

CITY COUNCIL
ATLANTA, GEORGIA

A RESOLUTION

02-*R*-1000

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING PAYMENT IN THE
AMOUNT OF \$58,371.36 IN SETTLEMENT OF THE CLAIM
OF RICHARD P. CLARK AGAINST THE CITY OF ATLANTA**

WHEREAS, Richard P. Clark has filed a claim against the City of Atlanta seeking damages arising out of several occurrences of sewer back ups into the claimant's property located at 3077 West Andrews Drive, NW; and

WHEREAS, the property owned by **Richard P. Clark** has been damaged due to several occurrences of sewer back ups between March 6, 2000 and May 3, 2000; 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

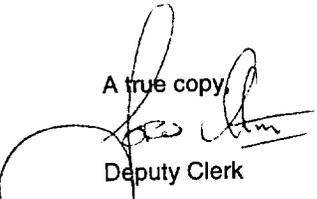
WHEREAS, the claimant has asserted damages in the amount of **\$75,681.17** and has agreed to accept the sum of **\$58,371.36** in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of **Richard P. Clark** be settled for the sum of **\$58,371.36**.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that **\$58,371.36** be paid by the City of Atlanta in satisfaction of any and all claims **Richard P. Clark** owner of property located at 3077 West Andrews Drive, NW may have stemming from damages sustained to his property between March 6, 2000 and March 21, 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
APPROVED by the Mayor

JUN 17, 2002
JUN 20, 2002

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0582

Date: May 17, 2002

Claimant /Victim RICHARD P. CLARK

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

Address: 3077 West Andrews Drive, NW, Atlanta, Georgia 30305

Subrogation: _____ Claim for Property damage \$ 75,681.17 Bodily Injury \$ _____

Date of Notice: 09/21/00 Method: Written, proper X Improper _____

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

Date of Occurrence 03/06 - 05/03/00 Place: 3077 West Andrews Drive, NW

Department Public Works Division: Sewer Operations

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant's property was damaged due to a series of five sewer back ups. The City was on notice of a problem with the sewer after the first occurrence and failed to correct the problem with the sewer line in a timely manner.

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 _____

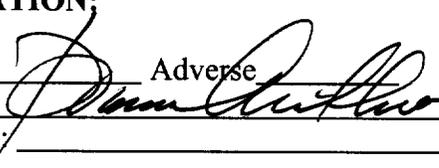
Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 58,371.36 Adverse _____ Account charged: 1A01 _____ 2J01 X 2H01 _____

Claims Manager:  Concur/date 05-30-02

Committee Action: _____ Council Action _____

06/17/02 Council Meeting

**ITEMS ADOPTED ON
CONSENT AGENDA**

1. 02-O-0973
2. 02-O-1036
3. 02-O-0908
4. 02-O-0909
5. 02-O-0956
6. 02-O-1029
7. 02-O-1043
8. 02-R-1000
9. 02-R-1001
10. 02-R-1002
11. 02-R-1003
12. 02-R-1016
13. 02-R-1033
14. 02-R-0676
15. 02-R-1018
16. 02-R-1019
17. 02-R-1069
18. 02-R-1070
19. 02-R-1030
20. 02-R-0978
21. 02-R-0979
22. 02-R-0980
23. 02-R-0981
24. 02-R-0982
25. 02-R-0983
26. 02-R-0984
27. 02-R-0985
28. 02-R-0986

**ITEMS ADVERSED ON
CONSENT AGENDA**

29. 02-R-0987
30. 02-R-0988
31. 02-R-0989
32. 02-R-0990
33. 02-R-0991
34. 02-R-0992
35. 02-R-0993
36. 02-R-0994
37. 02-R-0995
38. 02-R-0996
39. 02-R-0997
40. 02-R-0998
41. 02-R-0999

02-R-1000

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF \$58,371.36 IN SETTLEMENT OF THE CLAIM OF RICHARD P. CLARK AGAINST THE CITY OF ATLANTA

APPROVED BY:

[Signature] ROBERT N. GODFREY DEPUTY CITY ATTORNEY

JUN 17 2002

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
Referred to

Committee: SLV
Date: 6/11/02
Chair: [Signature]
Action: Fav, Adv, Hold
Members: [Signatures]

Committee
Date
Chair
Action: Fav, Adv, Hold
Members
Refer To

FINAL COUNCIL ACTION
2nd
1st & 2nd
3rd
Readings
Consent
V Vote
RC Vote

CERTIFIED

CERTIFIED JUN 17 2002

ATLANTA CITY COUNCIL PRESIDENT

[Signature] W. Woodard

CERTIFIED JUN 17 2002

[Signature] P. Douglas Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED
[Signature]
JUN 20 2002
MAYOR