



Crescent Town Pedestrian Bridge Review

Date: June 24, 2019

To: Executive Committee

From: Deputy City Manager, Infrastructure and Development Services

Wards: All

SUMMARY

On November 17, 2018, a privately-owned, publicly-accessible bridge, in the City's Crescent Town neighbourhood, partially collapsed. Councillors and the public expressed concern that there had been a lack of timely action on the part of the City and property owners in response to complaints, investigations and enforcement related to the bridge, prior to the collapse.

At its meeting of December 4, 2018, City Council adopted a Member's Motion directing the City Manager to examine the circumstances and actions of City staff related to the Crescent Town bridge and identify areas for improving public safety related to privately-owned, publicly-accessible bridges. This report responds to that City Council direction.

Attached to this staff report is the Internal Audit Division's review of how the City carried out its responsibilities related to the Crescent Town bridge. The review concluded that a number of factors contributed to the lack of timely action on the part of the City and property owners. The Internal Audit resulted in four recommendations; however, the report did not identify any misconduct. Toronto Building and Municipal Licensing and Standards divisions are in agreement with and supports all of the recommendations resulting from the Internal Audit Division review. The Toronto Building and Municipal Licensing and Standards Divisions are moving quickly to implement the Internal Audit recommendations and an implementation plan is outlined in this report. All of the recommendations are either complete or underway with full completion expected by the end of the year, in advance of the Internal Audit timeline.

This report also responds to City Council's direction to consider options for an independent third-party review of the circumstances leading to the collapse of the bridge. Based on research and consideration of risks, costs, potential scope and efficacy, an independent third-party review is not recommended. The Internal Audit review recommendations will strengthen the safety of publicly-accessible, privately-owned bridges. It is not expected that a municipal judicial investigation would provide any further lessons than those which emerged from the Internal Audit review. Further,

research suggests that municipal judicial investigations tend to be costly and time-consuming.

This report has been prepared in consultation with the Chief Building Official and Executive Director, Toronto Building, City Solicitor, Executive Director, Municipal Licensing and Standards and Director, Internal Audit.

RECOMMENDATIONS

The Deputy City Manager, Infrastructure and Development Services recommends that:

1. The Executive Committee receive this report for information.

FINANCIAL IMPACT

The recommendation contained in this report has no financial impact.

DECISION HISTORY

City Council adopted, with amendments, Member Motion 1.3 Addressing safety and integrity of Massey Square Bridge, and privately owned publicly accessible spaces into the future, on December 4, 2018, with amendments and directed the City Manager to:

1. To undertake the following actions in response to the collapse of the pedestrian bridge in Crescent Town:
 - a. using Internal Audit resources, undertake an Internal Review of the circumstances and actions of City staff with respect to the Crescent Town bridge, including: inspection and enforcement activities; interactions with and between other parties, including Pinedale Properties and the Toronto District School Board; City policies and procedures within and between Divisions; and make recommendations for any City policy and procedures changes and further actions;
 - b. in consultation with the City Solicitor, review options and make recommendations on the form, scope and costs of an independent third-party review of the circumstances leading to the collapse of the bridge, including a municipal judicial review or like-process, and report to the January 23, 2019 Executive Committee meeting;
 - c. include in the scope of the independent review, recommendations for legislative or regulatory changes to the Ontario Building Code or City By-laws related to building condition assessments and reporting requirements for private and public property owners;

d. report on current work being undertaken by the City and its agencies and divisions to improve monitoring and enforcement of privately-owned, publicly accessible infrastructure; and

e. provide recommendations for future work and actions needed to improve safety standards for privately-owned, publicly accessible bridges including recommendations for legislative or regulatory changes to the Ontario Building Code or City By-laws related to building condition assessments and reporting requirements for private and public property owners.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.MM1.3>

COMMENTS

Background: Crescent Town Bridge

On November 17, 2018 a privately-owned, publicly-accessible bridge in the City's Crescent Town neighbourhood partially collapsed. The bridge, crossing Massey Square, was jointly owned by the Toronto District School Board and Bleeman Holdings (which uses Pinedale Properties to manage the property on its behalf). While privately-owned, the bridge functioned as a publicly-accessible pedestrian walkway, linking apartment buildings and the Crescent Town Elementary School property. The partial collapse of the bridge occurred on the residential buildings' portion of the structure (owned by Bleeman Holdings). The entire bridge has since been demolished.

Following the collapse, City Councillors and the public expressed concern that there had been a lack of timely action on the part of the City and property owners in response to complaints, investigations and enforcement related to the bridge. At its meeting of December 4, 2018, City Council adopted a Member's Motion directing City staff to examine the circumstances and actions of City staff related to the Crescent Town bridge and identify areas for improving public safety related to privately-owned, publicly-accessible bridges.

