



**STAFF REPORT
ACTION REQUIRED
With Confidential Attachment**

**716 Sheppard Avenue East – Recommended settlement
of Superior Court action**

Date:	November 24, 2008
To:	City Council
From:	City Solicitor
Wards:	Ward 24 – Willowdale
Reason for Confidential Information:	This report is about litigation that affects the City. It contains advice from the City Solicitor that is subject to solicitor-client privilege and seeks instructions with respect to settlement of an action commenced against the Toronto Transit Commission.
Reference Number:	

SUMMARY

Dr. Lee is a family physician whose practice is located at 716 Sheppard Avenue East. In April/May, 1997 and from January 1, 1999 to May, 2001, the Bessarion Station on the Sheppard subway line was constructed almost directly in front of Dr. Lee’s practice. Dr. Lee commenced an action for professional income loss resulting from the construction. The purpose of this report is to provide advice and seek instructions with respect to a proposed settlement of this action.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council adopt the confidential instructions to staff in Attachment 1; and
2. all confidential information, including the recommendations in Attachment 1, are only to be made public at the discretion of the City Solicitor.

FINANCIAL IMPACT

The financial impact information is identified in attachment 1.

DECISION HISTORY

By approval of Financial Priorities Committee Report No. 21 Clause 2 on September 25 and 26, 1996, Metro Council authorized the construction of the Sheppard Subway.

ISSUE BACKGROUND

Dr. Lee owns the house located at 716 Sheppard Avenue East. He carries on a family practice in a basement office at the premises. In April-May, 1997, the headwall for the tunnel was constructed under Sheppard Avenue East almost directly in front of Dr. Lee's premises. In January, 1999, construction commenced by open cut on the Bessarion station in front of Dr. Lee's premises. This station was completed and the roadway restored in May, 2001. Every reasonable effort was made by TTC to mitigate impacts of the construction on adjacent businesses however, Dr. Lee gave notice that he had sustained professional income losses as a result of the construction activities. In November, 2000, Dr. Lee commenced an action, claiming \$850,000 plus interest and costs.

COMMENTS

The confidential attachment reports on the status of the litigation and seeks instructions on a proposed settlement.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment 1 – Confidential Information - 716 Sheppard Ave. East, Proposed Settlement