



Gary Santucci &lt;garysantucci@gmail.com&gt;

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**Waterfront Trust**

10 messages

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**Gary Santucci** <garysantucci@gmail.com>

Sun, Sep 16, 2012 at 12:02 PM

To: Rob.Rossini@hamilton.ca

Roberto Rossini  
General Manager Finance  
City of Hamilton

Mr. Rossini

During the recent GIC meeting of September 6 you released information regarding an accident that occurred on the waterfront trail system in 2002. This incident resulted in a claim that was filed against the Waterfront Trust. You also released information as to the nature of the incident (a bicycle accident) and the amount of settlement 127,000.00 paid by the City of Hamilton on behalf of the Waterfront Trust to the claimant. I have a number of questions regarding this incident.

1. When was the settlement paid out?
2. Did City legal staff handle the case or was a third party legal firm assigned the case?
3. Why did the Waterfront Trust's liability insurance not cover this claim?
4. What were the total court, legal and staff costs for this incident?
5. Were the total costs of this incident over and above the settlement with the claimant reimbursed by the Waterfront Trust?
6. Can you provide me with information or direct me to where this reimbursement was reported or noted by the City?

Perhaps the next question should be directed to the financial officer of the Waterfront Trust, however I'll pose it to you in the off chance that you may know the answer;

7. Did the funds for the reimbursement come from revenues earned by the Trust through their profit making ventures or was it paid from funds advanced by the City of Hamilton paid by taxpayers?

During the above mentioned GIC meeting, Councillor Merulla asked you if the details of this incident could be released. You answered in the affirmative prompting me to ask the above questions.

I look forward to hearing back from you.

Regards

Gary Santucci

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**Rossini, Rob** <Rob.Rossini@hamilton.ca>

Mon, Sep 17, 2012 at 11:56 AM

To: garysantucci@gmail.com

Hi Gary,

I will be meeting with staff to get some responses for you and discuss what further details can be released.

Thx

Rob  
Roberto Rossini  
General Manager  
Finance & Corporate Services  
City of Hamilton  
Phone: 905-540-6150  
Cell: 905-570-4762

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**From:** Gary Santucci [mailto:[garysantucci@gmail.com](mailto:garysantucci@gmail.com)]

**Sent:** Sunday, September 16, 2012 12:02 PM

**To:** Rossini, Rob

**Subject:** Waterfront Trust

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**Gary Santucci** <[garysantucci@gmail.com](mailto:garysantucci@gmail.com)>  
To: "Rossini, Rob" <[Rob.Rossini@hamilton.ca](mailto:Rob.Rossini@hamilton.ca)>

Mon, Sep 17, 2012 at 12:00 PM

Thank you

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**Gary Santucci** <[garysantucci@gmail.com](mailto:garysantucci@gmail.com)>  
To: "Rossini, Rob" <[Rob.Rossini@hamilton.ca](mailto:Rob.Rossini@hamilton.ca)>

Wed, Sep 19, 2012 at 7:31 PM

Hello Mr Rossini

Do you have an update for me on my request?

Regards

Gary Santucci

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**Rossini, Rob** <[Rob.Rossini@hamilton.ca](mailto:Rob.Rossini@hamilton.ca)>  
To: [garysantucci@gmail.com](mailto:garysantucci@gmail.com)

Wed, Sep 19, 2012 at 8:14 PM

Hi Mr. Santucci, here are your responses:

1. When was the settlement paid out?

The settlement was paid by City of Hamilton cheque to the plaintiff's law firm "In Trust", dated September 1, 2011.

2. Did City legal staff handle the case or was a third party legal firm assigned the case?

An outside local legal firm (Sullivan, Festeryga LLP) represented the City with Risk Management Services acting as the client.

3. Why did the Waterfront Trust's liability insurance not cover this claim?

The Waterfront Trust did not have liability insurance in place for this incident. As a result, the City had to pay the claim as a co-defendant named in the law suit and then recover the funds from the HWT.

4. What were the total court, legal and staff costs for this incident?

The matter was settled for the all-inclusive amount of \$127,000. This figure would include pecuniary and non-pecuniary damages, plaintiff legal costs, plaintiff disbursement, and pre-judgment interest. The breakdown of each component is considered confidential information.

