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CHRONOLOGY OF EVENTS FOLLOWING FIRST ACCESS REQUESTS AND IPC APPEAL 2004-2005 PERTAINING TO LAWSUITS AGAINST THE CITY OF TORONTO

- **August 12, 2004:** Filed access request (Request #04-2055) with City of Toronto Corporate Access and Privacy (C.A.P.) Office for records of:
 - Number of lawsuits filed against the City in the years 1980, 1990, 1995, 1996 through 2004;
 - Breakdown re: the type of City facility or property on which the alleged injuries occurred;
 - The status of this litigation, e.g. number of lawsuits in each category that are/were:
 - 1.being actively litigated;
 - 2.in settlement negotiations;
 - 3.settled, by agreement between the City and the party concerned;
 - 4.the subject of a court order for damages;
 - 5.discontinued;
 - Amount of City's funds paid: for deductibles, to settle litigation, or to pay court awarded damages;
 - Dollar amount of claims paid by insurance companies for settlement or court awarded damages.
- **September 20, 2004:** Received a letter from the Toronto's Corporate Access and Privacy Office, stating that the 30-day time limit for a decision would be extended by an additional thirty days.
- The extended time period passed without any reply from the Corporate Access and Privacy Office, so we filed an appeal with the provincial Information and Privacy Commissioner.
- **November 17, 2004:** Received a letter from the office of Information and Privacy Commissioner, notifying us that an inquiry would be launched.
- **December 1, 2004:** Received a decision letter from the Office of the Information and Privacy Commissioner stating that the City would have to issue a decision on our access request by December 8, 2004.
- **December 8, 2004:** Received a letter from the Corporate Access and Privacy Office stating that they had received some records from the City of Toronto Legal Department for pre-amalgamation claims for the former city of Toronto. But they not yet received any records from the Finance Department, and that therefore "we have to assume that such records do not exist." Results for 1989 to 1996: one playground injury claim: "playground equip – superv. \$23,570." No other injuries in playgrounds. Most claims were for damage caused by Parks and Rec vehicles, some very large (highest payouts were for \$3,187,096 in 1995 and \$1,038,362 in 1994).
- **January 18, 2005:** Submitted an appeal with the Information and Privacy Commissioner, for post-amalgamation information. Reduced the question: "We would be satisfied if we could obtain this information only in reference to grounds or facilities administered through the City's Parks and Recreation Division) i.e. all parks including playgrounds, all community centres)."
 - **January 25, 2005:** Received a letter confirming our appeal from the Office of the Information and Privacy Commissioner.
 - **March 31, 2005:** Received a letter from the City of Toronto Corporate Access and Privacy Office stating that a manual search would be necessary to retrieve the information that we had requested, and that this would cost us \$1,050.
 - **April 7, 2005:** Received a Mediator's Report from the Office of the Information and Privacy Commissioner. This report clarified some of the questions in our request, but stated that the fee of \$1,050 could not be resolved though the mediation, and that the matter would go to an inquiry.
 - **April 12, 2005:** We sent a letter to the Corporate Access and Privacy Office directly, requesting that the fee of \$1,050 be waived.
 - **May 9, 2005:** Received a letter from the Corporate Access and Privacy Office stating that they had amended their decision, and that they had determined that a manual search would not be necessary to locate the records; they now denied access to the records on the grounds that releasing them would be injurious to the economic interests of the City.
 - **June 23, 2005:** We hand-delivered a letter to the Office of the Information and Privacy Commissioner stating that the City's latest decision was not satisfactory, and that we wanted to appeal this decision.
 - **July 24, 2005:** Letter from the Office of the Information and Privacy Commissioner stating that our previous appeal had been closed, and that our new appeal of the City's most recent decision would be opened. Since the City gave new grounds for refusing access, our original IPC appeal (started Jan.18) was cancelled, and we had to start over with IPC, from the beginning.
 - **July 26, 2005:** Received a letter from the Corporate Access and Privacy Office stating that, pursuant to ORDER MO-1947 of the Information and Privacy Commissioner, access would be granted in full to the records we had requested. These were the records we received: (note the error in the grand total; should be

\$268,468.60):

PARKS AND RECREATION PLAYGROUND INJURIES – 1998-2005 (first response, July 2005)

	Cause	Count	Paid
Loss date: 1998	Playground	1	\$3,618.10
	Other	10	\$17,704.18
	Total	11	\$21,322.28
Loss date: 1999	Other	57	\$34,585.01
	Total	57	\$34,585.01
Loss date: 2000	Other	71	\$67,031.15
	Total	71	\$67,031.15
Loss date: 2001	Other	51	\$37,637.91
	Total	51	\$37,637.91
Loss date: 2002	Playground	1	\$4,361.00
	Other	35	\$32,953.85
	Total	36	\$37,314.85
Loss date: 2003	Playground	3	\$2,817.00
	Other	61	\$38,539.83
	Total	64	\$41,356.83
Loss date: 2004	Playground	1	\$667.00
	Other	53	\$29,220.57
	Total	54	\$29,220.57
	Grand Totals	344	\$848,744.05

