



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Negotiated Settlement with EcoMedia Direct Incorporated over Damaged Litter Bins

Date:	October 28, 2008
To:	Public Works and Infrastructure Committee
From:	General Manager, Transportation Services General Manager, Solid Waste Management Services
Wards:	All Wards
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions.
Reference Number:	P:\2008\Cluster B\TRA\Scarborough District\pw&i08098 (AGF#8732)

SUMMARY

The purpose of this report is to advise on the results of negotiations with EcoMedia Direct Incorporated over damages incurred to litter bins placed on City streets and to receive direction in that regard as described in Attachment 1 – Confidential Information.

RECOMMENDATIONS

The General Managers of Transportation Services, and Solid Waste Management Services recommend that:

1. Council adopt the confidential instructions to staff in Attachment 1.
2. City Council authorize the public release of the confidential information and recommendations in Attachment 1, if any settlement is finalized.

FINANCIAL IMPACT

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

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

DECISION HISTORY

A similar issue was resolved between the City and OMG Media (the original company contracted to provide these litter bins on City streets) in April 2002. At that time, City Council had before it recommendations from the Administration Committee regarding a report dated April 22, 2002 from the Chief Administrative Officer and authorized staff to settle a damage claim for \$150,000.

ISSUE BACKGROUND

The City of Toronto currently has an agreement with EcoMedia Direct Incorporated (EcoMedia) for the placement of litter bins on City streets. In addition to the provision of litter receptacles for the public, the City receives monthly revenue from EcoMedia funded through the sale of advertising panels placed on the side of the bins. This multi-year contract is due to expire in October 2009, and after termination of the contract these litter bins owned by EcoMedia will be removed.

In May 2008, representatives of EcoMedia met with city staff from Transportation Services, Solid Waste Management Services and Legal Services to provide information related to a claim that as many as 745 bins were damaged across all districts of the City. The damage was alleged to have been caused by the City's snow removal equipment during the extremely heavy snowfalls of the past winter. At that time, both EcoMedia and City staff agreed to a process of joint field inspections in order to verify the damage and ascertain the most likely cause.

In the subsequent weeks, EcoMedia provided the City with a listing of damaged litter bin locations broken down by each of the four operating districts, and Transportation Services staff began compiling information as a result of field inspection at these locations. Although, damages were verified in most cases, the extent of such damage was highly variable, ranging from dented panels and bent tubing to broken pedestal legs. It was also noted that some bins were missing leg bolts and some door latches were not working properly. This information was conveyed to EcoMedia.

By the end of the summer, it became apparent that a gap persisted between what EcoMedia's damage claim alleged and what staff felt responsible for as a result of snow removal efforts conducted either by City crews or by City contractors. In an effort to bring a quick and reasonable resolution to the matter, both parties agreed to negotiate a

mutually satisfactory settlement amount with conditions that would strive to avoid future similar occurrences.

COMMENTS

Negotiations have resulted in a proposed settlement with EcoMedia to avoid further potential costs associated with additional staff investigations, further meetings and any subsequent legal process. Attachment 1 – Confidential Information, describes the settlement.

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SIGNATURES

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ATTACHMENTS

Attachment 1 – Confidential Information