

Potential Litigation Arising from the Construction of Certain Sanitary Sewer Upgrades in the Vicinity of 1215 York Mills Road

Date: February 10, 2025

To: General Government Committee

From: City Solicitor and General Manager, Toronto Water

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City of Toronto.

Confidential Attachment 1 to this report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

This report concerns potential litigation arising from the costs associated with the construction by Alit Don Valley Property Inc. ("Alit") of certain planned upgrades to the City's sanitary sewers in the vicinity of its development at 1215 York Mills Road.

Confidential Attachment 1 contains legal advice from the City Solicitor regarding the potential litigation and seeks instructions.

RECOMMENDATIONS

The City Solicitor and General Manager of Toronto Water recommend that:

1. City Council adopt the confidential recommendations contained in Confidential Attachment 1.

2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1, if adopted by City Council, at the discretion of the City Solicitor.
3. City Council direct that the remainder of Confidential Attachment 1 is to remain confidential in its entirety, as it relates to potential litigation involving the City and contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial impacts resulting from the recommendations made in this report are disclosed in Confidential Attachment 1.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications as identified in the Financial Impact section of the confidential attachment.

DECISION HISTORY

City Council at its meeting of December 5, 6, 7 and 8, 2017 approved Toronto Water 2018 Capital Budget and 2019-2027 Capital Plan. The Council Decision Document can be found at: <https://secure.toronto.ca/council/agenda-item.do?item=2017.EX29.18>

The City Solicitor has not previously reported on this potential litigation.

COMMENTS

Background

In 2017, as part of the Basement Flooding Area 23 Environmental Assessment, Toronto Water identified the need for certain sanitary sewer upgrades to improve capacity in residential neighbourhoods in an area immediately north of York Mills Road and east of the Don Valley Parkway, including on Sandover Dr.

As a result of this study, a project to carry out these improvements, known as Project SAN-23-03, was added to Toronto Water's 2018 Capital Budget, having a targeted construction start in 2020-2022.

In 2018, consultations between Toronto Water and Alit, the proponent of a proposed residential development at 1215 York Mills Road, identified that sanitary sewer improvements were required in order to support the proposed development. Alit further identified that the City's planned Project SAN-23-03 in this area would also provide the necessary sanitary sewer capacity to support its proposed development and requested

that the City enter into a cost sharing agreement with it whereby Alit would construct Project SAN-23-03, the cost of which would be shared between it and the City.

In 2020, Alit carried out the construction of Project SAN-23-03. To date, Alit has not received any compensation for the costs of this construction.

Confidential Attachment 1 contains legal advice from the City Solicitor concerning a resolution of potential litigation with Alit concerning this matter.

CONTACT

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SIGNATURE

Lou Di Gironimo
General Manager
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ATTACHMENTS

Confidential Attachment 1 - Confidential Instructions to Staff