



## Claims Process for the August 28, 2016 Rain Storm

### *Letter from the MSD Director*

On August 28, 2016, Norwood, St. Bernard and eastern and central neighborhoods in Cincinnati were hit by a major rain storm. This was a catastrophic rain event, not a failure of the sewer system. Sewer systems are not designed to handle a rain storm of the magnitude and intensity that occurred.

As a result, thousands of homes and businesses were flooded with rain water mixed with sewage that backed up from floor drains.

Hamilton County is one of the few communities in the nation that has a sewer backup (SBU) program through its local wastewater utility - the Metropolitan Sewer District of Greater Cincinnati (MSD). MSD's program is required under a federal Consent Decree (mandate) with the U.S. EPA.

The SBU program, which was launched in 2004, typically handles about 400 reports of sewer backups over a year's time, normally in groups of about 10 to 20 reporting a couple of inches of water and sewage. The August 28 event resulted in more than 1,900 reported sewer backups, many with multiple feet of water and sewage. This resulted in significantly more structural damage, loss of personal property, and damage or loss of critical mechanicals such as furnaces, AC, hot water heaters and electrical systems.

As MSD was not staffed to handle the volume of sewer backups that occurred, we contracted with additional cleanup contractors and hired a third-party claims adjuster, Tenco, to handle the claims process. We are making steady progress. *Please see the Claims Process, which includes a Review Process, outlined below.*

We understand the process of recovering from the August 28 storm has been difficult and frustrating at times. We know that many have lost keepsakes that are irreplaceable. We are doing the best that we can and are committed to helping the community through this hardship. If you have questions about your claim, please contact us at (513) 244-5100 or visit the SBU website at [sbu.msdc.org](http://sbu.msdc.org). For those who would like additional information about the SBU program, we encourage you to contact the SBU Ombudsman at the Legal Aid Society at (513) 362-2801.

Thank you.

A handwritten signature in purple ink that reads "Gerald L. Cheever".

## Reimbursement Policies under the Claims Process:

Under the SBU program, MSD has historically provided reimbursement for the following types of expenses:

- Loss of personal property (e.g., furniture, miscellaneous storage items, appliances). *MSD reimburses for current (depreciated) value of damaged personal property.*
- Structural damage to the interior of the property (e.g., flooring, dry wall, furnace/AC, hot water heater, electrical). *MSD is reimbursing for the full, reasonable replacement value for structural damage, including critical mechanicals.*
- Out-of-pocket expenses incurred to hire a professional cleanup contractor.

Our reimbursement policies are based on criteria established by our Consent Decree and guidance from the U.S. District Court for the Southern District of Ohio (“Federal Court”).

Property owners and tenants can submit a claim for any damages they feel they have incurred as a result of the sewer backup. However, certain items may be denied based on the criteria established by the Consent Decree and Federal Court.

Through a Review Process (*outlined below*), the claimant can request that a magistrate judge review the settlement offer and make a final determination.

Alternatively, anyone affected by a sewer backup has the option of pursuing his or her claim through the standard legal process rather than through the SBU claims process. He or she may file in the Hamilton County Municipal Court or the Court of Common Pleas.

## Steps in the Claims Process:

There are multiple steps (10 to be exact) in the MSD claims process for the rain event of August 28, 2016. Some of the steps are fairly simple and short, while others can take some time. *At this time, due to the volume of claims being received, MSD cannot guarantee reimbursement within 60 days.*

**Steps 1-3:** These steps are basically administrative and focus on receiving/scanning the claim into our database, MSD technical evaluation and assignment to a Tenco claims adjuster.

**Step 4:** Tenco is only responsible for one step, Step 4, the proposed settlement. Most of the claims that have been submitted to MSD are currently at Step 4. The length of time a claim spends in Step 4 is determined by the complexity of the claim and whether all the needed documentation is included (insurance info, etc.). Once the Tenco claims adjuster has completed its proposed settlement (which is the amount to be reimbursed), it goes to Tenco management for review.

**Step 5:** Once Tenco has completed its review, the proposed settlement is sent to MSD for legal review.

**Step 6:** Once MSD legal has approved the settlement, a letter containing the settlement offer and release is sent to the claimant. If the claimant is in agreement with the settlement offer, he/she signs the release and returns it to MSD. *If the claimant is not in agreement with the settlement offer, he or she may further discuss the amount with MSD or pursue the Review Process – see below for steps.*

**Steps 7-10:** The rest of the steps are related to MSD receiving the signed release, requesting a settlement check, receiving a settlement check and mailing the check to the claimant. It takes 7-10 business days for MSD to process and receive a settlement check once the release is received. MSD will mail the settlement check upon receipt.

**Review Process:** If you are not in agreement with the settlement offer from MSD, you can request a review with the Federal Court. This process is as follows:

In accordance with an order in the Consent Decree case, Federal District Court case # C-1-02-107, you may file a Request for Review with the Federal Court in Cincinnati, Ohio. You should file your Request within 90 days with the Clerk's Office of the Federal Court located in the Potter Stewart U.S. Courthouse, Room 103, 100 East 5<sup>th</sup> Street, Cincinnati, Ohio 45202. You may call the court-appointed Ombudsman, the Legal Aid Society, at (513) 362-2801 for further information.