

CITY COUNCIL
ATLANTA, GEORGIA

01- R -1953

A RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING PAYMENT IN THE
AMOUNT OF \$25,624.37 IN SETTLEMENT OF THE CLAIM
OF WORLD BAR, INC. AGAINST THE CITY OF ATLANTA**

WHEREAS, World Bar, Inc. has filed a claim against the City of Atlanta seeking damages arising out of several occurrences of sanitary sewer back ups to its business located at 3071 Peachtree Road, NE; and

WHEREAS, the World Bar, Inc. has incurred substantial property losses due to several occurrences of sanitary sewer back ups due to the blockage in the sewer mainline which the City had knowledge of prior to the overflows which occurred on August 28 and August 29, 1998, specifically; 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

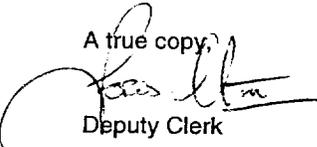
WHEREAS, the claimant has asserted damages in excess of \$75,769.13, but the claimant has agreed to accept the sum of \$25,624.37 in full and complete satisfaction and settlement of its claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of World Bar, Inc. be settled for the sum of \$25,624.37.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$25,624.37 be paid by the City of Atlanta in satisfaction of any and all claims World Bar, Inc., owner of property located at 3071 Peachtree Road, NE, may have stemming from damages sustained to its property on August 28 and August 29, 1998.

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

DEC 03, 2001

DEC 12, 2001

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 98L0711

Date: November 13, 2001

Claimant /Victim WORLD BAR, INC.

BY: (Atty)(Ins. Co.) _____

Address: 3071 Peachtree Road, NE, Suite 100, Atlanta, Georgia 30305

Subrogation: _____ Claim for Property damage \$ 75,769.13 Bodily Injury \$ _____

Date of Notice: 10/13/98 Method: Written, proper X Improper _____

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

Date of Occurrence 08/28-29/98 Place: 3071 Peachtree Road, NE

Department Public Works Division: Sewer Operations

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant's property was damaged due to a several occurrences of sewer back ups. The investigation determined that the City was on notice of a problem with the sewer line and failed to make the necessary corrections, thus causing the claimant to incur substantial property losses.

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 _____

City not involved _____ Offer rejected _____ Compromise settlement X

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

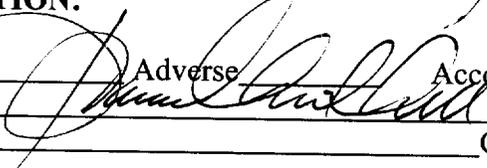
Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 25,264.37 Adverse _____ Account charged: 1A01 _____ 2J01 X 2H01 _____

Claims Manager:  Concur/date 11-13-01

Committee Action: _____ Council Action _____

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(Do Not Write Above This Line)

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APPROVED BY:

Rosalind Rubens Newell

ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADOPTED BY

DEC 03 2001

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

COUNCIL

Voice Vote

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair _____
 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:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

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

CERTIFIED

CERTIFIED
DEC 3 2001

ATLANTA CITY COMPTROLLER

CERTIFIED
DEC 03 2001

[Signature]
DEPUTY MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

DEC 12 2001

WITHOUT SIGNATURE
BY OPERATION OF LAW