



**STAFF REPORT
ACTION REQUIRED
Confidential Attachment**

Western Beaches Tunnel

Date:	September 19, 2007
To:	Public Works and Infrastructure Committee
From:	City Solicitor
Wards:	Ward 19 Trinity-Spadina; Ward 14 Parkdale – High Park
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 2005, there were shaft breakages of the pumps installed as part of the Western Beaches Tunnel system. The City has incurred costs and may incur further costs to remedy the underlying problem. The purpose of this report is to provide solicitor-client advice and recommended action regarding the 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. 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 the parties involved in the design and construction of the project were authorized previously by the former City of Toronto and the Council of the amalgamated City of Toronto. Post amalgamation authorities are available by electronic link and are listed below.

<http://www.toronto.ca/legdocs/agendas/council/cc/cc980513/wu4rpt/cl002.htm>

<http://www.toronto.ca/legdocs/agendas/council/cc/cc981125/wu10rpt/cl007.htm>

(search for October 15, 1998)

<http://www.toronto.ca/legdocs/1999/agendas/council/cc/cc990202/cofa.htm>

(search for (19))

<http://www.toronto.ca/legdocs/1999/agendas/council/cc/cc990413/wu4rpt/cl008.htm>

<http://www.toronto.ca/legdocs/2004/agendas/council/cc040301/pof2rpt/cl048.pdf>

ISSUE BACKGROUND

In 2005, the shafts of the pumps utilized in the Western Beaches Tunnel system failed. The City has incurred costs and may incur further costs to remedy the underlying problem. 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