



**STAFF REPORT  
ACTION REQUIRED  
with Confidential Attachment**

**Litigation Regarding Construction of 43 Division**

<b>Date:</b>	August 18, 2008
<b>To:</b>	Government Management Committee
<b>From:</b>	City Solicitor
<b>Wards:</b>	All
<b>Reason for Confidential Information:</b>	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions.
<b>Reference Number:</b>	

**SUMMARY**

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Nelson Wong Architects Inc. (“NW”) entered a contract with the City to provide architectural consulting services with respect to the design and construction of the new 43 Division Police station, as well as an ambulance station located within the same facility, located at 4331 Lawrence Avenue East Toronto.

The City Solicitor issued a claim against NW concerning its work on 43 Division in 2007. The purpose for this report is to seek instructions to continue that litigation.

**RECOMMENDATIONS**

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It is recommended that all steps taken to date by the City Solicitor be ratified, and that she be authorised to continue proceedings against NW, to settle or discontinue the action where it is concluded it is reasonable to do so and to execute any documents in furtherance thereof, and to appeal any court decision with respect thereto, if in the City Solicitor’s opinion it is reasonable to do so.

## **FINANCIAL IMPACT**

The financial implications resulting from the adoption of this report are set out in the Confidential Information Attachment 1.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

At its meeting of March 4-8, 2002, by adoption of Clause No. 1 of Report No. 3 of the Policy and Finance Committee (with amendments not relevant to this matter), Council approved the funding necessary to commence design, development and construction work on 43 Division, as part of the Toronto Police Service's 2002 Capital Budget.

## **ISSUE BACKGROUND**

After the initial design of the building was completed, the City retained Ledcor Construction Ltd. ("Ledcor") as construction manager for the project. Construction of the project began in the fall of 2004. Substantial completion was attained in December 2005.

NW agreed, among other things, to develop the design of the building, to produce technical specifications for all building elements and systems, to prepare a complete set of construction and working drawings and specifications, to administer the on-site construction contract and to provide site review services during construction. The statement of claim issued alleges that during the course of construction, a number of problems were encountered as a result of the alleged breach of contract and/or negligence of NW.

After being served with the Statement of Claim, NW has in turn issued Third Party Claims, seeking contribution with respect to any damages for which it may be liable, from three of its sub-consultants and Ledcor. The action is still in its early stages; examinations for discovery have not yet been scheduled.

The City's Director of Design, Construction and Asset Preservation, Facilities and Real Estate Division and the Director of Toronto Police Service Facilities Management have been consulted in the preparation of this report and concur with its recommendations.

## **CONTACT**

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## **SIGNATURE**

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Anna Kinastowski  
City Solicitor

## **ATTACHMENTS**

Confidential Attachment 1 – Confidential Information – Litigation Regarding Construction of 43 Division