

Entered - 09/14/01 - sb
CL01L0561 - DIANNE C. MITCHELL

03-R-0646

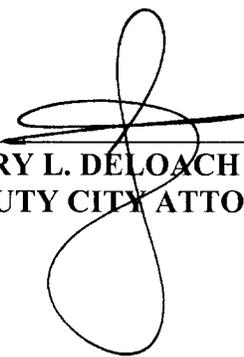
ADOPTED BY
MAY 05 2003
COUNCIL

CLAIM OF: FELCOR LODGING LIMITED
PARTNERSHIP,
through its attorney,
Ronald L. Reid
1201 West Peachtree Street
Atlanta, Georgia 30309

CERTIFIED
MAY 05 2003
ATLANTA CITY COUNCIL PRESIDENT
Catherine W. Hoffard

For damages alleged to have been sustained as a result of the City's interference with a lease agreement with the College Park Business and Industrial Development Authority for property located at 1900 Sullivan Road, College Park.

THIS ADVERSED REPORT IS APPROVED

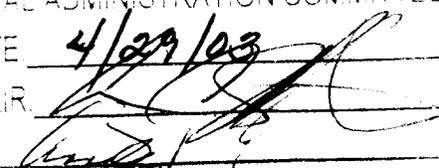
BY: 
JERRY L. DELOACH
DEPUTY CITY ATTORNEY

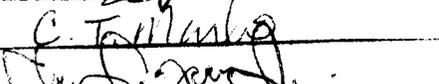
CERTIFIED
MAY 05 2003
Municipal Clerk
R. L. DeLoach

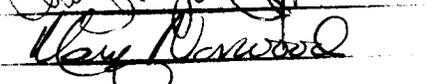
ADVERSE REPORT

PUBLIC SAFETY &
LEGAL ADMINISTRATION COMMITTEE

DATE 4/29/03

CHAIR 







September 12, 2001

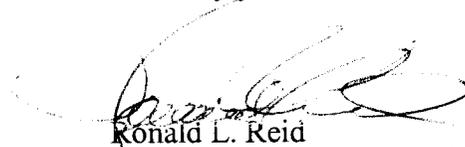
Page 2

The initial lease term ends on September 1, 2013, with FelCor having the option to renew for an additional 25 year term. Under the Lease, College Park, the Authority, and their successors-in-interest have an obligation to keep the annexed Civic Center open and available for leasing to the public for its intended use as a trade and exhibition center. This covenant was a major inducement to FelCor in making the substantial investment in the Hotel.

FelCor has recently discovered that Atlanta, College Park, and the Authority took the following actions that are adverse to FelCor's property rights: first, Atlanta purchased the Civic Center from the Authority and leased it back to College Park without giving notice to FelCor; second, College Park began constructing a new civic center at another location (scheduled to be complete in 2003); and third, without conferring with FelCor, College Park and Atlanta entered into an agreement in which Atlanta has unequivocally agreed to close down the Civic Center when the construction of the new civic center is complete. As a result of Atlanta's, College Park's and the Authority's reckless disregard for FelCor's rights, FelCor has suffered and will suffer significant damages in the form of, *inter alia*, loss of profits arising from uncertainty of the Civic Center's availability after 2003, loss of goodwill and business prospects with guests, loss of full beneficial use and enjoyment of the leased premises, consequential damages, incidental damages related to the search for substitute performance, attorneys' fees, and other miscellaneous costs.

FelCor demands that Atlanta, College Park, and the Authority take necessary steps to properly compensate FelCor for its damages, and to give FelCor full assurance that they intend to honor their respective obligations under the Lease. Further, and to the extent necessary, this letter is to serve as our *ante litem* notice. If we do not receive a favorable reply to this letter within 30 days, FelCor will pursue all available remedies.

