

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA, et al.,
Plaintiffs

Case No. 1:02-cv-107
Barrett, J.
Litkovitz, M.J.

vs.

BOARD OF HAMILTON COUNTY
COMMISSIONERS, et al.,
Defendants

**ORDER RE: REQUEST
FOR REVIEW BY
ROBIN LYNN MITCHELL**

This matter is before the Court on the Request for Review of the denial of a Sewer Back Up (“SBU”) claim by Robin Lynn Mitchell (Doc. 916) and the Metropolitan Sewer District of Greater Cincinnati (“MSD”)’s response thereto (Doc. 1036). On August 9, 2017, the Court held a hearing on Ms. Mitchell’s request for review. (Doc. 1040).

On August 14, 2017, Ms. Mitchell filed a supplemental response to her Request for Review. (Doc. 1042). This response is in the form of a letter from Alexis Liu who resides at 1718 Bella Vista Street, Cincinnati, Ohio, which is three houses down from Ms. Mitchell’s property. Ms. Liu states that she also suffered a sewer backup on August 28, 2016 and made a claim to MSD, which MSD denied. Ms. Liu states that her insurer, AllState Corp., initially denied her claim, stating the likely cause was overland flooding. However, Ms. Liu states she appealed AllState’s initial finding and her claim was reopened. Ms. Liu states that upon further investigation of her claim, AllState found in her favor and paid her claim under the Sewer Back Up/Water Back Up rider to her homeowner’s policy. (Doc. 1042 at 2).

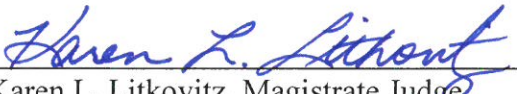
At the hearing on Ms. Mitchell’s case, MSD presented evidence that an MSD crew investigated Ms. Liu’s report of a SBU at 1718 Bella Vista Street to show there was no surcharge of the public sewer on Bella Vista Street as a result of the August 28, 2016 storm. (Doc. 1036, Ex. A). MSD did not perform an independent investigation of Ms. Mitchell’s SBU report.

The letter from Ms. Liu which has been submitted by Ms. Mitchell suggests that Ms. Liu's insurance company may have additional information that would be helpful in determining the cause of the basement backups on Bella Vista Street.

The Court determines that further information will assist in the resolution of Ms. Mitchell's SBU claim. To the extent Ms. Mitchell is able to obtain additional information about Ms. Liu's Sewer Back Up/Water Back Up rider to her homeowner's policy and the insurance company's decision to pay on this claim, including any information as to the cause of Ms. Liu's basement backup, Ms. Mitchell should submit this information to the Court no later than **September 13, 2017**. MSD is to advise the Court whether MSD investigated any reports of SBU from homeowners other than Ms. Mitchell and Ms. Liu on Bella Vista Street and the result of such investigations. MSD should submit its supplemental response by **September 13, 2017**.

IT IS SO ORDERED.

Date: 8/24/17


Karen L. Litkowitz, Magistrate Judge
United States District Court