

Clause embodied in Report No. 11 of the Audit Committee, which was before the Council of the City of Toronto at its Special Meeting held on December 20, 2001.

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Status of Litigation with MFP Financial Services

(City Council at its Special Meeting held on December 20, 2001, did not conclude consideration of this matter.)

The Audit Committee:

- (1) submits this matter to Council without recommendation; and**
- (2) recommends that, in accordance with the Municipal Act discussions pertaining to this matter be held in camera, having regard that the subject matter is subject to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board.**

The Audit Committee reports, for the information of Council, having requested:

- (1) the Mayor to call a special meeting of City Council during the week of December 17 – 21, 2001;
- (2) the City's outside legal counsel to submit a report to the special meeting of Council respecting the status of litigation with MFP Financial Services; and
- (3) the City Auditor and the Chief Administrative Officer to report to the Audit Committee, at its meeting to be held on February 8, 2002 on how a City employee fraud/waste hotline could be implemented in the City of Toronto, similar to other large municipalities.

The Audit Committee further reports, for the information of Council, having issued confidential instructions to the City's outside legal counsel and to the Chief Administrative Officer, such instructions to remain confidential having regard that the subject matter of the instructions may be subject to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board.

The Audit Committee further reports, for the information of Council, having received a confidential verbal report from the Chief Administrative Officer and the City's outside legal counsel respecting Negotiations with MFP Financial Services.

(City Council at its Special Meeting held on December 20, 2001, had before it, during consideration of the foregoing Clause, the following:

- (i) (December 20, 2001) confidential report from the Chief Administrative Officer, entitled "Resolution of Outstanding Issues Between the City of Toronto and MFP Financial Services - Computer Leasing Contract Backgrounder", such report now public in its entirety;*
- (ii) (Undated) confidential document entitled "Terms of Settlement" submitted by City of Toronto external counsel, Mr. Alan Lenczner, such document now public in its entirety;*
- (iii) (Undated) confidential document entitled "Minutes of Settlement", such document now public in its entirety;*
- (iv) (December 20, 2001) confidential report from the Chief Administrative Officer and Acting Chief Financial Officer, entitled "Total Lease Costs Compared with Debenturing of Computer Equipment", such report now public in its entirety;*
- (v) (Undated) chart submitted by the Executive Director, Information Technology, outlining the equipment delivered and in use, under lease, and not under lease; and*
- (vi) (December 20, 2001) communication from Charles Campbell, Glen Campbell Barristers and Solicitors, addressed to Councillor Layton, with respect to a hypothetical question regarding conflict of interest, submitted by Councillor Layton.)*

(City Council also had before it, during consideration of the foregoing Clause, the following confidential documents, previously considered by Council at its regular meeting held on December 4, 5 and 6, 2001, [Audit Committee Report No. 10, Clause No. 11], such documents having been made public, in their entirety, at the Special Meeting of Council held on December 20, 2001:

- (i) (November 29, 2001) joint report from the Chief Administrative Officer and City Auditor, addressed to the Audit Committee, entitled "Review of Computer Leasing Contract Between the City of Toronto and MFP Financial Services";*
- (ii) (December 3, 2001) joint report from the Chief Administrative Officer, the Commissioner of Corporate Services, and the City Solicitor, addressed to City Council, entitled "Potential Litigation Between Toronto and MFP Financial Services - Clause No. 11 of Report No. 10 of The Audit Committee"; and*
- (iii) (December 5, 2001) report from the City Solicitor, addressed to City Council, entitled "Public Release of Information Contained in the In Camera Report of the Chief Administrative Officer and City Auditor".)*

(Having regard that City Council did not conclude consideration of this matter, the aforementioned reports and communications will be resubmitted to a future meeting of Council.)