- **Aug.3 2005:** Sent an e-mail to City of Toronto Corporate Access and Privacy Office: “what does ‘other’ refer to?” Reply: “All claims for injuries that are not related to the playground [but occurred] within a park.”
- **Aug.4 2005:** Reply: “If you need to find out what the ‘other’ category in the chart refers to, or how the figures relate to other figures reported in the media, I can’t answer that question, as I am not personally knowledgeable with how Insurance and Risk Management perform their financial calculations nor can I verify the accuracy of any media reports. I can either forward your question to the Manager of Insurance and Risk Management or you can ask him directly: Jeff Madeley.” [Note: we called, but the risk manager did not return our call.]
- **Second e-mail from C.A.P, later that day:** “Other – all claims for injuries that are not related to the playground [but occurred] within a park.... EDCT is made up of more than Parks and Recreation and therefore the media numbers are not confined to Parks only.” [Note: Parks and Recreation was by far the largest Division inside Economic Development and Tourism.]
- **Sept.2 2005:** E-mail to City of Toronto C.A.P. office: “the total parks-related claims paid out is listed as \$848,744.05. When I add up the numbers myself the total is \$268,468.60. Why the discrepancy?”
- **Sept.12 2005:** E-mail from C.A.P. staff: “I have checked with the insurance and Risk Management Office and they have advised that the total of \$268,468.60 is correct. When the spreadsheet was prepared, the figures were totaled incorrectly in error.” Error of \$580,275.40.
- **Sept.20 2005:** Access request 05-2217, following up on access request 04-2055. “Please let us know the exact details of the playground injuries (no names). The purpose of this question is to learn from these details so that our playgrounds can become safer without being unnecessarily made less fun.” Response: “The Insurance and Risk management Division has advised of the following pertaining to the above claims: There are four playground incidents since 1998 – all bodily injury.”
 - 1. 1998 – Swing
 - 2. 2002 – playground equipment
 - 3. 2003 – playground maintenance
 - 4. 2004 – playground equipment. The Division has further advised that with the exception of the 1998 incident, there are no other details that exist.” The details of the 1998 incident are: *This claim involves a 7 year old claimant who was on a “baby swing” when the chain fell of the “s” hook, injuring the boy. He suffered a fracture to his leg.*
- **Nov.16 2005:** response to request # 05-2930, sent Oct.12 2005 . Insurance and risk management staff advise that the definition of “incurred” as used in the records means the total paid plus outstanding and may include a

combination of the following: settlements, damages, interest, court ordered judgments, and all expenses pertaining to the claims process which can include legal fees, claims adjuster fees, defence expert costs, and legal and adjusting fees paid out on claims that are still open and remain unsettled to date.”

- **Nov.6, 2006** Response re access request 06-3693. “You have requested information regarding the number of types of outdoor ice rink injury claims, and the costs to the City. The search by staff of Insurance and Risk Management, Corporate Finance, has found a list of all rink injury claims. Staff state that of the total of five claims, two occurred on indoor rinks during organized hockey games, and the other three occurred during public skating on outdoor rinks. Accompanying document shows:
 - Claim count: 5
 - Incurred: \$95,844.50
 - Paid: \$32,921.71
 - Outstanding: \$62,922.79
 - Average incurred loss: \$19,168.90
 - Largest incurred loss: \$38,254