Sincerely yours,



Ronald L. Reid



Byung J. Pak

RLR:BJP/ms

cc: Atlanta City Council
College Park City Council
Mr. George Glaze, Esq.
Mr. Mario Diaz

03- R -0646

ALSTON & BIRD LLP

One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424

404-881-7000
Fax: 404-881-7777
www.alston.com

Direct Dial: 404-881-7246
Direct Dial: 404-881-4484

E-mail: rreid@alston.com
E-mail: bpak@alston.com

Ronald L. Reid
Byung J. Pak

M. J. Miller
09/13/01
DM

September 11, 2001

ENTERED - 9-14-01 - SB
0110561 - DIANNE MITCHELL

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The City of Atlanta
c/o Ms. Diane Mitchell
Claims Manager
68 Mitchell Street SW
Suite 4100
Atlanta, Georgia 30335

The City of College Park
c/o Mr. J. Scott Miller
City Manager
3667 Main Street
P.O. Box 87137
College Park, Georgia 30337

The College Park Business and Industrial
Development Authority
c/o Mr. Christopher Jones
Development Director
3667 Main Street
P.O. Box 87137
College Park, Georgia 30337

Re: Sheraton Hotel annexed to the Georgia International Convention Center;
Ante litem notice per O.C.G.A. § 36-33-5

Dear Sirs and Madam:

FelCor Lodging Limited Partnership, the owner of the Sheraton Hotel annexed to the Georgia International Convention Center, has retained the law firm of Alston & Bird, L.L.P. to protect FelCor's rights and to seek appropriate remedies against the City of Atlanta ("Atlanta"), the City of College Park ("College Park"), and the College Park Business and Industrial Development Authority ("Authority").

FelCor owns and, through its subsidiary FCH/SH Leasing, L.L.C., operates the Sheraton Hotel ("Hotel") located at 1900 Sullivan Road, College Park, GA 30337. FelCor leases certain meeting areas in the adjacent Georgia International Convention Center ("Civic Center"), as owner and assignee of the Amended, Restated and Consolidated Lease dated April 23, 1993 ("Lease") between the City of College Park and Sheraton Savannah Corporation. The Authority, as the fee owner of the Civic Center, consented and agreed to the terms of the Lease.

Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
704-444-1000
Fax: 704-444-1111

90 Park Avenue
New York, NY 10016
212-210-9400
Fax: 212-210-9444

3201 Beechleaf Court, Suite 600
Raleigh, NC 27604-1062
919-862-2200
Fax: 919-862-2260

601 Pennsylvania Avenue, N.W.
North Building, 11th Floor
Washington, DC 20004-2601
202-756-3300
Fax: 202-756-3333

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0561

Date: April 7, 2003

Claimant /Victim FELCOR LODGING LIMITED PARTNERSHIP
BY: (Atty)(Ins. Co.) Ronald L. Reid
Address: 1201 West Peachtree Street, Atlanta, Georgia 30309
Subrogation: Claim for Property damage \$ Not Stated Bodily Injury \$
Date of Notice: 09/13/01 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence Not Stated Place: 1900 Sullivan Road, College Park
Department Aviation Division:
Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant alleges that the City has interfered with its lease agreement with the College Park Business and Industrial Development Authority for the lease of property located at 1900 Sullivan Road. However, the claimant has filed a lawsuit to resolve the issues raised in its claim.

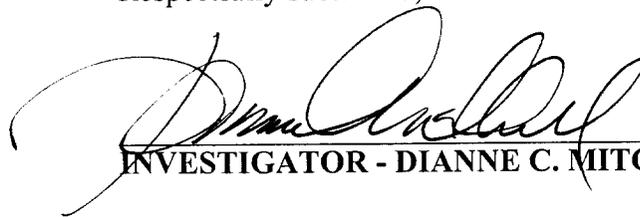
INVESTIGATION:

Statements: City employee X Claimant Others Written Oral X
Pictures Diagrams Reports: Police Dept Report Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

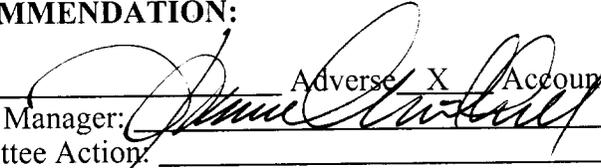
BASIS OF RECOMMENDATION:

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 - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01 2P01
Claims Manager:  Concur/date 04-17-03
Committee Action: Council Action



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

May 12, 2003

Ronald L. Reid
Attorney at Law
1201 West Peachtree St.
Atlanta, GA 30309

03-R-0646

RE: Felcor Lodging Limited

Dear Attorney Reid:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her 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 client's claim at its regular meeting on May 05, 2003. 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.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department