



A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF THE CLAIM OF MANCE C. IRVIN IN THE AMOUNT OF \$3,000.00 AGAINST THE CITY OF ATLANTA ARISING FROM A SEWER BACK UP.

01- R -1420

WHEREAS, MANCE C. IRVIN has filed a claim against the City of Atlanta seeking damages arising out of a sanitary sewer back up to his property located at 211 Hemphill School, NW, Atlanta, Georgia; and

WHEREAS, property owned by MANCE C. IRVIN has been damaged due to a storm water and storm sewer overflow caused by a blocked storm drain during heavy rainfall; and

WHEREAS, the City of Atlanta was on notice of said nuisance, but failed to improve storm water flow prior to the January 4, 1999 occurrence; 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 \$3,000.00 and has agreed to accept this sum in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of MANCE C. IRVIN, be settled for the sum of \$3,000.00; and.

WHEREAS, this claim was previously adversed by City Council on July 17, 2000.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that Resolution number 00-R-1032 be hereby rescinded and that \$3,000.00 be paid by the City of Atlanta to MANCE C. IRVIN, in satisfaction of any and all claims he may have stemming from damages sustained to his property on or about January 4, 1999, at 211 Hemphill School, NW, and that the City Attorney prepare appropriate releases.

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

A true copy,
Rhonda Douglas Johnson
Municipal Clerk, CMC

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

SEP 17, 2001
SEP 26, 2001

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 99L0266

Date: August 31, 2001

Claimant /Victim MANCE C. IRVIN
BY: (Atty) (Ins. Co.)
Address: 211 Hemphill School Road, NW, Atlanta, Georgia 30331
Subrogation: Claim for Property damage \$ 3,000.00 Bodily Injury \$
Date of Notice: 5/3/99 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 1/4/99 Place: 211 Hemphill School Road, NW
Department PUBLIC WORKS Division Sewer Operations
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges he sustained damages to his home from a sewer back up. An investigation determined that the City had notice of a sewer problem at this location prior to the January 4, 1999 occurrence but failed to properly correct it.

INVESTIGATION:

Statements: City employee Claimant X Others Written Oral X
Pictures Diagrams Reports: Police Dept Report X 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 Damages reasonable
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,

Gwendolyn Burns
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 3,000.00 Adverse Account charged: 1A01 2J01 X 2H01
Claims Manager: Concur/date 08-30-01
Committee Action: Council Action

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

RE: CLAIM FOR DAMAGES

BURNS
05/03/99
4/27/99

APR 28 1999

04-22-99P06:01 RCVD
ENTERED - 5-7-99 - SB
99L0266 - GWEN BURNS

Today's Date: 4/27/99

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 3,000⁰⁰ property and/or \$ _____ bodily injury for which I contend the City is liable.

1. Date of incident: 1/4/99 (month/day/year). 2. Time of Incident: 4:10-11p 3. Police called: X Yes No

4. Location of incident (including street address): 211 Hemphill School Road NW Atlanta, GA 30335

5. Name of your insurance company: Allstate Insurance Policy No. 021181240

6. State what and how incident occurred: Sewage and water flooded the basement via a floor drain. Water levels reached as high as 2 1/2 feet. Problem with flooding in the basement is recurring - requesting the city investigate this problem to prevent such incidents in the future.

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)

X 9. Witness: Lawana Viers 1047B Graham Court Mableton, GA (404) 713 3251
(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.

Mance C Irvin
Signature of Claimant

MANCE C IRVIN
(Print Claimant's Name)
211 Hemphill School Road NW
(Address)
Atlanta, GA 30331
(City, State and Zip Code)
(404) 631-2180 (404) 696 5161
(Work Number) (Home Number)

RCS# 3125
9/17/01
6:44 PM

Atlanta City Council

Regular Session

MULTIPLE

Public Safety Items 2-11

ADOPT *CI-R-1420*

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

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

MULTIPLE

01- R-1420

(Do Not Write Above This Line)

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By: *R. Newell*
Rosalind Rubens Newell
Deputy City Attorney

ADOPTED BY
SEP 17 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 *Public Safety*
 Date *9/17/01*
 Chair *C. T. Martin*
 Action: Fav. Adv. Hold (see rev. side)
 Other: _____
 Members *[Signature]*
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action: _____
 Fav. Adv. Hold (see rev. side) _____
 Other: _____
 Members _____
 Refer To _____

FINAL COUNCIL ACTION

- 2nd
- 1st & 2nd Readings
- 3rd
- Consent
- V Vote
- IRC Vote

CERTIFIED

CERTIFIED
SEP 17 2001

CERTIFIED
SEP 17 2001

[Signature]
DEPUTY MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

SEP 26 2001

WITHOUT SIGNATURE
BY OPERATION OF LAW