

Entered - 11-14/00 - sb
CL 00L0697 - ALEXIS HOLMES

01-*R*-0797

CLAIM OF: **LAURA HUNTER**
Through her Attorneys
McCalla, Raymer, Padrick, Cobb, Nichols & Clark
1544 Old Alabama Road
Roswell, Georgia 30076

For damages alleged to have been sustained as a result of the City implementing a future project, "Relief Option North Fork Peachtree Creek," at 2141 Virginia Place.

THIS ADVERSED REPORT IS APPROVED

BY: *Rosalind Rubens Newell*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVERSED BY CITY COUNCIL JUN 0 4 2001

ADVISED BY
COM. *Public Safety*
DATE *5/29/01*
CHM. *C. T. Munt*
[Signature]
[Signature]
Clara Henderson

CERTIFIED
JUN 0 4 2001
ATLANTA CITY COUNCIL PRESIDENT
[Signature]

CERTIFIED
JUN 0 4 2001
Ronda Daphnie Johnson
MUNICIPAL CLERK



CITY OF ATLANTA
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

June 19, 2001

Laura Hunter
c/o Attorneys McCalla, Raymer, Padrick, Cobb,
Nichols & Clark
1544 Old Alabama Road
Roswell, Georgia 30076

01-R-0797

Dear Ms. Hunter:

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 June 4, 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

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0240

Date: 3/28/01

Claimant /Victim LAURA HUNTER
BY: (Atty) McCalla, Raymer, Padrick, Cobb, Nichols & Clark, LLC
Address: 1544 Old Alabama Road Roswell, Georgia 30076
Subrogation: Claim for Property damage \$ Unspecified Bodily Injury \$
Date of Notice: 2/28/01 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence Unspecified Place: 2141 Virginia Place
Department: Public Works Division: Sewer Operations
Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant alleges that she might sustain property damages after the City proceeds with project plan "Relief Option North Fork Peachtree Creek," proposed access road/easement for siphon site and future access for auxiliary sewer line. However, the City has not implemented this project, and therefore any claims for damages arising out of future projects are purely speculation, and therefore, this claim is considered premature.

INVESTIGATION:

Statements: City employee Claimant Other X Written X Oral
Pictures Diagrams Reports: Police Dept Report 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 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,

Alexis Holmes
INVESTIGATOR - ALEXIS HOLMES

RECOMMENDATION:

Pay \$ Adverse Account charged: 1A01 2J01 2H01
Claims Manager: Concur/date 05-17-01 Committee Action: Council Action

LAW OFFICES
McCALLA, RAYMER, PADRICK, COBB, NICHOLS & CLARK, LLC

MAIN OFFICE
1544 OLD ALABAMA ROAD
ROSWELL, GEORGIA 30076

TELEPHONE: 770-804-0400
TELEFAX: 770-804-2550

*Dear Mitchell
PFI*
John,

JOHN G. ALDRIDGE, JR.
PENNI A. ALPER (TN)
PETER L. BANKS
CAROL V. CLARK
IKE W. COBB
JENNIFER L. DICKENSON (NY)
LINDA S. FINLEY (FL)
STEVEN S. GOLDEN
PETER L. LUBLIN (DC. VA)
R. NEAL MANNERS
STANLEY H. McCALLA, SR.
SCOTT H. MICHALOVE
LYLE D. NICHOLS
DANIEL D. PHELAN (MI, FL)
BOB G. POPE
RICHARD E. RAYMER
GLEN D. RUBIN (NY)
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DALLAS, GEORGIA 30132
TELEPHONE: 770-443-3503

ENTERED - 4-17-01 - SB
01L0240 - ALEXIS HOLMES

February 22, 2001

Holmes
03/28/01
DM

PAUL M. ALEXANDER
JENNIFER LATISE CLARK
ROBERT D. COATS
MARISSA G. CONNORS (FL)
MATTHEW W. DOMINICK
BRIAN A. GARDINER (IN)
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ROBERT MICHAEL SHEFFIELD
JUDITH F. SLOMAN
JULIE J. SROCHI
MARY IDA TOWNSON (NY)
TRACY CARROLL TRITE
MITZI S. WEST (NC)

VIA CERTIFIED MAIL Z 178 218 745

The City of Atlanta
c/o The Honorable William Campbell, Mayor
55 Trinity Avenue, S.W.
Suite 2400
Atlanta, Georgia 30335

Re: City of Atlanta Public Works Project, Relief Option North Fork Peachtree Creek,
proposed access road/easement for siphon site and future access for auxiliary
sewer line, "Alternate No. 3" (the "Project" or "Project site")
Our File Number: H0113-001

Dear Mayor Campbell:

The undersigned and this firm represent Ms. Laura Hunter regarding the impact of the above-referenced Project to Ms. Hunter's interests. The purpose of this letter is to initiate dialogue between the City of Atlanta and Ms. Hunter. Further, this letter is to provide the City of Atlanta with ante litem notice pursuant to O.C.G.A. § 36-33-5.

