

A RESOLUTION

01- *2* -0290

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$5,391.65 IN SETTLEMENT OF THE CLAIM OF JAMES F. AND ALICE MADDOX AGAINST THE CITY OF ATLANTA

WHEREAS, James F. and Alice Maddox have filed a claim against the City of Atlanta seeking damages arising out of a sewer back up in their property located at 914 Flamingo Drive, SW; and

WHEREAS, property owned by James F. and Alice Maddox has been damaged due to several occurrences of sewer back ups. These back ups were due to the sewer line connecting the mainline and the claimants' home being flat, preventing proper flow away from the property. The City had knowledge of prior to the overflow that occurred on July 9, 2000 which caused the damages addressed in this claim; 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

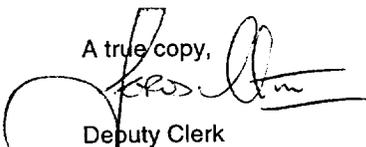
WHEREAS, the claimants have asserted damages in the amount of \$5,391.65 and have agreed to accept this sum in full and complete satisfaction and settlement of their claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of James F. and Alice Maddox be settled for the sum of \$5,391.65.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$5,391.65 be paid by the City of Atlanta in satisfaction of any and all claims James F. and Alice Maddox, owners of property located at 914 Flamingo Drive, SW, may have stemming from damages sustained to their property on or about July 9, 2000.

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,



Deputy Clerk

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

March 5, 2001

March 14, 2001

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0740

Date: February 12, 2001

Claimant /Victim JAMES F. AND ALICE MADDOX

BY: (Atty)

Address: 914 Flamingo Drive, SW, Atlanta, Georgia 30311

Subrogation: Claim for Property damage \$ 5,391.65 Bodily Injury \$

Date of Notice: 12/05/00 Method: Written, proper X Improper

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

Date of Occurrence 1998 through 07/09/00 Place: 914 Flamingo Drive, SW

Department Public Works Division: Sewer Operations

Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimants' property was damaged due to a series of sewer back ups. The investigation determined that the sewer line connecting the claimants' property to the mainline was flat preventing proper drainage. The City was on notice of the problem prior to the sewer back up that occurred on July 9, 2000 which caused the damages to be paid in this claim.

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 X City Negligent Joint Claim Abandoned

Respectfully submitted,

[Signature] INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 5,391.65 Adverse Account charged: 1A01 2J01 X 2H01

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

Committee Action: Council Action

RECEIVED DEC 5 2000

M. Mitchell

12/06/00

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

RE: CLAIM FOR DAMAGES

Today's Date: 12-6-2000

ENTERED - 12-6-00 - SB
00L0740 - DIANNE MITCHELL

Dear Municipal Clerk:

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

1. Date of incident: June 8 2000 2. Time of Incident: _____ 3. Police called: _____
(month/day/year) Yes No

4. Location of incident (including street address): 914 FLAMINGO DR. S.W.

5. Name of your insurance company: Allstate Policy No. _____

6. State what and how incident occurred: SEWAGE BACK-UP - CITY WAS CALLED AND REPAIRS WERE DONE

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 acknowledgment 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
(404) 758-7600 (H)

* ALICE JAMES F. MADDIX
(Print Claimant's Name)

914 FLAMINGO DR. SW.
(Address)

ATLANTA, GA. 30311
(City, State and Zip Code)

(404) 330-6054
(Work Number) (Home Number)

GENERAL RELEASE AND INDEMNIFICATION

CLAIM NUMBER 000740

\$ 5,391.65

IN CONSIDERATION of the sum of FIVE THOUSAND THREE HUNDRED NINETY-ONE AND 65/100 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 sewer back up

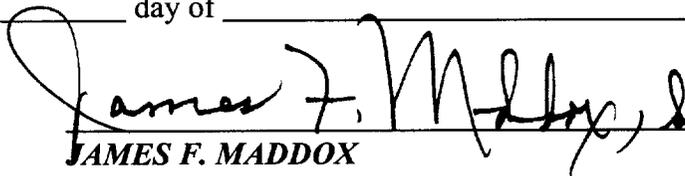
which occurred on or about the 9th day of July, 2000,

at or near 914 Flamingo Drive, 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.

