



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### ***Occupational Health and Safety Act Charge against the City of Toronto***

**Date:** June 8, 2017

**To:** Executive Committee

**From:** City Solicitor and General Manager, Facilities Management Division

**Wards:** All

#### **REASON FOR CONFIDENTIAL INFORMATION**

---

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

#### **SUMMARY**

---

The City Solicitor with the concurrence of the General Manager, Facilities Management Division, seeks instructions with respect to the *Occupational Health and Safety Act* ("OHSA") charge brought against the City arising out of work carried out in 2016, which is currently before the Court.

#### **RECOMMENDATIONS**

---

The City Solicitor and General Manager, Facilities Management Division, recommend that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
2. City Council direct the release of the confidential instructions to staff in Confidential Attachment 1 following the decision of the Ontario Court of Justice (Provincial Division) in this matter, and that the balance of Confidential Attachment 1 remain confidential as it pertains to litigation that affects the City or one of its agencies or corporations.

#### **FINANCIAL IMPACT**

---

Funding for the costs relating to the charge, as identified in Confidential Attachment 1, are available in the Facilities Management Division's 2017 Approved Operating Budget.

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

Confidential Staff Report for Action on OHSA charge against the City

## **COMMENTS**

---

On January 13, 2017, the City was charged with an offence under the OHSA.

The charge arises out of work performed at 259 Queens Quay West, a facility owned by the City, managed and maintained by the Facilities Management Division and occupied by the Toronto Police Service for use by the Marine Unit.

The City engaged a contractor, Superior Air Systems Ltd. ("Superior") to repair and replace mechanical equipment in the building. On February 5th, 2016, during the course of the work, Superior's employee fell from a ladder and sustained a significant injury (See Confidential Attachment 1).

The City has been charged as follows:

"The City of Toronto, on or about the 5th day of February, 2016, at the City of Toronto, in the Toronto Region, in the Province of Ontario, did commit the offence of failing as an employer to ensure that the measures and procedures prescribed by section 18(1)(d) of the Ontario Regulation, R.R.O. 1990, Regulation 851, as amended or section 84(1)(d) of O. Reg. 213/91, as amended, were carried out at a workplace located at 259 Queens Quay West, Toronto, Ontario, contrary to section 25(1)(c) of the Occupational Health and Safety Act, R.S.O. 1990 c.O.1, as amended."

The charge is a provincial regulatory offence, carrying a maximum fine of \$500,000, plus a twenty-five percent (25%) victim fine surcharge.

The next court appearance in this matter is June 19, 2017.

The City Solicitor and the General Manager, Facilities Management Division now require specific instructions from City Council (See Confidential Attachment 1).

## **CONTACT**

---

Darragh Meagher  
Director, Employment Law  
Tel.: (416) 392-8948  
Fax: (416) 392-3848

Sunil Sharma  
General Manager, Facilities Management  
Tel.: (416) 397-5270  
Fax.: (416) 392-4828

## **SIGNATURE**

---

\_\_\_\_\_  
Wendy Walberg  
City Solicitor

\_\_\_\_\_  
Sunil Sharma  
General Manager, Facilities Management

## ATTACHMENTS

---

Confidential Attachment 1 - *Occupational Health and Safety Act* charge against the City of Toronto