

**REPORT FOR ACTION WITH  
CONFIDENTIAL ATTACHMENT****Recovery of Costs - 650 Parliament Street**

**Date:** January 22, 2020

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 13 - Toronto Centre

**REASON FOR CONFIDENTIAL INFORMATION**

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The attachment to this report pertains to potential litigation and contains advice that is subject to solicitor-client privilege.

**SUMMARY**

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There is a 22 storey residential rental building with 570 apartment units at 650 Parliament Street, Toronto (the "Building" and "Property"). At 12:51 PM on August 21, 2018, Toronto Fire Services were dispatched to a reported fire at the Property. Fire crews arrived and identified smoke in the lobby area and residents trapped on their balconies. Initial information indicated some sort of failure had occurred in the Building's hydro vault. That failure resulted in localized fires at various electrical panels. Fire crews extinguished the fires and evacuated all of the apartment units with residents transported to local shelter nearby, with the assistance of Toronto Police Service. Approximately 1,500 residents were displaced from their homes. At the time of writing this report, residents have not returned to the Property.

Parwell Investments Inc. and Bleeman Holdings Ltd. own the Property (the "Property Owner"). The Property Owner has stated that they were not immediately equipped to respond to the emergency, including the provision of interim shelter, food, wares, and transportation for all of the displaced residents of the Building. City officials advised the Property Owner that it was their responsibility to provide for the displaced residents. Mr. Samuel Grosz, President of the Property Owner, indicated that the Property Owner did not have the staff or resources to provide emergency assistance to the displaced residents but agreed to make the City whole if the City would provide those services.

The City incurred significant costs in providing and facilitating the delivery of emergency human services (accommodation, clothing, food, access to medical aid, transportation

etc.). The bulk of the costs incurred by the City were known and tabulated by October 10, 2018. At that time, the City Manager wrote to the Property Owner and provided them with an interim invoice. Since that time, the Property Owner's representatives have sought time to review and consider the City's demand for reimbursement. Through the City Solicitor's office, the City provided the Property Owner's lawyers with an updated accounting and detailed records (hundreds of pages of documentation) supporting all of the costs the City was seeking to recover.

The Property Owner has failed to remit any payment to reimburse the City for the costs incurred. The Property Owner has been given documentation that supports the City's claim for reimbursement and ample time to consider the matter. A logical next step is to commence a civil action to recover the monies owed to the City.

Confidential Attachment 1 contains legal advice from the City Solicitor relating to the proposed civil action.

## **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council authorize the City Solicitor to commence a civil action to recover the City's costs of providing emergency human services to the displaced residents of the Property from the Property Owner.
2. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
3. City Council direct that the confidential instructions in Confidential Attachment 1 remain confidential at the discretion of the City Solicitor and that the balance of Confidential Attachment 1 remain confidential in its entirety, as it pertains to potential litigation and contains advice that is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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The financial implications are discussed in Confidential Attachment 1.

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

## **DECISION HISTORY**

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None.

## COMMENTS

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### The Fire

At 12:51 PM on August 21, 2018, Toronto Fire Services were dispatched to a reported fire at the Property. Residents reported that there was a loud boom from the basement level of the Building and smoke pouring out of the electrical closets on individual floors and spreading down hallways. The fire was deemed to be a 6-alarm fire by Toronto Fire Services and substantial resources were deployed. Given the indications of electrical issues that could be related to the fire, the Electrical Safety Authority was contacted. Toronto Fire Services also requested the assistance of the Office of the Fire Marshall.

The entire Building's 22 floors and basement had varying levels of smoke, heat, fire, and explosions. The cause is understood to be a failure of the electrical system in the building that caused smaller explosions in the electrical closets throughout the building. There was significant damage throughout the building.

### The Residents

Hundreds, perhaps more than 1,500 people, resided at the Building. Residents were displaced, almost all sustaining personal property and related losses. Immediately after the fire, this amounted to an emergency situation where assistance was required to ensure the health and safety of the residents. The Property Owner was ill-equipped to provide for the residents so the City stepped up to fulfill the Property Owner's obligations. By early October, 2018, the Property Owner was able to mobilize and began providing emergency human services directly to the displaced residents.

