(41)

00- R -0163

Entered - 10-13-99 SB
CL 99L0675 -MICHAEL A. REEVES

CLAIM OF: **MELISSA GAITHER**
through her attorney
ROGER F. HUFF
3060 Mercer University Drive
Suite 300
Atlanta, Georgia 30341

ADVERSED BY CITY COUNCIL FEB 2 1 2000

For damages alleged to have been sustained as a result of an apartment fire on April 18, 1999, at 2381 Leila Lane.

THIS ADVERSED REPORT IS

CERTIFIED
FEB 2 1
Deborah M. Stavros
COUNCIL PRESIDENT PROTEM

APPROVED:

Rosalind Rubens Newell
ROSALIND A. RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVERSE REPORT
Public Safety
2/15/2000
Sherry Darsey

CERTIFIED
FEB 2 1 2000
Rhonda Dauphin Johnson
MUNICIPAL CLERK

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

February 28, 2000

Roger F. Huff
Attorney at Law
3060 Mercer University
Suite 300
Atlanta, GA 30341

00-R-0163

RE: Melissa Gaither

Dear Attorney Huff:

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 February 21, 2000. 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

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 99L0675 Date: January 25, 2000

Claimant /Victim **MELISSA GAITHER**
BY: **(Atty.)** (Ins. Co.) Roger F. Huff
Address 3060 Mercer University Drive, Suite 300, Atlanta, Georgia 30341
Subrogation _____ Claim for Property damage $ 1,000,000.00 Bodily Injury $_____
Date of Notice 10/13/99 Method: Written, proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 04/18/99 Place 2381 Leila Lane
Department Fire Bureau_____ Division_____
Employee involved_____ Dept.Action_____

NATURE OF CLAIM: The claimant alleged that the City of Atlanta Fire Department was negligent in their failure to inspect and maintain fire hydrants near her property and that her property was damaged due to a fire. The investigation determined that the Fire Department had prior to the fire inspected City's fire hydrants in close proximity to subject address. Some hydrants were found to be not functioning due to mechanical problems and vandalism. Some of the hydrants were found to be working properly. The City is immune from liability as set forth in O.C.G.A. §36-33-1.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____
Pictures ____ Diagrams X 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 - MICHAEL A. REEVES

RECOMMENDATION:

Pay $_____ Adverse X Account charged: 1A01_____ 2J01_____ 2H01_____
Claims Manager _____ Concur/date 02-03-00
Committee Action_____ Council Action _____

FORM 23-61

Reeves
10/13/99

LAW OFFICE
ROGER F. HUFF
3060 MERCER UNIVERSITY DRIVE
SUITE 300
ATLANTA, GEORGIA 30341

ENTERED - 10-21-99 - SB
99L0675 - MIKE REEVES

Telephone
(770) 455-4361
Facsimile
(770)455-4363

October 5, 1999

SENT BY FEDERAL EXPRESS AND REGULAR MAIL

Honorable William Campbell
Mayor, City of Atlanta, Georgia
Atlanta City Hall
Suite 2400
55 Trinity Avenue, S.W.
Atlanta, GA 30335

Honorable Avel Thomas, Chairperson and
Honorable Members of the City of Atlanta
Georgia, City Council
c/o Honorable Ronda Dauphn Johnson
Municipal Clerk, City of Atlanta
Atlanta City Hall
Suite 2900
55 Trinity Avenue, S.W.
Atlanta, GA 30335

Susan Pease Langford, Esq.
Attorney for City of Atlanta, Georgia
Atlanta City Hall Tower
68 Mitchell Street, S.W.
Suite 4100
Atlanta, GA 30335

Honorable Members of the City of Atlanta
Housing Authority
739 W. Peachtree Road, N.E.
Atlanta, GA 30365

Bernard Thomas, Esq.
Attorney for City of Atlanta
Housing Authority
68 Mitchell Street, S.W.
Suite 4100
Atlanta, GA 30335

RE: Property Damage, Personal Injury and other Damages sustained by Melissa Gaither
Date of Injuries/Damages: April 18, 1999
Location: Leila Valley Apartments, 2381 Leila Lane, Apartment #95, Atlanta, Georgia

Dear Madam/Sir:

I represent Melissa Gaither with respect to claims arising from a fire which occurred on the above-referenced date and the above-referenced location in Atlanta, Georgia. My client sustained property damages and/or personal injuries as a proximate result of the fire at said location. Enclosed is a copy of the City of Atlanta Fire Department's report concerning that incident for your reference.

Please accept this letter, pursuant to provisions of O.C.G.A. §36-33-5, as written notice to the City and the City of Atlanta Housing Authority of potential claims for property damage, personal injuries, punitive damages and related claims as a result of this incident.

While we are still investigating this incident, there are potential claims concerning the negligent failure to inspect and maintain the fire hydrants servicing (or which were intended to service) this location; negligent inspection, maintenance and provision of sufficient water pressure to the fire hydrants servicing (or intended to service) this location; negligent inspection and maintenance of electrical outlets and fire detectors at these apartments, negligent hiring, retention and supervision of the management services provider at said location at said time. This letter is simply to provide written notice to you pursuant to the provisions of O.C.G.A. §36-33-5 of our assertion of potential claims against the City, the Housing Authority and their insurance carriers, if such insurance exists, for the previously referenced claims all of which did or may have proximately caused or contributed to the damages sustained by my client. In the event a claim is sued, it is anticipated that damages in excess of $1,000,000.00 will be sought. Please provide to me the identity of each known insuror which may provide coverage to the City and the Housing Authority as a result of this incident.

Thank you for your kind attention.

Sincerely,

Roger F. Huff

RFH:dal
Enclosure

00-R-0163

DEBI STARNES PRESIDED

RCS# 1771
2/21/00
2:37 PM

Atlanta City Council

Regular Session

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CONSENT AGENDA PAGES (1 - 9)

ADOPT

YEAS:	15
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	1
EXCUSED:	0
ABSENT	0

SEE ATTACHED LISTING OF ITEMS ADOPTED/ADVERSED ON CONSENT AGENDA

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

ITEMS REMOVED FROM CONSENT AGENDA
00-O-0122
00-O-0123
00-R-0202
00-R-0020

00-O-0212 – Councilmember Boazman Abstained

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02/21/00 Council Meeting

ITEMS ADOPTED ON CONSENT AGENDA

1. 99-O-2072
2. 99-O-2073
3. 00-O-0127
4. 00-O-0124
5. 00-O-0126
6. 00-O-0066
7. 00-O-0125
8. 00-O-0211
9. 00-O-0212 *
10. 00-O-0213
11. 00-O-0207
12. 00-R-0220
13. 00-R-0196
14. 00-R-0209
15. 00-R-0180
16. 00-R-0176
17. 00-R-0174
18. 00-R-0145
19. 00-R-0146
20. 00-R-0147
21. 00-R-0148
22. 00-R-0149
23. 00-R-0150
24. 00-R-0151
25. 00-R-0152
26. 00-R-0153
27. 00-R-0154
28. 00-R-0155
29. 00-R-0156
30. 00-R-0157
31. 00-R-0158
32. 00-R-0159
33. 00-R-0160

ITEMS ADVERSED ON CONSENT AGENDA

34. 00-R-0161
35. 00-R-0162
36. 00-R-0163
37. 00-R-0164
38. 00-R-0165
39. 00-R-0166
40. 00-R-0167
41. 00-R-0168
42. 00-R-0169
43. 00-R-0170
44. 00-R-0171
45. 00-R-0172
46. 00-R-0173
47. 00-R-0175

* Councilmember Boazman abstained from voting on item 00-O-0212.