

Authority for City Solicitor to Recover Costs for Clean Up of Coconut Oil Spill Into Sewer

Date:	January 31, 2007
To:	General Government Committee
From:	City Solicitor
Wards:	07 – York West
Reference Number:	

SUMMARY

This report is to obtain approval to commence litigation against Gay Lea Foods Co-Operative Ltd. to recover costs the City incurred when coconut oil escaped from a vat at the Gay Lea facility, entered the sewer system, and plugged up the City's sanitary sewer main.

RECOMMENDATIONS

The City Solicitor recommends that:

1. authority be granted to commence litigation against Gay Lea Foods Co-operative Ltd. to recover approximately \$225,000 in costs incurred as a result of the discharge of coconut oil into the sanitary sewer main, to appeal any decision where warranted, to discontinue or to settle the action or claim where it is concluded that it is reasonable to do so, and to execute any documents in furtherance hereto, all in consultation with the General Manager, Toronto Water;
2. the appropriate City Officials be authorized and directed to take the necessary action to give effect hereto.

FINANCIAL IMPACT

The recommendations will have no financial impact beyond what has already been approved in the current year's budget.

ISSUE BACKGROUND

Gay Lea operates a facility manufacturing food products at 180 Ormont Drive, near the intersection of Weston Road and Steeles Avenue, in the City of Toronto.

On Thursday, March 24, 2005, approximately 1,500 litres of coconut oil spilled from a vat inside the facility and entered the City's sanitary sewer main.

The coconut oil solidified inside the sewer and blocked the sewer main.

The coconut oil spill was so extensive that efforts by Gay Lea and the City's contractor to flush out the sewer to remove the oil were unsuccessful. As a result, the City had to hire a contractor to excavate under the road to access the sewer main, construct a bypass of the sewer main as a temporary emergency measure, remove the coconut oil, and then repair the sewer main and the road.

The City sent Gay Lea two invoices dated May 2, 2006 and September 26, 2006 totalling \$200,768.35. An additional invoice dated January 19, 2007 totalling \$19,452.41 for permanent road repair work carried out in 2006 has also been sent to Gay Lea.

In July 2006, Gay Lea did deliver a cheque to the City in the amount of \$188,250.61. Gay Lea subsequently placed a stop payment on the cheque.

The City has demanded payment of the outstanding invoices. While Gay Lea has indicated a desire to negotiate a resolution with the City, Gay Lea has made no specific offer and no agreement has been reached to date. Authority is being sought to commence an action in order to preserve the City's rights as the incident occurred almost two years ago (March 24, 2005) and the applicable limitation period is two years

CONTACT

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SIGNATURE

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