Adv, Hold (see rev. side)  
 Other: \_\_\_\_\_  
 Members [Signature]  
 Refer To \_\_\_\_\_

Committee \_\_\_\_\_  
 Date \_\_\_\_\_  
 Chair \_\_\_\_\_  
 Action: \_\_\_\_\_  
 Other: \_\_\_\_\_  
 Members \_\_\_\_\_  
 Refer To \_\_\_\_\_

**FINAL COUNCIL ACTION**  
 2nd  
 1st & 2nd Readings  
 Consent  
 V Vote  
 RC Vote

CERTIFIED

**CERTIFIED**  
 JAN 16 2001

**CERTIFIED**  
 JAN 16 2001

*Rosalind Rubens Newell*  
 MUNICIPAL CLERK

MAYOR'S ACTION

**APPROVED**

JAN 24 2001

WITHOUT SIGNATURE  
BY OPERATION OF LAW