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Via email to iec@toronto.ca

City of Toronto Council
Infrastructure and Environment Committee

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Dear Committee Members,

Re: Support for MM5.11, motion re Pursuing Compensation for the Cost of Climate Change to the City of Toronto

I submit these comments on behalf of Ecojustice, Canada's largest environmental law charity. We have expertise in strategic environmental litigation and have been monitoring the development of municipal lawsuits seeking compensation from fossil fuel companies for losses due to climate change.

The impacts of human-caused climate change are being felt across the City of Toronto and will only increase in the coming decades. The City's infrastructure and its environment are being degraded and significant funds will be necessary to repair, restore and improve the City's resilience. It is unreasonable and unfair to expect that municipal ratepayers will cover these costs entirely when we know that major fossil fuel companies have profited for decades from selling products they knew would cause climate change when used as intended, while at the same time working to sow public doubt about human-caused climate change and the urgent need to use less fossil fuel energy.¹

Climate change is placing aging infrastructure such as sewers, roads, public transit, electricity systems and public housing under greater physical stress than ever. As you know, the City already has a long and growing list of necessary infrastructure repairs, upgrades and new projects that are unfunded. The impacts of climate change will add more unfunded items to this list. Climate change also impacts city services and programs. For instance, during a heatwave vulnerable populations (e.g. the elderly, small children, pregnant women, persons with respiratory conditions, the homeless) are at risk of medical complications or even death, an emergency public health response is required, labour productivity is reduced, and crime tends to increase. This leads to a cascading effect on the need for a number of services and programs provided by the City.

It is imperative that City staff be directed to assess and report on the long-term cost implications of climate change for Toronto's infrastructure and programs. This will position Council to make informed decisions on how to deal with pending liabilities that will require large expenditures. We support the motion before you because it would provide this critical information.

¹ For an example articulation of this legal theory see [City of New York v BP Plc, et al.](#), filed Jan 9, 2018 and dismissed on preliminary grounds but currently [under appeal](#).

But the City must do more to deal with the costs of climate change than just gather information and project future costs. Specifically, the City must consider how it is going to raise funds to cover these costs and whether major fossil fuel companies have wrongfully caused or contributed to the City's losses. Any funding discussion that does not consider whether the City can and should seek compensation from fossil fuel companies for some or all of its losses would rightly be seen as incomplete and unfair by ratepayers. Other leading North American cities such as New York have concluded that major fossil fuel companies bear special responsibility for climate change and are sensibly pursuing compensation through common law claims in the courts. While the American cases have failed so far this is generally because of US legal doctrines that have no analogue in Canada and, in any event, the leading cases there are under appeal and may eventually succeed.

We urge you to support this motion and thereby ensure the City of Toronto takes steps toward adapting its infrastructure and programs to ongoing climate change in a way that respects ratepayers by investigating whether there are wrongdoers that can be held liable for these costs.

Yours truly,



Charles Hatt
Barrister & Solicitor