

A RESOLUTION BY PUBLIC SAFETY AND LEGAL ADMINISTRATION  
COMMITTEE

**A RESOLUTION AUTHORIZING [i] THE SETTLEMENT OF A LAWSUIT BY ALFRED BOYAJIAN AGAINST THE CITY OF ATLANTA RELATING TO SEWER REPAIRS ON THE PLAINTIFF'S PROPERTY, IN THE TOTAL AMOUNT OF \$250,000; [ii] THE CITY ATTORNEY TO EXECUTE ANY NECESSARY SETTLEMENT AGREEMENT TO EFFECTUATE THE SETTLEMENT; AND [iii] FOR OTHER PURPOSES.**

**BACKGROUND:**

On December 22, 2000, the Plaintiff, Alfred Boyajian, filed suit against the City asserting the following claims against the City: [i] breach of contract; [ii] interference with enjoyment of property and trespass to real property; [iii] abuse of entry onto property; [iv] nuisance; [v] fraud; [vi] inverse condemnation; [vii] damage to the peace and happiness of the plaintiff; and [viii] attorneys' fees.

The lawsuit concerned numerous damages to Plaintiff's residential property caused by the City when it entered the property to repair a ruptured sewer line/manhole adjacent to Nancy Creek, which ran behind the property.<sup>1</sup>

The Plaintiff's property consists of approximately 3.3 acres of land, located in a very affluent section of Buckhead, not too far from the Governor's mansion.

The Plaintiff (supported by an expert report) alleged damages in excess of \$900,000;

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<sup>1</sup> The Plaintiff alleged that: [i] the City's progress in making the repairs was unduly lengthy due to inadequacies and incompetencies in the City's means and methods of repair, as well as its Public Works employees; [ii] the City worked outside the bounds of any temporary easement or right of way area granted to it; [iii] the City brought out onto the Plaintiff's property 6 separate pieces of heavy machinery, each weighing from 24,000 to 52,000 pounds; [iv] the City and the machinery destroyed lighting systems, a bridge and many trees, cracked a driveway and swimming pool and changed the topography of Plaintiff's property, [v] the City cut portions of Plaintiff's property adjacent to the Nancy Creek stream bed; [vi] the City placed on the property over 471 tons of fist-sized granite rock, 14 tons of football-sized rip-rap, 2 tons of white washed sand and 2 truckloads of concrete, and did not remove such materials, changing the hydrological characteristics and preventing the Plaintiff from growing grass or otherwise enjoying the property; [vii] subsequent to the repair of the sewer/manhole, the City simply abandoned the site, with virtually no attempt at remediation.



On June 13, 2003, the City and Plaintiff mediated this case and reached a tentative settlement agreement of \$250,000.

The City has determined that it is desirable and in its best interests to settle the lawsuit and pay the Plaintiff the sum of \$250,000;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA,** that the City Attorney is authorized to settle the case of Alfred Boyajian v. City of Atlanta; Case No. 2000-CV-32159; Superior Court of Fulton County, Georgia, in the total amount of \$250,000;

**BE IT FURTHER RESOLVED THAT** the Chief Financial Officer is authorized to pay to the Plaintiff a total sum of \$250,000 to be paid from Account No. 2521529017Q38101, on behalf of the City, in exchange for the Plaintiff's execution and delivery to the City of a Settlement Agreement and a filed Notice of Voluntary Dismissal With Prejudice dismissing the lawsuit;

**BE IT FURTHER RESOLVED THAT** the City Attorney is authorized, on behalf of the City, to execute the Settlement Agreement with the Plaintiff;

**BE IT FURTHER RESOLVED THAT** the Settlement Agreement will not be binding upon the City and the City will incur no liability under it, until it has been executed by the Mayor, attested to by the Municipal Clerk, approved by the City Attorney as to form, duly executed by the Plaintiff and delivered to him.

A true copy,

*Rhonda Dauphin Johnson*  
Municipal Clerk, CMC

**ADOPTED by the Council  
APPROVED by the Mayor**

OCT 06, 2003  
OCT 14, 2003

RCS# 5041  
10/06/03  
2:05 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 1-14

ADOPT

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

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	B Boazman	NV Woolard

CONSENT I

10-06-03 Council Meeting		
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 03-O-1475	37. 03-R-1521	71. 03-R-1555
2. 03-O-1471	38. 03-R-1522	72. 03-R-1556
3. 03-O-1438	39. 03-R-1523	73. 03-R-1557
4. 03-O-1442	40. 03-R-1524	74. 03-R-1558
5. 03-O-1452	41. 03-R-1525	75. 03-R-1559
6. 03-O-1380	42. 03-R-1526	76. 03-R-1560
7. 03-O-1478	43. 03-R-1527	77. 03-R-1561
8. 03-O-1479	44. 03-R-1528	78. 03-R-1562
9. 03-O-0953	45. 03-R-1529	79. 03-R-1563
10. 03-O-1455	46. 03-R-1530	80. 03-R-1564
11. 03-O-1476	47. 03-R-1531	81. 03-R-1565
12. 03-O-1481	48. 03-R-1532	82. 03-R-1566
13. 03-R-1498	49. 03-R-1533	83. 03-R-1567
14. 03-R-1499	50. 03-R-1534	84. 03-R-1568
15. 03-R-1582	51. 03-R-1535	85. 03-R-1569
16. 03-R-1583	52. 03-R-1536	86. 03-R-1570
17. 03-R-1502	53. 03-R-1537	87. 03-R-1571
18. 03-R-1503	54. 03-R-1538	88. 03-R-1572
19. 03-R-1505	55. 03-R-1539	89. 03-R-1573
20. 03-R-1506	56. 03-R-1540	90. 03-R-1574
21. 03-R-1507	57. 03-R-1541	91. 03-R-1575
22. 03-R-1488	58. 03-R-1542	92. 03-R-1576
23. 03-R-1489	59. 03-R-1543	93. 03-R-1577
24. 03-R-1490	60. 03-R-1544	94. 03-R-1578
25. 03-R-1491	61. 03-R-1545	
26. 03-R-1492	62. 03-R-1546	
27. 03-R-1495	63. 03-R-1547	
28. 03-R-1513	64. 03-R-1548	
29. 03-R-1514	65. 03-R-1549	
30. 03-R-1515	66. 03-R-1550	
31. 03-R-1516	67. 03-R-1551	
32. 03-R-1517	68. 03-R-1552	
33. 03-R-1518	69. 03-R-1553	
34. 03-R-1519	70. 03-R-1554	
35. 03-R-1520		
36. 03-R-1579		

Consent I Vote: 13 Yeas; 0Nays: (See RCS #5041)

(Do **Not** Write on this Line)

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OCT 06 2003

**ADOPTED BY**

**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 \_\_\_\_\_

*BLR* Committee

*9/30/03* Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

*[Handwritten signatures]*

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

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

Refer To

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

**CERTIFIED**

**CERTIFIED**  
OCT 06 2003

ATLANTA CITY COUNCIL PRESIDENT  
*Patricia W. Hubbard*

**CERTIFIED**  
OCT 06 2003

*Rickie Douglas Johnson*  
MUNICIPAL CLERK

MAYOR'S ACTION

*Shirley Franklin*  
OCT 14 2003

MAYOR