



**CITY COUNCIL
ATLANTA, GEORGIA**

01-R-0168

A SUBSTITUTE RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$17,263.03 IN SETTLEMENT OF THE CLAIM OF CHURCH MUTUAL INSURANCE AS SUBROGEE OF GREATER ISRAEL CHRISTIAN FELLOWSHIP CHURCH AGAINST THE CITY OF ATLANTA

WHEREAS, Church Mutual Insurance as subrogee of Greater Israel Christian Fellowship Church has filed a claim against the City of Atlanta seeking damages arising out of a sewer back up that occurred in its property located at 3255 Empire Boulevard, SW on September 1, 1999; and

WHEREAS, property owned by Greater Israel Christian Fellowship Church has been damaged due to a sewer back up. The sewer main line running in front of the claimant's property collapsed on August 21, 1999, however during the attempts to repair the sewer main line, the City created and maintained a nuisance and caused the sewer to back up into the claimant's property; 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 \$17,263.03 and the claimant has agreed to accept this sum in full and complete satisfaction and settlement of its claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of Church Mutual Insurance as subrogee of Greater Israel Christian Fellowship Church be settled for the sum of \$17,263.03.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$17,263.03 be paid by the City of Atlanta in satisfaction of any and all claims Church Mutual Insurance as subrogee of Greater Israel Christian Fellowship, owner of property located at 3255 Empire Boulevard, SW, may have stemming from damages sustained to its property on or about September 1, 1999.

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,

Rhonda Dauphin Johnson
Municipal Clerk, CMC

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

FEB 19, 2001

FEB 28, 2001

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 99L0629

Date: January 29, 2001

Claimant /Victim CHURCH MUTUAL INSURANCE AS SUBROGEE OF
GREATER ISRAEL CHRISTIAN FELLOWSHIP CHURCH

Address: P. O. Box 357, Merrill, WI 54452-0342

Subrogation: X Claim for Property damage \$ 17,263.03 Bodily Injury \$ _____

Date of Notice: _____ Method: Written, proper X Improper _____

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

Date of Occurrence 09/01/99 Place: 3255 Empire Boulevard, SW

Department Public Works Division: Sewer Operations

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant's property was damaged due to a sewer back up. The sewer main line running in front of the property collapsed on August 21, 1999, however, during the attempts to repair the sewer main line, the City created and maintained a nuisance and caused the sewer to back up into the claimant's property.

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,



INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 17,263.03 Adverse _____ Account charged: 1A01 _____ 2J01 X 2H01 _____

Claims Manager: [Signature] Concur/date 02-12-01

Committee Action: _____ Council Action _____



RCS# 2663
2/19/01
10:06 PM

Atlanta City Council

Regular Session

01-R-0168 \$17,263.03 for claim of Greater Israel
 Christian Fellowship Church
 ADOPT ON SUB

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

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

01-R-0168
(Do Not Write Above This Line)

A RESOLUTION

**BY PUBLIC SAFETY AND
LEGAL ADMINISTRATION COMMITTEE**

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$14,437.55 IN SETTLEMENT OF THE CLAIM OF CHURCH MUTUAL INSURANCE AS SUBROGEE OF GREATER ISRAEL CHRISTIAN FELLOWSHIP CHRISTIAN CHURCH AGAINST THE CITY OF ATLANTA

APPROVED BY:

Rosalind Rubens Newell
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

**ADOPTED BY
FEB 19 2001
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 _____

Referred to _____

Committee P.S. LA

Date 2/13/01

Chair C.T. Martin

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

Other: on substitute

Members [Signature]

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

FEB 19 2001

ATLANTA CITY COUNCIL PRESIDENT

[Signature]

CERTIFIED

FEB 19 2001

[Signature]
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

FEB 28 2001

WITHOUT SIGNATURE
BY OPERATION OF LAW