



**STAFF REPORT
ACTION REQUIRED
Confidential Attachment**

Legal Proceedings to Recover Damages regarding the Humber Treatment Plant

Date:	August 22, 2007
To:	Public Works and Infrastructure Committee
From:	City Solicitor
Wards:	Ward 5 – Etobicoke Lakeshore
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions. It contains advice from the City Solicitor that is subject to solicitor-client privilege.
Reference Number:	

SUMMARY

In 2001, problems were encountered during the commissioning of the cogeneration facility at the Humber Treatment Plant resulting in damages to remediate the system and construction delay. As a result, the City has incurred costs. The purpose of this report is to provide solicitor-client advice and recommended action regarding recovery of these costs.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council adopt the confidential instructions to staff in Attachment 1;
2. Council authorize the public release of Recommendation 1 of the confidential instructions to staff in Attachment 1 after Council has adopted the confidential instructions to staff;
3. Council authorize the public release of Recommendation 2 of the confidential instructions to staff in Attachment 1 if any settlement is finalized to the satisfaction of the City Solicitor; and

4. The Confidential Information in Attachment 1 remain confidential.

FINANCIAL IMPACT

The financial impacts are discussed in the Confidential Information in Attachment 1 of this report. The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

Contracts with all of the parties involved in the design and construction of the project were authorized previously by Council as set out in the following:

Clause No. 4, Report No. 2 of the Works Committee, authorized by Metro Council at its meeting on February 20, 1973

<http://www.toronto.ca/legdocs/agendas/council/cc/cc980513/wu4rpt/cl003.htm>

<http://www.toronto.ca/legdocs/2000/agendas/council/cc/cc001003/wks17rpt/cl012.pdf>

<http://insideto.toronto.ca/minnet/appa/app95/co950405/ep5/cl021.htm>

ISSUE BACKGROUND

In 2001, an internal explosion occurred in the exhaust system of the engine-generators which were being installed as part of design and construction of the Cogeneration Facility Project at the Humber Treatment Plant. The City incurred costs due to the resulting delay to the construction and the necessary remedial steps. The City seeks to recover these costs from the parties responsible. This report provides advice from the City Solicitor with respect to the legal implications of such cost recovery and seeks Council authority for legal steps necessary to effect such recovery and to protect the interests of the City.

CONTACT

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SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENTS

Attachment 1 – Confidential Recommendations and Information