



**STAFF REPORT  
ACTION REQUIRED  
with Confidential Attachment**

**Motion Regarding Commencement of UberX Injunction**

<b>Date:</b>	February 2, 2016
<b>To:</b>	City Council
<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. This report also contains advice or communications that are subject to solicitor-client privilege.
<b>Reference Number:</b>	

**SUMMARY**

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At its meeting on January 22, 2016, the Licensing and Standards Committee passed a motion recommending that Council direct the City Solicitor to commence an application against Uber and UberX drivers to prohibit the continued operation of UberX in the City of Toronto. The confidential portion of this report (Attachment 1) provides information and legal advice regarding this proposed course of action.

**RECOMMENDATION**

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The City Solicitor recommends that:

1. Council direct that the information in the confidential attachment remain confidential indefinitely as it contains advice that is subject to solicitor-client privilege.

## **Financial Impact**

The financial impacts are set out in the confidential attachment.

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

## **DECISION HISTORY**

On January 22, 2016, the Licensing and Standards Committee passed a motion recommending that Council direct the City Solicitor and the Executive Director, Municipal Licensing and Standards, to return to the Ontario Superior Court of Justice to seek an injunction against Uber and individual UberX drivers, based on the updated regulations to Toronto Municipal Code Chapter 545 approved by City Council at its meeting on September 30, October 1 and 2, 2015.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LS9.4>

## **ISSUE BACKGROUND**

Section 380 of the City of Toronto Act, 2006, S.O. 2006, c. 11 provides that, if a by-law is contravened, the City may bring a court application to restrain the activity being conducted in breach of the by-law. This authority is in addition to any other remedy and to any penalty imposed by the by-law.

Pursuant to section 380, the City did commence an application against Uber Canada Inc., Uber B.V., and Rasier Operations B.V. (together “Uber”) in November, 2014. In that application, the City sought an injunction to stop Uber from operating all of its services in Toronto unless it obtained the required taxicab brokerage or limousine service company licences and obeyed related requirements of the *Toronto Municipal Code*, in force at that time. On September 23, 2015, the City Solicitor reported to City Council on the decision of the Ontario Superior Court of Justice dismissing the City’s application.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC9.8>

At its meeting on September 30, October 1 and 2, 2015, Chapter 545 of the *Municipal Code* was amended to define a "taxicab" as a “passenger motor vehicle for hire ....., which may be hired by pre-arrangement or by hail for the transportation of persons”. A “limousine” is defined as “any automobile, other than a taxicab as defined by this chapter, used for hire for the conveyance of passengers” in the City. Read together, the taxicab and limousine definitions are intended to require that any vehicle used for hire in Toronto must hold a municipal licence.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS6.1>

At the same time, the *Municipal Code* was also amended to define a “taxicab broker” to include any person who “accepts, solicitors, or brokers requests for taxicab service in any manner, including any person who offers or licenses a smartphone application, website or other technology that connects passengers with taxicab service or is held out as being for the purpose of connecting passengers with taxicab service...” The definition of a limousine service company was similarly amended to refer to any person who “accepts, solicits or brokers” any request for limousine service, whether through a smartphone application or other technology.

In addition, at its September 30, October 1 and 2, 2015 meeting, Council directed that the Executive Director, Municipal Licensing and Standards (“ML&S”), report back to the Licensing and Standards Committee on a framework to equitably regulate all ground transportation providers. ML&S advises that they will report to the Licensing and Standards Committee’s April 14, 2016 meeting.

On January 22, 2016, Uber Canada Inc. obtained a taxicab brokerage licence in respect of the UberTaxi service operated in Toronto. The UberTaxi operation uses licensed taxicab vehicles which are dispatched to pick up passengers on request.

Uber continues to operate UberX, UberXL, UberSelect, UberBlack, and UberSUV in Toronto, which are different categories of service available at different prices to individuals seeking transportation.

## **COMMENTS**

Enforcement action against both individual vehicle owners and Uber is ongoing in Toronto. In January 2016, ML&S issued 120 new charges against owners of vehicles being used as unlicensed taxicabs based upon the amendments to Chapter 545 and against Uber Canada Inc., Uber International BV, Uber BV, Rasier Operations BV, and Uber Technologies Inc. for offences relating to being unlicensed taxicab brokers and for entering into agreements to connect passengers seeking taxicab service with unlicensed taxicabs. These charges are currently before the Ontario Court of Justice.

In a report dated November 2, 2015, Item LS7.7, ML&S reported to Council on enforcement activities ongoing at that time.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.LS7.7>

In the report dated January 8, 2016, Item LS9.4, the City Solicitor also provided information on ML&S’s enforcement activities.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.LS9.4>

Confidential Attachment 1 provides legal advice on the issues relating to pursuing a court application at this time. The Executive Director of ML&S has been consulted on this report.

## **CONTACT**

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## **SIGNATURE**

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Anna Kinastowski, City Solicitor

## **ATTACHMENTS**

Attachment 1: Confidential Attachment