

April 5, 2019

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Via Email

The Honourable Chief Justice Heather J. Forster Smith
Chief Justice of the Superior Court of Justice
130 Queen Street West
Toronto, ON
M5H 2N5

Dear Chief Justice Smith:

RE: Corporation of the City of Hamilton – Request to Appoint a Judicial Inquiry

We are writing to you in our capacity as counsel to the Corporation of the City of Hamilton.

At a meeting held on March 20, 2019, Council of the City of Hamilton passed a resolution requesting a judge of the Superior Court of Justice to investigate matters relating to a failure to disclose to the City Council a draft report prepared by Tradewind Scientific Ltd., dated November 20, 2013 with respect to the friction levels on the Red Hill Valley Parkway in the City of Hamilton.

You will find enclosed a true certified copy of the Motion requesting that a judge be appointed pursuant to section 274 of the *Municipal Act, 2001*, S.O. 2001, c.25 to conduct an investigation.

We would be grateful to be advised when a judge has been appointed pursuant to the terms of the Motion.

Please also copy any future correspondence to Ms. Nicole Auty, City Solicitor for the City of Hamilton. She may be reached at:

The City of Hamilton
71 Main Street West
Hamilton, Ontario, L8P 4Y5
Tel: 905-546-2424 ext. 4636
Fax: 905-546-4370
Email: Nicole.Auty@hamilton.ca

We look forward to hearing from you.

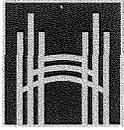
Yours very truly,



Eli S. Lederman

EL/DC/mw
Enclosure.

- c. Nicole Auty, *City Solicitor for the City of Hamilton*
Mike Zegarac, *Interim City Manager for the City of Hamilton*
Delna Contractor, *Lenczner Slaght LLP*



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Hamilton

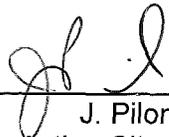
4.2 Judicial Investigation respecting the Lincoln Alexander & Red Hill Valley Parkways

- (a) That the City's outside legal counsel, in consultation with the Acting City Manager, be directed to prepare the necessary documents to file an application before the Superior Court to initiate a Judicial Investigation, pursuant to *Ontario Municipal Act, 2001*, as amended, Section 274.1.a & b, (Investigation by a Judge), and the *Public Inquiries Act*, Section 33, (Public Inquiries); and,
- (b) That the scope of the Judicial Investigation could include, but not be limited to, the following questions and be referred to outside legal counsel for review and a report back to the General Issues Committee:
 - (i) Who received, was briefed or was advised on the existence of the November 20th, 2013 Tradewind Scientific Friction Testing Survey Summary Report on the Lincoln Alexander & Red Hill Valley Parkways (the document) in 2013 or subsequent years;
 - (ii) Who was the individual or individuals, who decided not to disclose the document in 2013;
 - (iii) What was the rationale for not disclosing the document in 2013;
 - (iv) Who received a copy, was briefed or was informed about the existence of the document in 2018;
 - (v) What was the rationale for not disclosing the document in September 2018;
 - (vi) Did the document provide sufficient cause to make safety changes to the roads, or provide cause for further study;
 - (vii) What role, if any, did the non-disclosure of the document play in the increase in accidents, injuries or fatalities on the roads;
 - (viii) Did anyone in the Public Works Office or Roads Department request, direct or conduct any other friction test, asphalt assessment, or general road safety reviews or assessments on the roads;
 - (ix) Did subsequent consultant reports provide additional support or rebuttal to the document's conclusions;
 - (x) Did the Ministry of Transportation's (MTO) recently revealed friction tests provide additional support or rebuttals to the document's conclusions;

- (xi) What was the rationale for the Ministry of Transportation to not disclose their findings from the city and the public;
- (xii) Who was briefed within the Ministry or the Minister's Office about the findings of the MTO's friction tests;
- (xiii) Did the MTO friction test provide sufficient cause to make safety changes to the roads, or provide cause for further study;
- (xiv) What role, if any, did the non-disclosure of the MTO friction tests play in the increase in accidents, injuries or fatalities on the roads;
- (xv) Did the MTO conduct any other road assessment, friction tests, or general safety reviews or assessments on the roads;
- (xvi) Was there any malfeasance, wrong doing or misconduct by any person or persons in relations to their role in the non-disclosure of the document;
- (xvii) Review and make recommendations to improve City policy and procedures to prevent such future incidents;
- (xviii) What is the standard in Ontario for friction;
- (xix) Are results for friction for highways across the Province available; and
- (xx) Is speed, traffic weaving and lighting as big an issue as the friction tests.

I hereby certify the foregoing to be a true copy of
Motion 4.2 of the Minutes of City of Hamilton
Council of March 20, 2019.

Dated at the City of Hamilton on this 3rd day of April, 2019.



J. Pilon
Acting City Clerk