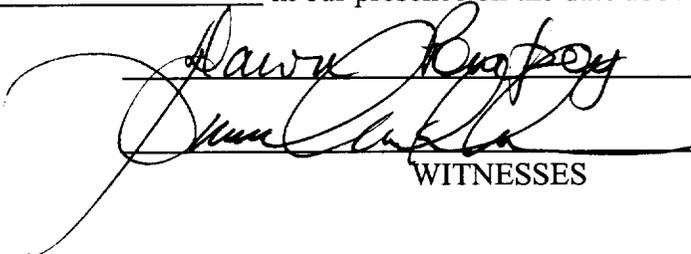
WITNESS my hand and seal this _____ day of _____, 2001.



JAMES F. MADDOX (LS)

The above release was read and explained to, and signed by the said _____

_____ in our presence on the date above written.



WITNESSES

RCS# 2689
3/05/01
6:36 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1 thru. 13

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	Y Thomas	ITEM (S) REMOVED FROM CONSENT AGENDA 01-O-0240 01-R-0307 01-R-0346
Y Starnes	Y Woolard	NV Martin	Y Emmons	
Y Bond	Y Morris	B Maddox	Y Alexander	
Y Winslow	Y Muller	Y Boazman	NV Pitts	

CONSENT

**ITEMS ADOPTED ON CONSENT
AGENDA**

**ITEMS ADVERSED
ON CONSENT AGENDA**

1. 01-O-0179
2. 01-O-0348
3. 00-O-1657
4. 01-O-0355
5. 01-O-0152
6. 01-R-0190
7. 01-R-0349
8. 01-R-0351
9. 01-R-0290
10. 01-R-0304
11. 01-R-0305
12. 01-R-0369
13. 01-R-0370
14. 01-R-0297
15. 01-R-0300
16. 01-R-0298
17. 01-R-0299
18. 01-R-0251
19. 01-R-0252
20. 01-R-0253
21. 01-R-0254
22. 01-R-0255
23. 01-R-0256
24. 01-R-0257
25. 01-R-0258
26. 01-R-0259
27. 01-R-0260
28. 01-R-0261
29. 01-R-0262
30. 01-R-0263
31. 01-R-0264
32. 01-R-0265
33. 01-R-0266
34. 01-R-0267
35. 01-R-0268
36. 01-R-0269
37. 01-R-0291
38. 01-R-0292

39. 01-R-0270
 40. 01-R-0271
 41. 01-R-0272
 42. 01-R-0273
 43. 01-R-0274
 44. 01-R-0275
 45. 01-R-0276
 46. 01-R-0277
 47. 01-R-0278
 48. 01-R-0279
 49. 01-R-0280
 50. 01-R-0281
 51. 01-R-0282
 52. 01-R-0283
 53. 01-R-0284
 54. 01-R-0285
 55. 01-R-0286
 56. 01-R-0287
 57. 01-R-0288
 58. 01-R-0289
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01- *2* -0290

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY AND
LEGAL ADMINISTRATION
COMMITTEE

A RESOLUTION AUTHORIZING
PAYMENT IN THE AMOUNT OF
\$5,391.65 IN SETTLEMENT OF THE
CLAIM OF JAMES F. AND ALICE
MADDOX AGAINST THE CITY OF
ATLANTA

APPROVED BY: ADOPTED BY

Robert N. Godfrey
ROBERT N. GODFREY
DEPUTY CITY ATTORNEY

MAR 05 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 *C. T. Martin*
Referred 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:

Member

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
MAR 05 2001
ATLANTA CITY COUNCIL PRESIDENT
Richard A. Patten

CERTIFIED
MAR 05 2001

Rebecca Douglas Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

MAR 14 2001

WITHOUT SIGNATURE
BY OPERATION OF LAW