



Public Works

To: Members of Regional Council
Date: September 4, 2024
From: Kealy Dedman, Commissioner of Public Works
Subject: Compensation Request for Royal Canadian Legion, Branch 82 for private side repairs and improvements

CC: _____
Our File: _____

Executive Summary

On July 7, 2024, the Royal Canadian Legion, Branch 82 experienced a sewer backup on private property due to the poor condition of their private sewer pipe connection. The Legion has requested full compensation for all costs incurred during the incident in the amount of \$11,061.68 based on the fact they are a non-profit organization. The Sewer Back up Ex Gratia Payment Policy F05-02 provides that Peel may make ex-gratia payments in the form of grants up to a maximum of \$1,500.00 in certain circumstances. Notwithstanding that the Legion did not sustain any damage as a result of the backup and their costs claimed relate to clearing the private blockage, and private plumbing improvements, staff offered a grant to the Legion as a show of good faith in the amount of approximately \$1,200.00 to cover costs of the CCTV and the private contractor unblocking part of the line. This offer was later increased to the maximum allowed of \$1,500.00 under Policy F05-02. Given the precedent that would be set in allowing payment for this current situation, it may set a precedent for other non-profit, charitable entities or residential customers to make similar claims, resulting in increased costs for the ratepayer. As such, staff do not recommend paying the full amount claimed by the Legion at this time and instead recommend a review and report back to Council on the existing policy.

Background and Recommendation

The Region of Peel has received a request from the Royal Canadian Legion, Branch 82 to reimburse them for costs incurred in response to a sewer back up that occurred on their private property. The purpose of this Memo is to provide information regarding the sewer back up incident, including the response from Regional staff, and the Region of Peel Policy that would apply to this request.

Peel is the owner and operator of the municipal water distribution and sanitary sewer collection systems. Any infrastructure located in the public right of way is the responsibility of Peel's teams to operate and maintain while infrastructure inside the property line of any residential, industrial, commercial or institutional property becomes the property of the owner. Any infrastructure located on private property must be operated and maintained by the property owner.

REFERRAL TO _____
RECOMMENDED _____
DIRECTION REQUIRED _____
RECEIPT RECOMMENDED _____

Details of Incident

The Royal Canadian Legion, Branch 82, located at 35 Front St North Mississauga, incurred a sewer backup on Sunday, July 7, 2024 and hired a plumbing contractor to determine where the back up was located and if the blockage could be released.

While completing the work, the plumbing contractor determined through use of CCTV that there was encrustation on the sewer lateral on the private side as well as the public side. The contractor flushed the sewer line and noted that he “pushed the blockage material from private side to public side.” The property line is the location where the ownership of the sewer line goes from a private property owner to the Region of Peel. The plumber recommended the installation of a clean out (a pipe with a cap/plug that provides direct access to a property’s sewer line to remove blockages and prevent sewer backups) that would allow the Region to come on site and look at the sewer. The Legion agreed to have one installed. The plumbing contractor also noted the poor condition of the private lateral connection pipe coming from the Legion.

After the clean out was installed, the Legion contacted the Region of Peel to report the backup.

Sequence of Regional records:

2024-07-09: Branch Manager for 35 Front Street North, Mississauga reports a sewer back up event. Branch Manager requests Region Staff attend to the site to investigate the sanitary sewer lateral back up incident. Duty Foreperson dispatches the Region Staff to the site to investigate the sewer lateral back up incident; HSR #4983951.

2024-07-09: Staff attend to the site and proceed to confirm the sanitary sewer main is flowing properly; #35 is the one property affected by a sewer back up. No other property is experiencing a sewer back up event. Staff require access from the Branch Manager to the basement clean out and a gas clearance before they can proceed rodding out the obstruction with mechanical equipment. Staff update the Foreperson.

2024-07-09: Region Contractor Staff return to the subject site with the required gas clearance and the Branch Manager provides access to the basement clean out. Region Contractor Staff proceed to locate and expose the clean out to rod out the obstruction in the sanitary sewer lateral. Region Contractor Staff confirm calcite obstructions as the cause of the sewer back up. The calcite obstructions appear to be throughout the pipe on the private side and municipal side. Region Contractor Staff proceed rodding out the obstruction with mechanical equipment and remove the blockage in the sanitary sewer lateral. Staff update the Foreperson.