My client's property is located in the Peachtree Hills neighborhood at 2141 Virginia Place, City of Atlanta (the "Property"). The Property is adjacent to land upon which the Project may be

The Honorable William Campbell, Mayor
February 22, 2001
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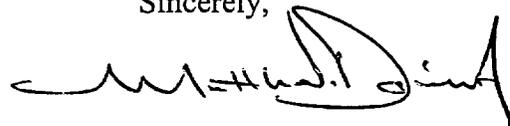
constructed. Due to the Project's proximity to Ms. Hunter's property and the nature of the Project, Ms. Hunter is concerned that construction activities will harm her property both during and after the construction phase of the Project. It is inevitable that heavy machinery will be used to construct the proposed easement; additionally, there is the possibility that blasting will be necessary during construction. The use of heavy equipment, and possibly explosives, near Ms. Hunter's house will likely cause substantial damage to the Property. Furthermore, after the construction phase of the Project, the use and maintenance of the easement will inevitably adversely impact the fair market value of Ms. Hunter's property. In addition to the unsightliness of the easement, the road will invite trespassers to use the road to access Peachtree Creek, thereby creating a security risk.

Additionally, Ms. Hunter is concerned about the Project's impact upon the environment. Due to Peachtree Creek's propensity to flood, the construction of the Project along Alternate No. 3 would likely compound existing environmental problems. The proposed road cut for the route would make the area susceptible to tremendous erosion due to the route's relatively long traverse through the one-hundred (100) year flood plain of Peachtree Creek. The potential for erosion and particulate pollution is high. Depending upon the nature of the Project's funding, it may be necessary for the City to undertake actions required under the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.* ("NEPA") and the Georgia Environmental Policy Act, O.C.G.A. § 12-16-1, *et seq.* ("GEPA"), including the necessity of the requisite environmental impact studies.

The synergistic and cumulative effects of constructing the Project along the above-referenced route will substantially and negatively impact my client's use and enjoyment of her property. In the event the City does not choose a more appropriate route, or make a fair offer to Ms. Hunter to compensate her for the Project's adverse effects upon her interests, including her property, Ms. Hunter will file suit against the City of Atlanta showing, among other things, inverse condemnation, nuisance and trespass.

Please cause the appropriate public official to contact me so that we may discuss the situation.

Sincerely,



Matthew W. Dominick

MWD:hmp

The Honorable William Campbell, Mayor

February 22, 2001

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cc: Ms. Laura G. Hunter
Carol V. Clark, Esq.
Mr. Norman Koplon (via certified mail)
Mr. David W. Peters, P.E. ✓
Honorable Lee Morris

01- R-0797

RCS# 2912
6/04/01
2:56 PM

Atlanta City Council

Regular Session

CONSENT

Pages 1 thru 12

ADOPT

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

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

Unanimous

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

ITEM (S) REMOVED FROM
CONSENT AGENDA

01-O-0653
01-O-0663
01-O-0664
01-O-0835
01-R-0181
01-R-0851

CONSENT

06/04/01 Council Meeting

**ITEMS ADOPTED ON
CONSENT AGENDA**

1. 01-O-0821
2. 01-O-0834
3. 01-O-0833
4. 01-O-0492
5. 01-O-0671
6. 01-O-0717
7. 01-O-0825
8. 01-O-0826
9. 01-O-0837
10. 01-R-0832
11. 01-R-0308
12. 01-R-0836
13. 01-R-0784
14. 01-R-0785
15. 01-R-0822
16. 01-R-0352
17. 01-R-0792
18. 01-R-0846
19. 01-R-0794
20. 01-R-0795

**ITEMS ADVERSED
ON CONSENT AGENDA**

21. 01-R-0796
 22. 01-R-0797
 23. 01-R-0798
 24. 01-R-0799
 25. 01-R-0800
 26. 01-R-0801
 27. 01-R-0802
 28. 01-R-0803
 29. 01-R-0804
 30. 01-R-0805
 31. 01-R-0806
 32. 01-R-0807
 33. 01-R-0808
 34. 01-R-0891
 35. 01-R-0810
 36. 01-R-0811
 37. 01-R-0812
 38. 01-R-0813
 39. 01-R-0814
 40. 01-R-0815
 41. 01-R-0816
 42. 01-R-0817
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