

TO:	CHAIR AND MEMBERS FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE MEETING ON SEPTEMBER 24, 2012
FROM:	JOY JACKSON MANAGER, RISK MANAGEMENT
SUBJECT:	AMENDMENT COUNCIL POLICY 12(1) DENIAL OF CLAIMS

RECOMMENDATION

That, on the recommendation of the Manager, Risk Management, with the concurrence of the City Solicitor, the attached proposed by-law (Appendix "B") **BE INTRODUCED** at the Municipal Council meeting on October 9, 2012 to amend Council Policy 12(1) entitled "Denial of Claims" by repealing the Policy as the policy is no longer necessary or appropriate.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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None.

BACKGROUND

Council Policy 12(1), Denial of Claims (attached as Appendix "A") provides for a process under which Council may grant compassionate compensation towards a pecuniary loss reasonably resulting from property damage caused by an occurrence in which the City of London may be involved and where the City of London's insurer has denied liability on the City of London's behalf. Requests for compassionate compensation will not be considered where civil proceeding has been brought against the City of London.

Over the past few years, the Civic Administration has noticed an increase in the number of appeal requests that have come forward. The current process only provides for an appeal to be considered for compassionate reasons and not because a member of the public did not agree with the ruling on the claim. For the most part, appeals have not been made on compassionate grounds and as a result, have been denied. In other cases, the opinion on the extent of compassionate grounds differs greatly between the citizen, the administration and Members of Council. This ambiguity leads to frustration and confusion for the public.

Claims are reviewed by Civic Administration, through our Risk Management staff, whose decisions are based upon criteria used by the insurance industry and supported by the City's insurer. Appeal of denial of claims leaves the City in a vulnerable position with respect to potential litigation and loss of coverage by our insurer who has already made a ruling on the claim. A survey of Canadian municipalities in July, 2012 found that most municipalities, whose employees handle claims, do not permit appeals.

It is therefore recommended that the Policy 12(1), Denial of Claims be repealed.

RECOMMENDED BY:	CONCURRED BY:
R. JOY JACKSON, MANAGER III, RISK MANAGEMENT	JAMES P. BARBER, CITY SOLICITOR

APPENDIX "A"

12(1) Denial of Claims

Council may grant compassionate compensation in accordance with the following procedure toward pecuniary loss reasonably resulting from property damage caused by an occurrence in which the City may be involved where the City's insurer has denied liability on the City's behalf;

- (a) if the person sustaining the property damage, or their spouse, child or parent is dissatisfied with the denial of liability, such person may apply for compassionate compensation to the City Clerk within 30 days from the date of denial of liability, but if there are exceptional circumstances whereby the appeal was made later than 30 days, Council may extend the limit for making application;
- (b) the City Clerk shall circulate each application to the Risk Management Division and to the head of any department that appears to be affected by the application for a confidential report through the City Administrative Officer to the Board of Control;
- (c) upon receiving the application and the confidential reports mentioned above, the Board of Control shall proceed to consider the matter in camera, and as part of its consideration of the matter the Board of Control has a discretion to receive oral submissions from the applicant and any other person involved with the matter;
- (d) when the Board of Control refuses an application, it shall report its refusal to Council in camera;
- (e) where the Board of Control considers that an application ought to be allowed in whole or in part, the Board shall make a recommendation to Council in camera to grant compassionate compensation in a lump sum noting that such payment is not an admission and upon any other appropriate terms and conditions (*and any decision of Council thereon shall be made public*);
- (f) if a person granted compassionate compensation is under the age of 18 years or is of unsound mind or is incapable of managing his own affairs in the opinion of the Board of Control, any compassionate compensation payable to him may be paid to his parent, spouse or committee or to the Public Trustee as is in the best interests of such person, upon the payee except the Public Trustee undertaking in writing to receive and administer the funds for the benefit of that person; and
- (g) no person shall be granted compassionate compensation under this procedure where civil proceedings have been brought against the City by that person or, where the person's rights are subrogated to another person, by that other person for loss or damages resulting from property damage caused by the same occurrence in respect of which compassionate compensation is sought.

APPENDIX “B”

Bill No.
2012

By-law No.

A by-law to repeal Council Policy 12(1) entitled “Denial of Claims” as the Policy is no longer necessary or appropriate.

WHEREAS the Council of The Corporation of the City of London wishes to repeal Council Policy 12(1) relating to the denial of claims as the policy is no longer necessary or appropriate.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Council Policy 12(1) entitled “Denial of Claims” is hereby repealed.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council October 9, 2012.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First reading – October 9, 2012
Second reading – October 9, 2012
Third reading – October 9, 2012