CHRONOLOGY RE: FOLLOW-UP ACCESS REQUEST RE DETAILS OF PLAYGROUND/OUTDOOR RINKS INJURY CLAIMS

2007-2008

- **August 8 2007:** Questions sent to Jim Kidd, Senior Risk Management Analyst at the City, asking him about the City of Toronto Parks playground and outdoor rink claims details (no name, but what specific injuries occasioned the claims, how much the city had to pay). No reply.
- **August 19, 2007:** e-mail to Jim Kidd, asking if he has time to discuss the questions.
- **August 22, 2007:** phone conversation with Jim Kidd, where he gave partial information, and said he would answer the written questions in detail soon.
- **October 22, 2007:** letter to Jim Kidd, asking if he could answer the questions. No response.
- **Nov.7, 2007:** request to C.A.P. for the playground and rinks claims information.
- **Nov.18, 2007:** response from C.A.P. staff person Jerry Verhovsek, returning the C.A.P. request cheque, with this response: “*[The Act] does not require a the City to provide responses to questions or to create records that it does not have in response to a request but rather the City makes decision on access to records in its custody or control that are responsive to the request. We note that Jim Kidd, Senior Risk Management Analyst...has already replied to some of your questions. We suggest that you contact him again with respect to the outstanding questions that you have. If, after speaking with Insurance and Risk management, you would like access to particular records regarding insurance claims involving rink and playground injuries, please contact us again describing these records and we will open an access file at that time.*”
- **January 18, 2008:** phone call to Jim Kidd, clarifying request.
- **January 18 2008:** Repeat request to C.A.P., asking for a) Statements of Claim b) the City’s Defences, and, where applicable c) the settlement agreement or other agreement which terminated the court action. Note that it appears from previous information, that this request involves approximately ten claims.
- **February 22, 2008:** Response from C.A.P., assigning a request number (**A Gen-2008-00262**) and taking a 60-day extension because of the “large number of records.”
- **April 23, 2008:** Response from C.A.P. requiring payment of \$ 163.00 for 190 responsive pages.
- **May 24, 2008:** Letter to City of Toronto Clerk Ulli Watkiss on two points: 1) noting our understanding that we would be entitled to access to the Statements of Claim and the City’s Defences without any severing as these are public documents; and, 2) asking that Belinda Cole be permitted to have access to the court pleadings previously requested, as a researcher. This letter included a signed research Municipal Freedom of Information and Protection of Privacy Act research agreement.
- **June 26, 2008:** Response from Ms. Watkiss “*The City does not enter into research agreements to provide access to legal documents.*”
- **August 5, 2008:** Appeal to the Information and Privacy Commissioner of Ontario from Belinda Cole. Why the appeal is being made: “*fee estimate is excessive*” and “*The City of Toronto has denied my request for access to City records as a researcher...CELOS, however, has made it clear to the City that its interest is in conducting research; it has no interest in legal documents per se. CELOS made its first written request that the City of Toronto provide information concerning playground and rink injuries 11 months ago. In my informal and subsequently formal requests, I specified that CELOS seeks detailed information about playground and rink injuries for the purpose of writing a booklet about Liability in Parks.*” **Request:** That the City enter into a research contract with CELOS, or that it grant access to the unsevered public court documents and the agreements resulting or that it grant access to the severed documents without charging a fee.
- **September 22, 2008:** Mediator’s report on this appeal. “*The mediator advised the appellant that based on previous orders of this office, it was his opinion, that the City appropriately calculated the fee in accordance with the Act and, in his opinion, it is unlikely that her organization would meet the requirements to receive a fee waiver....The appellant advised that she would not proceed with her appeal of the fee. She explained that she would pay the required 50 per cent of the fee to the City and receive a final decision to her request. The appellant and the mediator also reviewed previous orders of this office related to section 14(1)(e) of the Act of this office concerning research agreements. As a result of those discussions the appellant agreed that she would not proceed with the appeal of the City of Toronto’s decision not to enter into a research agreement to*

provide access to the requested records. Accordingly, this file is closed."

- **September 29, 2008:** Cover letter for requested records, including a revised fee estimate, reduced to \$38.20. The grounds: "As there is no charge for removing non-responsive information, the total cost is less than our original estimate of \$163.00."

The [enclosed records](#) did not match the 2005 playground records in any instance.

Playground injury claims summary, short, TOTAL OF 10 CLAIMS SINCE AMALGAMATION (Follow-up Corporate Access and Information response, October 2008)

Maintenance issues: swings

- **April 29 1998.** Coronation Park, Etobicoke. A swing broke. A girl fell off, got bruised and got a concussion and "was unconscious for a short period of time." Claiming \$1.5 million. **Not settled.**
- **May 7 1998.** Stone House Park. Suing for 1.65 million. Sounds like a swing broke. The statement of claim is illegible. **Not settled.**
- **August 28 1998,** Indian Line Park in Etobicoke. Swing seat broke, so a girl fell and injured her (?) spine and got otherwise bruised. Claiming \$825,000. **Not settled.**
- **May 12 2000.** Park Lawn Park. Girl was swinging and the swing broke. She fell and broke her leg. Claimed \$500,000 damages. **Settlement: \$9000.**
- **August 1 2004.** Kitchener Park, Child was swinging on a baby swing when the top chain came undone and the swing twisted around and the child struck a post. No claim amount mentioned. **Not settled.**

Maintenance issues: other

- **June 13 2000,** playground near York Mills Arena – 8 year old girl was hanging from rings suspended on a beam and one side of the beam collapsed. She had to have stitches to her face and head. Settlement: July 2003, she was awarded **\$9,937.50**, also the Ministry of Health was awarded **\$218.78** and the City had to pay **\$3000 for the girl's lawyer.**
- **Sept.8 2002.** Splash water park at Toronto zoo. Girl fell and cut her chin on a protruding screw on the "seal." The girl had "extended hospitalization" and has to take medicine for her "accident-related symptomatology." **Settlement: \$6500.**
- **Oct.6 2003.** Kenneth Parkette. A woman "got on the track ride and grabbed a metal handle attached to the underside of a beam spanning between the two platform towers which supported the slider mechanism. Suddenly without warning the slider mechanism proceeded on the track at high speed and stopped suddenly and without warning, causing the plaintiff to be thrown to the ground." She broke her tibia and had to get a plate and screws put in. Claimed \$2 million. **Settlement: \$288,634.92.**

Equipment Design

- **Aug. 6 2006,** Thomson Park in Scarborough. A girl was on a spring teeter totter and her hand was jammed in the springs. She had two broken fingers plus stitches for two other fingers. She is suing the City and Henderson Equipment for \$100,000. The City is claiming against Henderson. **Not settled.**

Opportunity

- **July 24 2005** a girl hurt her tooth while playing on a spring teeter-totter at Kennedy Margon Park. Claiming \$10,887.93 for pain and suffering and present and future dental work (small claims court). **Not settled**, and the City rejects all of it, and wants legal costs.

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