

**REPORT FOR ACTION WITH
CONFIDENTIAL ATTACHMENT****Arrears for Water Billings at 4700 Keele Street**

Date: March 16, 2018

To: Government Management Committee

From: City Solicitor and Treasurer

Wards: Ward 8 - York West

REASON FOR CONFIDENTIAL INFORMATION

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

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

This report relates to the accumulation of arrears for water and sewer services at a property municipally known as 4700 Keele Street, public utility account 166500, which is the main campus of York University. The confidential attachment contains legal advice and legal recommendations about the overdue amount.

RECOMMENDATIONS

The City Solicitor and City Treasurer recommend that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
2. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

The Financial Impact of the recommendations from the City Solicitor and City Treasurer is contained in the Confidential Attachment.

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

DECISION HISTORY

On March 31, 2016, Toronto City Council adopted a report from the Auditor General, which, among other things, requested that Revenue Services identify high risk and high value accounts and review all accounts that do not have a corresponding property tax roll to ensure the appropriate collection measures were taken.

A copy of this decision of City Council is located here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.AU5.3>

COMMENTS

York University is one of the largest consumers of water in the City of Toronto, and water is in constant demand at the university.

There are significant arrears for water charges that have been billed to York University. York University disputes the charges.

City staff have met with York University staff on numerous occasions to discuss the matter of the outstanding public utility arrears, however, the parties remain at an impasse.

On March 29, 2017, Legal Services wrote to York University regarding the outstanding public utility arrears. York University responded indicating they are committed to work with the City to arrive at a common understanding of the issues and resolve the matter in a manner satisfactory to both parties. York University has indicated that they have paid amounts in good faith relating to volumes of water which they believe were consumed, but that they believe the amount in arrears is a result of errors in the recorded consumption or billings indicating the water that they consumed.

Lawyers for the City and York University have communicated since that date, however, the parties remain at an impasse.

There are various statutory remedies available to the City to assist with collection of water utility charges.

Section 65 of the *City of Toronto Act, 2006*, authorizes the City to shut off water to a property if charges payable for water are overdue. The main campus of York University contains numerous buildings used for the purpose of teaching, research, and the accommodation of students.

Section 264(2) of the *City of Toronto Act, 2006* authorizes the City to transfer overdue public utility arrears to the property tax account for the property to which the service was provided and proceed to collect the arrears in a like manner to unpaid property taxes, including by way of sale of land for tax arrears.

Section 264(1) of the *City of Toronto Act, 2006* authorizes the City to commence a civil action against the owner of the property to which the service was provided.

The confidential attachment contains legal advice and recommendations on dealing with this matter.

CONTACT

For further information, please contact:

Anthony Fabrizi
Manager, Utility Billing
Tel: 416-392-5880
Email: Anthony.Fabrizi@toronto.ca

Christopher J. Henderson
Lawyer, Litigation Section
Tel: 416-397-7106
Email: Christopher.Henderson@toronto.ca

SIGNATURE

Mike St. Amant
Treasurer

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Arrears for Water Billings at 4700 Keele Street