



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number 134-95

To provide for reimbursement of
expenses of members of
Council and Employees

WHEREAS The Corporation of the City of Brampton (the "City") desires to assume the cost of defending members of Council and employees in proceedings under the Criminal Code arising out of acts or omissions done or made by members of Council or employees in their capacity as members of Council of the City or employees of the City;

AND WHEREAS section 207, paragraph 50, and section 252 of the Municipal Act, R.S.O. 1990, C.M.45, provides that the Council of a municipality may pass by-laws for assuming the cost of defending a member of Council or an employee in a proceeding arising out of acts or omissions done or made by the member of Council or employee in their capacity as a member of Council or as an employee, including while acting in the performance of any statutory duty.

AND WHEREAS section 243 of the Municipal Act, R.S.O. 1990, c.M.45 provides that the Council of a municipality may provide by by-law for paying in whole or in part such expenses of the members of Council and of the employees of the municipality as are actually incurred as a result of their acting in their capacity as members of Council of the municipal corporation or employees of the municipality.

NOW THEREFORE the Council of The Corporation of the City of Brampton **ENACTS** as follows:

1. In this by-law:
 - 1.1 **"employee"** means any salaried officer or any other person in the employ of the City;
 - 1.2 **"eligible proceeding"** means a proceeding including an investigation brought under the Criminal Code, arising out of acts or omissions done or made by an eligible person in his or her capacity as a member of Council of the City or as an employee of the City including while acting in the performance of any statutory duty and the act or omission did not occur prior to the 1st day of December, 1991;

- 1.3 "eligible person" means a person who was a member of Council or was an employee, as the case may be, at the time that the act or omission occurred that gave rise to the eligible proceeding, notwithstanding that prior to the conclusion of the eligible proceeding, the person ceased to be a member of the Council or to be an employee.
2. Subject to the provisions of this by-law, the City shall reimburse eligible persons for the reasonable costs incurred by them for the defense of or representation in an eligible proceeding.
3. Notwithstanding the foregoing, an eligible person shall be responsible for all costs in connection with defense or representation in an eligible proceeding and shall reimburse the City for all costs paid by the City where, in such eligible proceeding, the person is convicted of an offence under the Criminal Code.
4. As a condition precedent to the City making any payment of costs to an eligible person pursuant to this by-law, the eligible person must agree in writing to repay to the City on demand in the event the person in an eligible proceeding is convicted of an offence under the Criminal Code, with respect to that eligible proceeding all sums paid by the City pursuant to this by-law and must execute an indemnity or other documentation approved by the Commissioner of Legal Services and City Solicitor (the "City Solicitor") to secure such repayment to the City.
5. Where an eligible person seeks to appeal a decision, judgment, or verdict in an eligible proceeding, costs of the appeal shall not be reimbursed unless the eligible person is successful on the appeal.
6. The City shall have the right to reasonably limit the amount which it shall pay an eligible person for reimbursement of costs for the defense of or representation in an eligible proceeding. Any person requesting reimbursement of costs pursuant to this by-law shall submit the following to the City Solicitor:
 - 6.1 detailed bills of account for all fees, costs, and disbursements from each law firm acting for the person, together with all information requested by the City Solicitor relating to these bills;
 - 6.2 complete details of the proceedings against the person from each law firm acting for the person, including an opinion from each law firm that the proceeding against the person is an eligible proceeding as defined in this by-law;

6.3 at the conclusion of the eligible proceeding, an opinion from each law firm acting for the person that all charges have been dismissed or withdrawn and/or that none are pending.

7. 7.1 The City Solicitor shall determine:

7.1.1 that the proceeding for which costs are requested is an eligible proceeding as defined in this by-law; and

7.1.2 the amount of the costs which are reasonable for reimbursement.

7.2 The City Solicitor, in making any decisions required by this by-law, may obtain the advice and assistance of a qualified independent party.

7.3 The City Solicitor may require that any account for legal costs be assessed by a Court Assessment Officer.

7.4 All costs incurred by the City arising out of paragraphs 7.2 and 7.3 of this by-law shall be borne by the eligible person and shall be deducted from the amount of any costs which are to be reimbursed to the eligible person.

8. The City Treasurer, on the instructions of the City Solicitor, shall pay to the eligible person or as directed by the eligible person, the amount of the costs which the City Solicitor has determined are reasonable for reimbursement.

9. Any eligible person requesting reimbursement of costs pursuant to this by-law who is not satisfied with any decision of the City Solicitor may, in writing, request the City Council to make any decision which the City Solicitor may make under this by-law, and all decisions of the City Council shall be final.

READ a FIRST, SECOND, and THIRD TIME and PASSED in Open Council this 12th day of JUNE, 1995.

APPROVED AS TO FORM LAW DEPT. BRAMPTON
DATE

[Handwritten signature]

Peter Robertson
PETER ROBERTSON MAYOR

L. Mikulich
LEONARD J. MIKULICH CLERK