In the immediate aftermath of the fire and for a significant time thereafter, residents had limited opportunities to retrieve any of their possessions, including personal identification, important documents, and medications, from their homes. Further, the fire happened shortly before the commencement of the school year. These factors, and the limited vacancy rates in Toronto at that time made the displacement even more challenging for residents. Some residents were able to find temporary accommodations with friends and family, while others relied on the City to assist with providing temporary shelter.

At the time of writing this report, the residents remain displaced from their homes. The Property Owner has not yet completed repairs to the Building that would allow it to be re-occupied. Relevant City staff have been in contact with the Property Owner's representatives to advise that they are prepared to make necessary building and fire inspections as soon as practicable upon being notified that the Building is ready to be inspected. Recently the Property Owner has announced that it expects to start rehousing tenants beginning in March 2020. This process will take a few months.

Two class actions were commenced on behalf of the residents to recover monies from the Property Owner and other defendants. The classes were combined by Justice

Belobaba of the Ontario Superior Court of Justice. In deciding to merge the classes, Justice Belobaba found:

"Defence counsel (that is, counsel for the defendants' insurers) made clear at the hearing that liability will not be an issue. Whether the fire was caused by defects in the electrical system and "electrical arcing" (SC's expert) or because of a heavy rain-storm causing water to leak into the buildings' hydro vault (LMK's expert) there is no suggestion that any degree of liability can be imposed on the tenants. The focus in this action will be on the damage sustained and the appropriate damages payment for each of the displaced tenants. In other words, a contested certification motion is unlikely and an early settlement is almost guaranteed."

Subsequent to that ruling, Justice Belobaba certified the class action, in part, on consent. The City is not a party to the class proceedings and does not have information about any potential resolution of the same other than what Justice Belobaba wrote in his rulings.

### City's Provisions of Emergency Human Services

The number of tasks that have to be completed in an emergency or disaster situation varies in breadth and complexity. The City has staff in various divisions who are trained in emergency response to assist in that regard. To provide further resiliency and preparedness, the City has a standing contract with The Canadian Red Cross Society (the "Red Cross") for the provision of different forms of assistance to the City in the case of an emergency.

The response required to assist the displaced residents of the Building was manifold, immediate, and complex. City staff with emergency training were deployed and the Red Cross was called in to assist. Over 233 Red Cross volunteers were engaged in the response in addition to over 80 permanent Red Cross staff. The Red Cross alone dedicated 4,362 hours to supporting the response. The City staff time dedicated to the response was also significant.

The immediate needs of the displaced residents related to shelter, food, basic needs support, and medical attention. The City opened up community centres to provide temporary accommodations to many residents. Hotels were also used for individuals as factors like vulnerability required a different approach than the communal open space afforded by a community centre. These needs continued to be met by the City until early October, 2018 when the Property Owner transitioned to be a direct supporter of the continuing shelter needs of the residents.

The City is directly out of pocket \$3,754,994 in relation to the response. \$3,155,410 of those monies were paid directly to the Red Cross to cover their invoices. The principal expenses were to provide lodging and food to the displaced residents. The remaining \$599,583 relates to overtime staffing costs incurred by the City, additional security costs for the community centres that were converted to temporary shelters, and the cost of direct aid given to displaced residents in the form of food and metropasses for transportation.

Not included in the \$3,754,994 is an accounting of regular staffing time that was diverted to assist in the response and the time value of money that the City ought to be compensated for through payment of interest. The City's receivables generally accrue interest at the rate of 1.25% per month.

## Demand for Payment

To date, the City Solicitor's office has demanded payment of \$3,754,994 from the Property Owner. In making those demands, the City's entitlement to reimbursement has been clearly set out and a detailed accounting of the costs has been provided along with background documentation for the costs. Literally hundreds of pages of documentation have been sent to the Property Owner's representatives. Any questions that they have had in response have been fully addressed.

The Property Owner had obligations to provide services (ie. alternative accommodation, food, transportation) to the residents of 650 Parliament who were displaced by the fire. Mr. Grosz, on behalf of the Property Owner, agreed to reimburse the City if it stepped in to fulfil the Property Owner's obligations in the immediate aftermath of the fire.

In failing to reimburse the City, the Property Owner has breached their agreement with the City and been unjustly enriched. Commencing a civil action to hold the Property Owner to account is warranted.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1 - Legal Advice and Confidential Instructions to Staff