2024-07-10: The Duty Foreperson directs CCTV Staff to return to the site and CCTV inspect the sanitary sewer lateral from the main line sewer and to mark and trace the sanitary sewer lateral, including the spot repair site where the calcite obstruction was located to ensure an accurate trace of the municipal sanitary sewer lateral. Foreperson to schedule a municipal spot repair.

2024-07-11: Region contractor and staff return to site and contractor was able to remove last of encrustation from the pipe. Staff update the Foreperson. Foreperson and Technical Analyst plan the remediation works for the municipal sanitary sewer lateral.

On August 16, Region staff returned to the site to start planning the spot repair and check the flow in the lateral as locates had been obtained. It was noted while on site at that time, the lateral was 90% clear and flow was fine. The Legion staff asked that the Region not complete repairs until after November 11.

The Legion claims that it has incurred the following costs:

- \$7712.25 for the installation of a cleanout inside the Legion's basement
- \$3349.43 for the CCTV of the lateral, flushing of the line, fuel, and cleaning the area affected in the Legion's basement

Other than cleaning costs, there were no damages incurred from the sewer back up to Legion property.

Request from the Legion

The Legion has requested full compensation for all costs incurred in the amount of \$11,061.68 based on the fact they are a non-profit organization, notwithstanding that the Legion did not sustain any damage as a result of the backup. Their costs claimed relate to clearing the private blockage, and private plumbing improvements.

As the Region of Peel does not pay for private side plumbing improvements or work to clear private side sewer back ups there was limited relief that could be offered by staff. The Sewer Back up Ex Gratia Payment Policy F05-02, as endorsed by council resolution, provides that the Region of Peel may make ex-gratia payments in the form of grants up to a maximum of \$1,500.00 for damages resulting from non-storm related backups as long as a number of conditions are met (Appendix I).

In this case even though the costs being claimed are not strictly damages, Region staff offered a grant to the Legion as a show of good faith in the amount of approximately \$1,200.00 to cover costs of the CCTV and the private contractor unblocking part of the line. This offer was later increased to the maximum allowed of \$1,500 under Policy F05-02.

The Region of Peel does not have a policy that would pay for plumbing improvements on private property. Accordingly, the costs related to the installation of the clean out in the Legion's basement, clean up costs and fuel are the full responsibility of the Legion.

If the Region of Peel grants this request to reimburse the Legion for the costs of plumbing repairs and improvements on the private side, it may set a precedent for other non-profit or charitable entities to make similar claims. It may also open the door to residential claims. When the number of locations across Peel that this could

Public Works

be applied to is considered, such as government buildings, non-profit housing locations, hospitals, schools, places of worship etc, and residential, there could be a high number of claims and the result would be increased rates to water and wastewater customers.

As such, staff do not recommend paying the full amount claimed by the Legion at this time but recommend a review and report back to Council on the existing policy.

CATEGORY: FINANCIAL MANAGEMENT

SUBCATEGORY: RISK MANAGEMENT

SUBJECT: SEWER BACK-UP EX GRATIA PAYMENTS

1. The Region of Peel may make ex-gratia payments, in the form of grants, to persons submitting a written claim for damages resulting from a sanitary sewer backup, supported by invoices and/or estimates provided all of the following conditions are met:

(a) that the blockage or defect in the sanitary sewer or lateral connection occurs on municipal property (including easements);

(b) that the backup is not caused by the negligence of the Region;

(c) that the backup is not caused by the property owner's misuse of the sewer system or failure to maintain the sewer pipes on private property;

(d) that the backup is not caused by rainfall, flood or other natural occurrence unless a blockage in the sanitary sewer system was a contributory factor;

(e) that an appropriate release is signed;

2. In the event that the property owner has insurance against sewer backups, the Region shall be responsible only for the amount below the deductible on that insurance policy, subject to the conditions in paragraph one.

3. In the event that the backup is caused by the actions of a third party, the claim shall first be directed to the third party for payment. If the third party denies the claim, the Region may make a payment to the homeowner, provided the claim meets the conditions in paragraph one and then may pursue the claim against the third party.

4. No payments in excess of \$1,500.00 shall be made under this policy.

SOURCE: Resolutions 82-563-8, 85-208-64, and 93-255-40.