

Authority: Administration Committee Report No. 2, Clause No. 21,  
adopted as amended, by City of Toronto Council on February 4, 5 and 6, 2003  
Enacted by Council: February 7, 2003

**CITY OF TORONTO**

**BY-LAW No. 126-2003**

**To provide for the use of the Road and Sidewalk Repair, Maintenance, and Reconstruction Reserve Fund for the purpose of funding the legal fees and costs of a legal proceeding before the Supreme Court of Canada.**

WHEREAS Chapter 227, Reserve Funds, of the City of Toronto Municipal Code includes in Schedule "C" (Discretionary Funds) the "Road and Sidewalk Repair, Maintenance, and Reconstruction Reserve Fund" established for the purpose of reconstructing and repairing roads that have been aged prematurely due to multiple pavement cuts by telecommunications carriers; and

WHEREAS City Council is of the opinion that it is appropriate that a portion of these funds be used to pay the legal fees and costs associated with a proceeding before the Supreme Court of Canada concerning the legal ability of municipalities to control and manage the construction activities of telecommunications carriers in City roads, as a cost related to the use of the City's roads by telecommunications carriers; and

WHEREAS subsection 417(4) of the *Municipal Act, 2001* provides that Council may by by-law provide that money raised for a reserve fund may be spent, pledged or applied to a purpose other than that for which the fund was established;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. That up to \$85,000 of the monies contained in the "Road and Sidewalk Repair, Maintenance, and Reconstruction Reserve Fund", as included in Schedule "C" (Discretionary Funds) to Chapter 227, Reserve Funds, of the City of Toronto Municipal Code, be spent, pledged and applied to the purpose of paying the legal fees and costs associated with the proceeding before the Supreme Court of Canada appealing the decision (December 17, 2002) of the Federal Court of Appeal concerning the legal ability of municipalities to control and manage the construction activities of telecommunications carriers in City roads.

ENACTED AND PASSED this 7th day of February, A.D. 2003.

CASE OOTES,  
Deputy Mayor

ULLI S. WATKISS  
City Clerk

(Corporate Seal)