Response to City Council Directions

This report responds to City Council's directions in three areas:

1. Internal Audit Review
2. Independent Third Party Review/Judicial Investigation
3. Action Plan for Implementation

1. Internal Audit Review

Following the bridge collapse, Toronto Building and the Municipal Licensing and Standards (MLS) Divisions identified the need to address the concerns expressed by Councillors and the public. With Council direction, the Divisions engaged the Internal Audit Division to conduct an independent review of how the City carried out its responsibilities related to the Crescent Town bridge. The Internal Audit Report is now complete and attached to this report (Attachment 1, "Crescent Town Bridge Review"). As described in that report, the objectives of the Internal Audit Division's review were to:

- Determine the circumstances related to the collapse of the pedestrian bridge.
- Determine whether complaints were investigated on a timely basis and inspections were completed in accordance with legislative requirements and internal procedures.
- Assess the adequacy of existing processes and procedures in identifying and mitigating such exposures.

The review process involved an examination of relevant legislation, By-laws and internal policies followed by discussions with Toronto Building, MLS, and Toronto District School Board staff. The review focused on the complaints handling and inspection processes by Toronto Building and MLS in addition to inter-divisional communication and coordination.

While the Internal Audit report did not identify misconduct, it determined that there were a number of factors which contributed to the lack of timely action on the part of the City and property owners regarding the Crescent Town bridge. The report cites factors which included:

- Lack of cooperation between the co-owners of the bridge.
- Absence of guidelines/procedures regarding roles and responsibilities between MLS and Toronto Building with respect to structural issues.
- No enforcement of due dates on Orders issued to repair the bridge.
- No legislative requirements for building condition evaluations of pedestrian bridges.

Toronto Building and MLS are in agreement with and support all of the recommendations resulting from the Internal Audit review. Implementation of the recommendations is now a priority for the two divisions. All of the recommendations are either complete or underway; full completion is expected by the end of the year, in advance of the Internal Audit timeline.

2. Independent Third-Party Review/Judicial Investigation

The second area on which Council direction focused was on third-party review of the circumstances leading to the collapse of the bridge. Two options for third-party review have been considered, neither of which are recommended:

- Independent Third-Party Review
- Judicial Investigation.

Independent Third-Party Review

The value and appeal of an independent third-party review is in its potential to offer an opportunity to learn and improve. An independent third-party reviewer, such as a Professional Engineer/Firm, would be unable to conduct a forensic review of the bridge structure now that it has been fully demolished. A review of the circumstances leading to the collapse of the bridge would necessarily be limited to the physical documents in the possession of the various parties and actors involved in the bridge prior to its collapse and interviews of those parties. A fulsome independent third-party review would require the participation of those parties, including the property owners. An independent third party review by a private firm would not have the authority to compel the property owners and other parties to participate in this process. The only type of review that the City could initiate where the necessary participation of all parties could be compelled is a municipal judicial investigation. The Internal Audit process has already reviewed the City's role and provided a number of recommendations for action.

Judicial Investigation by City Council Resolution

Municipalities in Ontario have the authority to request by resolution, an investigation or inquiry by a judge of the Superior Court of Justice into certain matters related to the City, its governance, and its public business. The City of Toronto's authority comes from Section 215 of the City of Toronto Act, 2006 (COTA). Here are the key considerations for a potential municipal judicial investigation:

- Investigate misconduct of a member of City Council, a City employee, or someone with a contract with the City. (The Internal Audit review did not identify any misconduct.)
- Inquire into a matter related to the good government of the City; or,
- Inquire into the conduct of any part of the public business of the City;
- The scope and timing are controlled by the judge who is appointed, and the City is responsible for the cost (a scan of municipal judicial investigations suggest that the cost generally runs into the millions of dollars);
- A municipal judicial investigation is not a civil trial nor a criminal trial and would not be able to impose civil or criminal responsibility on them. The findings of a public inquiry commissioner are not and cannot be findings of civil or criminal responsibility;
- A municipal judicial investigation would generally comment on potential regulatory changes to prevent similar issues from arising in the future; and,
- Section 33 of the Public Inquiries Act, 2009 applies to a municipal judicial investigation such that the appointed judge has the authority to summon witnesses.

While the reach of the Internal Audit review did not extend fully to all of the actions of the owners of the bridge, a municipal judicial investigation would likely not yield any further lessons for the owners of the bridge than that they should swiftly and diligently attend to maintenance of important structural elements, a lesson that is already clear from the Internal Audit review.

A judicial review could lead to additional regulatory changes in the Building Code Act, 1992; however, amendments have been recently made to allow for Building Condition

Evaluation Programs. As recommended in the Internal Audit review, the Chief Building Official has written to the Province to request that bridges attached to buildings be included in any regulation for Building Condition Evaluation Programs. In this way, the Internal Audit review has also effectively met the objective of identifying appropriate regulatory changes to protect the public.

It is not recommended that there be any independent third-party review, like a municipal judicial investigation. Much work has been done through the Internal Audit Review and will continue to be done to implement the recommendations of the Internal Audit review.

3. Action Plan for Implementation

The Toronto Building and MLS Divisions are actively engaged in implementing the recommendations of the Internal Audit review. Each of the four recommendations follow, with a brief discussion of work to date by the two divisions.

