Entered -8-9-99 - sb
CL 99L0472 - GWENDOLYN BURNS

01-R-0395

CLAIM OF:

ROGER & HARRIET SMITH
397 Springdale Drive
Atlanta, Georgia 30305

For damages alleged to have been sustained due to a flood which occurred as a result of a creek overflow on July 6, 1999 at 397 Spingdale Drive, NE.

THIS ADVERSED REPORT IS APPROVED

BY: Rosalind Rubens Newell
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVERSED CITY COUNCIL MAR 19 2001

CERTIFIED
MAR 19 2001
ATLANTA CITY COUNCIL PRESIDENT
Robert A. Pitts

ADVERSE REPORT
COM. Public Safety
DATE 3/13/01
CHM. C. T. Martin
Michael Bond
Clela Winslow
Woolard
[illegible]

CERTIFIED
MAR 19 2001
[illegible]
MUNICIPAL CLERK

3/19/01 - Councilmembers Morris & Woolard Voted NAY

OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

March 30, 2001

Roger & Harriet Smith
397 Springdale Drive
Atlanta, GA 30305

01-R-0395

Dear Mr. & Mrs. Smith:

I sincerely regret that you have been adversely affected by the circumstances raised in your claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your claim at its regular meeting on March 19, 2001. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division at (404) 330-6400**.

Sincerely,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 99L0472 Date: February 2, 2001

Claimant /Victim **ROGER & HARRIET SMITH**
BY: (Atty) (Ins. Co.) _____
Address: 397 Springdale Drive, NE, Atlanta, Georgia 30305
Subrogation: _____ Claim for Property damage $ 3,607.29 Bodily Injury $ _____
Date of Notice: 7/29/99 Method: Written, Proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 7/6/99 Place: 397 Springdale Drive, NE,
Department PUBLIC WORKS Division SEWER OPERATIONS
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimants sustained property damage when the basement of their home was flooded as a result of the creek overflowing behind their home on the above-listed date. An investigation determined that the City did not have any complaints of debris or fallen trees in the creek until after the date of claimants' incident. Furthermore, the City experienced an unusually large amount of rainfall during a severe rain storm, an "act of God", on the day of the incident which caused the creek to overflow. The City is immune from liability as set forth in O.C.G.A. §36-33-1.

INVESTIGATION:

Statements: City employee X Claimant _____ Others _____ Written X 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 X Damages reasonable _____
City not involved _____ Offer rejected _____ Compromise settlement _____
Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
Claimant Negligent _____ City Negligent _____ Joint _____ Claim Abandoned _____

Respectfully submitted,

INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay $ _____ Adverse X Account charged: 1A01 _____ 2J01 _____ 2H01 ___
Claims Manager: _____ Concur/date 03-01-01

BURNS 08/04/99

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

RECEIVED 29 1999

RE: CLAIM FOR DAMAGES

Today's Date: 7/22/99

J7-29-99 05:33 RCVD

ENTERED – 8-9-99 – SB
99L0472 – GWEN BURNS

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of $ 3,607.29 property and/or $ _____ bodily injury for which I contend the City is liable.

1. Date of incident: 07/06/99 (month/day/year) 2. Time of Incident: evening 3. Police called: _____ Yes no No

4. Location of incident (including street address): 397 Springdale Dr.

5. Name of your insurance company: AMICA (water damage excluded) Policy No. 600110-2277

6. State what and how incident occurred: Yard and basement flooded - 120 square foot heavyduty barn-style storage building swept 150 yards away. Water in delevoped basement destroyed carpet + carpet pad, baseboard + trim + some furnishings.

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.

