



**STAFF REPORT
ACTION REQUIRED
Confidential Attachment**

**Legal Proceedings to Recover Damages regarding the
Island Water Treatment Plant**

Date:	December 14, 2007
To:	Public Works and Infrastructure Committee
From:	City Solicitor
Wards:	Ward 28 – Toronto Centre-Rosedale
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions. It contains advice from the City Solicitor that is subject to solicitor-client privilege.
Reference Number:	

SUMMARY

In the summer of 2005, condensation problems were encountered at the Island Water Treatment Plant. The City has incurred costs to address these problems on an interim basis and will incur further costs for a permanent solution. The purpose of this report is to provide solicitor-client advice and recommended action regarding recovery of these costs.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council adopt the confidential instructions to staff in Attachment 1;
2. Council authorize the public release of Recommendation 1 of the confidential instructions to staff in Attachment 1 after Council has adopted the confidential instructions to staff;
3. The Confidential Information in Attachment 1 remain confidential.

FINANCIAL IMPACT

The financial impacts are discussed in the Confidential Information in Attachment 1 of this report. The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

Contracts with the parties involved in the design and construction of the project were authorized previously by Committee/Council as set out in the following:

<http://www.toronto.ca/legdocs/2002/agendas/council/cc021001/wks10rpt/cl009.pdf>
<http://www.toronto.ca/legdocs/2003/agendas/council/cc030722/pof8rpt/cl012.pdf>

The Bid Committee at its meeting of Wednesday, September 19, 2007, adopted the staff recommendation in the Recommendation Section of the report (September 7, 2007) from the Director of Purchasing and Materials Management:

<http://www.toronto.ca/legdocs/2007/agendas/committees/bd/bd070919/it002.pdf>

ISSUE BACKGROUND

In the summer of 2005, severe condensation was encountered at the Island Water Treatment Plant which in turn led to moisture damage and mould growth in areas of the facility. The City has incurred and continues to incur costs to provide temporary and permanent solutions for the condensation problems. The City seeks to recover these costs from the parties responsible. This report provides advice from the City Solicitor with respect to the legal implications of such cost recovery and seeks Council authority for legal steps which may be necessary to effect such recovery and to protect the interests of the City.

CONTACT

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SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENTS

Attachment 1 – Confidential Recommendations and Information