

Litigation Arising from Baycrest Park Revitalization Phase 1

Date: July 6, 2026

To: General Government Committee

From: City Solicitor and the General Manager, Parks and Recreation

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

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

The attachment to this report contains advice or communications that are subject to solicitor-client privilege and litigation privilege.

SUMMARY

The City hired Loc-Pave Construction Limited ("LPC") for the construction of Baycrest Park Revitalization Phase 1 (the "Project"). In June 2024, the contract with LPC (the "Contract") was terminated after LPC did not return to work on site. The City then submitted a bond claim to LPC's surety for the Project, Travelers Insurance Company of Canada ("Travelers").

The City alleges that Travelers wrongfully denied the City's bond claim, resulting in it incurring additional costs for retendering the Project to a new contractor and completing necessary interim work. This also resulted in the loss of use of Baycrest Park for members of the public due to the extended construction period. Therefore, the City commenced a legal action to recover the costs it alleges were incurred.

Confidential Attachment 1 contains legal advice from the City Solicitor regarding the litigation.

RECOMMENDATIONS

The City Solicitor and the General Manager, Parks and Recreation recommend that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1, at the discretion of the City Solicitor, but that the remainder of Confidential Attachment 1 remain confidential as it contains advice which is subject to solicitor-client and litigation privilege.

FINANCIAL IMPACT

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

The City Solicitor has not previously reported on the litigation discussed in this report.

COMMENTS

Background

Baycrest Park Revitalization Phase 1

The Project involves the construction of enhancements to Baycrest Park. The scope of construction work includes: site preparation and removals, grading, drainage and site servicing, electrical servicing, construction of park structures, installation of irrigation systems, cast-in-place concrete and stonework, construction of a ramp and stairs, installation of site furnishings and elements, tree planting, sodding and seeding, and overall site restoration.

The City entered into the Contract with LPC on July 20, 2022. LPC initiated construction work in April 2023 after necessary permits were secured. Soon after initiating construction, LPC stated that its quotes for materials and subcontracts were no longer valid because of a late start resulting from delay in issuance of the permits. LPC then submitted seven delay claims to the City, most of which were rejected due to lack of substantiation. In September 2023, LPC commenced an adjudication claim against the City pursuant to the *Construction Act*, RSO 1990, c C30, in relation to its rejected claims. The adjudication claim was dismissed in its entirety on May 17, 2024. During this period LPC did not work on site, nor did LPC return to site following the dismissal of its adjudication claim.

After the City issued notices to LPC to return to site and continue the Work, due to LPC's failure to take appropriate action, the City ultimately terminated the Contract.

The City's Bond Claim and Necessary Interim Work

After the Contract was terminated, the City notified the bonding company (Travelers) and called on it to honour its bond obligations. The City also issued interim contracts for electrical and lighting works at the baseball diamond and undertook measures to secure the site and mitigate potential losses, as the site had been left in an unsafe and unusable condition.

Travelers investigated the City's bond claim but denied coverage.

The remaining scope of work for the Project was re-tendered on February 6, 2025, and the contract was subsequently awarded on July 29, 2025, to another contractor. Construction is currently ongoing and anticipated to be completed in early 2027.

On May 15, 2026, the City commenced its legal action by having a Statement of Claim issued. The City is currently seeking \$3,347,007.04 in damages, exclusive of HST, legal costs, and interest, representing the additional expenditures associated with the difference between the balance of the Contract with LPC and the cost of the retendered contract, as well as estimated costs associated with the value of staff time for retendering. However, since construction work on the Project is ongoing, and because the litigation is at an early stage, the City has not fully quantified its damages and it is not yet possible to fully assess the amount to which the City may be entitled. Confidential legal advice about the litigation is provided in Confidential Attachment 1.

On June 26, 2026, LPC and Travelers each respectively delivered their Statements of Defence to the City's action. The same date, LPC also served on the City a Statement of Claim that had been issued on April 24, 2026. In LPC's claim, it alleges that the City breached the Contract, and seeks \$1,500,000.00 in damages, exclusive of HST, legal costs, and interest. It is likely that the parties will agree to consolidation of the two actions, or to have steps in the litigation for both proceed concurrently. A Statement of Defence will be delivered on behalf of the City by its deadline on July 27, 2026, to protect the City's interests.

CONTACT

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SIGNATURE

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ATTACHMENTS

Confidential Attachment 1 - Confidential Instructions to Staff