Recommendation #1:

To improve service delivery and harmonize procedures between Toronto Building and MLS, the Chief Building Official in collaboration with the Executive Director, Municipal Licensing & Standards should develop standard operating procedures and guidelines clarifying:

- *roles and responsibilities between MLS and Toronto Building with respect to inspection and enforcement activities regarding structural sufficiency.*
- *the process for the handover and/or transfer of inspections between the two divisions relating to structural matters.*

Action Plan/Status:

Toronto Building and MLS have now prepared a draft operating procedure which identifies roles and responsibilities and sets out a clear process for transferring inspections on structural-related matters between the divisions. The procedure is currently under internal review and adoption by the divisions' Senior Management Teams is expected in late-summer. Joint Toronto Building and MLS staff training will be completed in Q4 2019.

Recommendation #2:

To ensure that structural integrity concerns are adequately investigated, the Chief Building Official, in collaboration with the Executive Director MLS should establish guidelines and procedures identifying potential red flags and conditions that may warrant the issuance of an Order, as well as the type of Order to be issued.

Action Plan/Status:

The Toronto Building Division has developed a draft Pedestrian Bridge Inspection Guide to better equip inspectors conducting preliminary inspections on pedestrian bridges. This technical resource guide outlines potential defects that inspectors may observe in pedestrian bridges. Using this resource, Toronto Building will be developing procedures and guidelines for staff to assist with the issuance of Orders. Training for staff in both Toronto Building and MLS will follow, by Q4 2019.

Recommendation #3:

To ensure that orders are complied with on a timely basis, the Chief Building Official and the Executive Director MLS should:

(a) develop procedures and guidelines for enforcement of overdue Orders, with varying levels of escalation, including:

- *Notice to property owner that deadline for corrective action has passed*
- *Establishing an updated timeline with the property owner*
- *Laying charges and imposing administrative penalties*

(b) consider a structure in its entirety as opposed to individual segments based on ownership and include the names of all owners of a property in any Order issued.

Status:

Toronto Building is incorporating the recommendation to develop procedures and guidelines for enforcement of overdue Orders into a current Quality Assurance Program for inspection service delivery. Toronto Building is in the process of amending Orders so that it will reference all property owners. Implementation will occur prior to the Internal Audit timeline including training for staff in both Toronto Building and MLS.

Recommendation #4:

To ensure that pedestrian bridges are properly maintained, the Chief Building Official in collaboration with the Executive Director MLS should:

(a) request the Ministry of Municipal Affairs to expedite the drafting of the regulations pertaining to establishing a Building Condition Evaluation program and that pedestrian bridges be subject to such regulations; and

(b) in the interim, develop an inventory of privately owned pedestrian bridges across the City for the purposes of establishing a proactive pedestrian bridge inspection program.

Status:**Pedestrian Bridge Identification and Inspection Program**

As mentioned, the Chief Building Official has requested that the Ministry of Municipal Affairs and Housing move expeditiously on drafting regulations (and including pedestrian bridges as a building type) to establish a proactive building condition evaluation program.

In the absence of these regulations, which would compel owners to maintain and regularly inspect their buildings, Toronto Building established a Pedestrian Bridge Identification and Inspection Program that targets pedestrian bridges across the city which are located partly, or entirely on private property. The Program is being led by Toronto Building's Dedicated Enforcement Unit, in collaboration with MLS and Transportation Services. The Dedicated Enforcement Unit is primarily responsible for residential infill construction-related enforcement.

As of June 1, 2019, the Program identified and completed inspections of 172 pedestrian bridge structures across the city. Due to the wide-range and complexity of building types in the City of Toronto, some of the bridges attached to buildings' also function as stairs and balcony-like walkways. Building inspectors have advised that the Pedestrian Bridge Identification and Inspection Program has also helped educate building owners and

property management companies responsible for maintaining buildings and attached structures.

As a direct result of the Program, Toronto Building Inspectors identified 15 structures where the bridges attached to the buildings showed signs of deterioration, or evidence of significant repairs. In response, unsafe orders were issued on these structures to require that a Professional Engineer evaluate and report on the condition of the structure and, where appropriate, describe remedial measures to make it safe. Toronto Building inspectors have received the Professional Engineers' reports on all of the structures and the property owners are undertaking the recommended remedial measures. The Dedicated Enforcement Unit is actively monitoring these sites to ensure that the remedial measures are undertaken in accordance with the Professional Engineers' recommendations.

Conclusion

The collapse of the bridge over Massey Square was a potentially catastrophic event for the City. The bridge was used daily by students to access Crescent Town Elementary School, and it was fortunate that no one was hurt as a result of the collapse.

This incident highlighted the need for the City to examine its role in the collapse, and identify actions to improve the safety of bridges attached to buildings, which are often publicly-accessible, yet privately-owned. The Internal Audit review identified a number of areas where the City can improve and staff will continue to implement an action plan to carry out all of the Internal Audit review's recommendations by the end of the year.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Internal Audit Report: Crescent Town Pedestrian Bridge Review