



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Supplementary Report on Council's June 6-8, 2012 Decision to Prohibit Single-Use Plastic Carryout (Shopping) Bags

Date:	November 23, 2012
To:	City Council
From:	City Solicitor
Wards:	All
Reason for Confidential Information:	This report contains advice or communications that are subject to solicitor-client privilege and pertain to litigation or potential litigation.

SUMMARY

The purpose of this supplementary report is to advise of court proceedings commenced by the Ontario Convenience Stores Association (the "OCSA") and the Canadian Plastic Bag Association ("CPBA") and to seek instructions from Council respecting these proceedings.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council adopt the confidential recommendations in the Confidential Attachment.
2. If adopted, the confidential recommendations in the Confidential Attachment remain confidential until such time as the action authorized by the adoption of the recommendations is taken.
3. All other information contained in the Confidential Attachment remain confidential as it pertains to litigation and contains advice subject to solicitor-client privilege.

Financial Impact

Information on the financial impacts is contained in the Confidential Attachment.

DECISION HISTORY

The decision history is set out in detail in the initial Staff Report, dated September 17, 2012, from the City Solicitor. City Council previously decided at its December 1-3, 2008 meeting to impose a five cent plastic bag fee and enacted an implementing bylaw on March 31, 2009. City Council subsequently decided at its June 6-8, 2012 meeting to rescind that five cent plastic bag fee and enacted an implementing bylaw on June 8, 2012. City Council also decided at its June 6-8, 2012 meeting to impose a prohibition on single use plastic carryout (shopping) bags.

Since the submission of the initial Staff Report to Council, City Council at its October 1-3, 2012 meeting made the following decision with respect to considering a confidential report from the City Solicitor and conducting industry and public consultations on a draft bylaw to implement the ban of single use plastic bags and on related issues.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.CC26.1>

Additionally, Public Works and Infrastructure at its November 14, 2012 meeting made the following decision.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.PW19.1>

COMMENTS

To date, two court proceedings have been commenced challenging the validity of Part 2 of Council Decision EX 20.2. The first was commenced by the OCSA on November 15, 2012, and the second by the CPBA on November 19, 2012. These matters are discussed in more detail in the Confidential Attachment.

CONTACT

Ansuya Pachai, Solicitor, Litigation, Legal Services Division

Email: apachai@toronto.ca, Telephone: (416) 392-9074, Fax: (416) 392-3848

Scott Pasternack, Solicitor, Municipal Law, Legal Services Division

Email: spaster@toronto.ca Telephone: (416) 397-0950, Fax: (416) 392-1017

SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENT

Confidential Attachment 1 - Confidential Recommendations and Information