HRSmith
Signature of Claimant

Roger + Harriet Smith
(Print Clamaint's Name)

397 Springdale Dr.
(Address)

Atlanta, GA 30305-3857
(City, State and Zip Code)

404-467-9297 (Work Number) 404-262-3023 (Home Number)

01-R -0395

RCS# 2725
3/19/01
2:52 PM

Atlanta City Council

Regular Session

CONSENT

Pages 1 thru 15

ADOPT

SEE ATTACHED LISTING OF ITEMS ADOPTED/ADVERSED ON CONSENT AGENDA

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

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

ITEM (S) REMOVED FROM CONSENT AGENDA
01-O-0067

Woolard & Morris voted Nay on the following items:
01-R-0379
01-R-0392
01-R-0393
01-R-0394
01-R-0395
01-R-0396

CONSENT

RCS# 2726
3/19/01
2:54 PM

Atlanta City Council

Regular Session

CONSENT Reconsidered #1

Pages 1 thru 15

ADOPT

YEAS:	11
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	4
EXCUSED:	0
ABSENT	1

SEE ATTACHED LISTING OF ITEMS ADOPTED/ADVERSED ON CONSENT AGENDA

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

ITEM (S) REMOVED FROM CONSENT AGENDA
01-O-0067
01-O-0354

Woolard & Morris voted Nay on the following items:
01-R-0379
01-R-0392
01-R-0393
01-R-0394
01-R-0395
01-R-0396

CONSENT

RCS# 2753
3/19/01
5:40 PM

Atlanta City Council

Regular Session

CONSENT Reconsidered #2

Pages 1 thru 15

ADOPT

YEAS:	13
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	2
EXCUSED:	0
ABSENT	1

SEE ATTACHED LISTING OF ITEMS ADOPTED/ADVERSED ON CONSENT AGENDA

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

ITEM (S) REMOVED FROM CONSENT AGENDA
01-O-0067
01-O-0354
01-O-0188

Woolard & Morris voted Nay on the following items:
01-R-0379
01-R-0392
01-R-0393
01-R-0394
01-R-0395
01-R-0396

CONSENT

03/19/01 Council Meeting

ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
1. 01-O-0306	39. 01-R-0397	57. 01-R-0437
2. 01-O-0445	40. 01-R-0398	58. 01-R-0438
3. 01-O-0449	41. 01-R-0399	59. 01-R-0375
4. 01-O-0450	42. 01-R-0400	60. 01-R-0376
5. 01-O-0098	43. 01-R-0401	61. 01-R-0377
6. 01-O-0178	44. 01-R-0402	62. 01-R-0378
7. 01-O-0302	45. 01-R-0403	63. 01-R-0379
8. 01-O-0367	46. 01-R-0404	64. 01-R-0380
9. 00-O-1987	47. 01-R-0405	65. 01-R-0381
10. 01-O-0448	48. 01-R-0406	66. 01-R-0382
11. 00-O-2069	49. 01-R-0407	67. 01-R-0383
12. 01-O-0446	50. 01-R-0408	68. 01-R-0384
13. 01-O-0187	51. 01-R-0409	69. 01-R-0385
14. 01-O-0294	52. 01-R-0410	70. 01-R-0386
15. 01-R-0411	53. 01-R-0433	71. 01-R-0387
16. 01-R-0412	54. 01-R-0434	72. 01-R-0388
17. 01-R-0413	55. 01-R-0435	73. 01-R-0389
18. 01-R-0414	56. 01-R-0436	74. 01-R-0390
19. 01-R-0420		75. 01-R-0391
20. 01-R-0421		76. 01-R-0392
21. 01-R-0475		77. 01-R-0393
22. 01-R-0428		78. 01-R-0394
23. 01-R-0429		79. 01-R-0395
24. 01-R-0477		80. 01-R-0396
25. 01-R-0220		81. 01-R-0440
26. 01-R-0430		82. 01-R-0439
27. 01-R-0447		
28. 01-R-0452		
29. 01-R-0458		
30. 01-R-0417		
31. 01-R-0426		
32. 01-R-0427		
33. 00-R-1466		
34. 01-R-0416		
35. 01-R-0419		
36. 01-R-0424		
37. 01-R-0108		
38. 01-R-0189		