Entered - 06/16/03 - sb
CL03L0477 - DIANNE C. MITCHELL

CLAIM OF: **CHARLES SIMMONS**
975 Jett Street, NW
Atlanta, Georgia 30314

03- R -2101

For damages alleged to have been sustained as a result of property damage due to flooding on September 21, 2002, May 6 and 15 , 2003 at 975 Jett Street, NW.

THIS ADVERSED REPORT IS APPROVED

BY: _____
JERRY L. DELOACH
DEPUTY CITY ATTORNEY

CERTIFIED
SEP 07 2004
ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED
SEP 07 2004
MUNICIPAL CLERK

ADVERSED BY CITY COUNCIL
SEP 07 2004

ADVERSED BY CITY COUNCIL
SEP 07 2004

ADVERSE REPORT
PUBLIC SAFTEY &
LEGAL ADMINISTRATION COMMITTEE
DATE 8/31/04
CHAIR

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. **03L0476** Date: November 7, 2003

Claimant /Victim **CHARLES SIMMONS**
BY: (Atty.)Ins. Co.)
Address: 975 Jett Street, NW, Atlanta, Georgia 30314
Subrogation: _____ Claim for Property damage $ **Not Stated** Bodily Injury $ _____
Date of Notice: 06/09/03 Method: Written, proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 09/21/02 and 05/06 &15/03 Place: 975 Jett Street, NW
Department **Watershed Management** Division: **Sewer Operations**
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant alleges that his property was damaged due to a flood on the above dates and location. The investigation determined that the flooding was due to a heavy amount of rainfall. The City is immune from liability as set forth in O.C.G.A. §36-33-1. Furthermore, as to the event occurring on September 21, 2002, the claim does not comply with the requirements of notice as set forth in O.C.G.A. §36-33-5, in that the six month statute of limitations expired prior to the receipt of the claim.

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 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 11/17/03
Committee Action: _____ Council Action _____

FORM 23-61

ENTERED - 06-16-03 - DP
03L0477 - DIANNE MITCHELL

Jewell Mitchell 06/09/03

Petition for help to The Honorable Mayor Shirley Franklin

The home owners and resident of Cairo, Jett, Joseph P. Lowery and Neal Streets are asking for your help and assistances in elevating a very serious, costly and time consuming problem. We have been the victims of 3 major floods in less than 12 months, One in September of 2002, and 2 that occurred on the following dates May 6 and May 15, 2003. The residents have been experiencing flooding in this area for over 30 years and was not able to get any help in the past, but the major flooding did start until a work crew came out in the Spring of 2002 and worked on the sewer lines or storm drains. We have spoken to the Dept of Water and Sewer Services and no one there seems to know what changes were made to the sewers and storms. When this work was preformed. Since than have been experiencing major sewer and storm drain backups into our homes and yards.

These 3 floods have caused an ongoing financial, health and emotional hardships and is putting the entire areas health at serious risk. In particular the residents of Jett, Joseph P. Lowery and Neal streets have at least a foot of stagnant sewer and rain water standing in various places on their properties. Creating a health hazard for the entire area by providing a breeding ground for mosquitoes (the major cause of West Nile Virus), mold and mildew.

Most of our residents are retired, elderly, ill or families who are already struggling during these difficult and uncertain economic times and many of us are living on a fixed incomes. We are already living with tight budgetary concerns and we can not afford the extra expenses cause by these flood. Some of our residents have had to borrow money to cover the cost of mold and mildew cleanup and replace and or repair furnaces, hot water heaters, washers, dryers, lawn equipment, furniture, clothing and other personal property. We are asking for your help in correcting what ever is causing the sewers and storm drains to backups.

We would like to thank The Dept of Sewer Service especially Mr. Thurmond Burdette, SR. and Mr. Bobby Bankston for their help and concern for our situation. And we would also like to thanks the employees of the Acme Cleaning Services for doing a fine job.

Yours Truly
The Residents

Attached is a list of the residents who have been affected and their supporting neighbors.

RESIDENTS AND HOME OWNERS

Mrs. Rosena Wise
409 Cairo St, NW

Ms. Emily Jones
425 Cairo St, NW
(W. H. Wilkins owner)

Mr. Bryant Bass
401 Cairo St, NW

Mrs. Nina D. Robinson
Mr. Andrew Williams
957 Neal St, NW

Mrs. Ardella S. Jennings
945 Neal St, NW

Mrs. Allene Burks
Mrs. Pearlin Burks
941 Neal St, NW

Mrs. Eunice Woods
953 Neal St, NW

Ms. Shelia B. Hall
960 Neal St, NW

Mr. & Mrs. Curtis Mitchell
937 Neal St, NW

Ms. Sophieretta Roberts
Mr. Lowell Vaughn, Sr.
442 Joseph Lowery Blvd.

Mr Delevan Vaughn
~~938 Jett St, NW~~

Charles Simmons
975 Jett St, NW

Mrs. Clarence Williams
946 Jett St, NW

Mr. and Mrs. Jesse Jones
419 Cairo St, NW

Mr. Jimmy L. Haywood
964 Neal St, NW

Ms. June Stargen
426 Cairo St, NW

Mrs. Kathryn Johnston
933 Neal St, NW

Mrs. Sallie B. Strickland
956 Neal St, NW

Miss. Patrina Wilborn
950 Neal St, NW

Mr. & Mrs. T. Jones
949 Neal St, NW

Mrs. Lynn Bamer
938 Neal St, NW

Mr. Craig M. Robinson
929 Neal, NW

Mr. Ricky Billingslee
Mr. Howard Billingslee
446 Joseph P. Lowery Blvd, NW

The Wilson Family
961 Neal St, NW

M. C. Martin
502 Oliver St, NW

Rick
956 Jett, NW

Mr. Theodore L. Riddick Sr.
953 Jett St, NW

Ms. Alphreeda M. Cook
967 Jett St, NW

Vernon Sanders
428 Cairo St, NW

Mr. Clarence A. Willingham Sr.
940 Jett St, NW

B. K. Brown
968 Jett St, NW

Mr. Lee
960 Jett St, NW

03-R-2101

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

September 14, 2004

Charles Simmons
975 Jett Street, NW
Atlanta, GA 30314

03-R-2101

Dear Mr. Simmons:

I sincerely regret that you have been adversely affected by the circumstances raised in your 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 claim at its regular meeting on September 07, 2004. 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

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department