5. Were the total costs of this incident over and above the settlement with the claimant reimbursed by the Waterfront Trust?

Yes.

6. Can you provide me with information or direct me to where this reimbursement was reported or noted by the City?

Council was advised of this matter via AF&A Information Report # FCS11093 - October 5, 201. The report remains confidential.

7. Did the funds for the reimbursement come from revenues earned by the Trust through their profit making ventures or was it paid from funds advanced by the City of Hamilton paid by taxpayers?

Hamilton taxpayers do not provide operating funding to the HWT. The only funding we have provided to the HWT has been for the construction of certain capital projects and the maintenance of our outdoor skating which is operated under contract agreement by the HWT.

I trust this answers your questions.

Thx

Rob  
Roberto Rossini  
General Manager  
Finance & Corporate Services  
City of Hamilton  
Phone: 905-540-6150  
Cell: 905-570-4762

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**From:** Gary Santucci [mailto:[garysantucci@gmail.com](mailto:garysantucci@gmail.com)]  
**Sent:** Sunday, September 16, 2012 12:02 PM  
**To:** Rossini, Rob  
**Subject:** Waterfront Trust

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**Gary Santucci** <garysantucci@gmail.com>  
To: "Rossini, Rob" <Rob.Rossini@hamilton.ca>

Wed, Sep 19, 2012 at 8:46 PM

Thank you  
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**Gary Santucci** <garysantucci@gmail.com>  
To: "Rossini, Rob" <Rob.Rossini@hamilton.ca>

Wed, Sep 19, 2012 at 9:01 PM

Mr Rossini

Sorry just one more question and I'll sign off tonight; You mentioned at the GIC meeting that the accident was a Bicycle accident, is that correct?

Thank you

Gary Santucci  
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**Rossini, Rob** <Rob.Rossini@hamilton.ca>  
To: garysantucci@gmail.com

Wed, Sep 19, 2012 at 9:07 PM

Hi, yes, I think the person was on a bicycle.

Rob  
Roberto Rossini  
General Manager  
Finance & Corporate Services  
City of Hamilton  
Phone: 905-540-6150  
Cell: 905-570-4762

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**From:** Gary Santucci [mailto:garysantucci@gmail.com]  
**Sent:** Wednesday, September 19, 2012 09:01 PM  
**To:** Rossini, Rob  
**Subject:** Re: Waterfront Trust

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**Gary Santucci** <garysantucci@gmail.com>  
To: "Rossini, Rob" <Rob.Rossini@hamilton.ca>

Thu, Sep 20, 2012 at 8:43 AM

Mr. Rossini

Rob

I reviewed your answers to my request and I have a few points for clarification.

4. What were the total court, legal and staff costs for this incident?

The matter was settled for the all-inclusive amount of \$127,000. This figure would include pecuniary and non-pecuniary damages, plaintiff legal costs, plaintiff disbursement, and pre-judgment interest. The breakdown of each component is considered confidential information.

Am I correct in assuming by your answer that the costs of the external legal firm over the 10 year duration of this case were not included in this settlement number as well as for the staff of Risk Management for the City of Hamilton, if so what was that number?

5. Were the total costs of this incident over and above the settlement with the claimant reimbursed by the Waterfront Trust?

Yes.

Just to be clear then; Did the Waterfront Trust reimburse the full amount of the costs associated with this case over the last ten years including the external law firm of Sullivan Festeryga and for the Staff time of Risk Management?

7. Did the funds for the reimbursement come from revenues earned by the Trust through their profit making ventures or was it paid from funds advanced by the City of Hamilton paid by taxpayers?

Hamilton taxpayers do not provide operating funding to the HWT. The only funding we have provided to the HWT has been for the construction of certain capital projects and the maintenance of our outdoor skating which is operated under contract agreement by the HWT.

The Waterfront Trust has reported four years of continuous losses totalling close to 2 million dollars. Where did the funds for the reimbursement of the 127,000.00 plus the costs for the external legal firm come from. Was it reported in their financial statements and is this reimbursement reflected in the losses?

One final question on this; When did The Waterfront Trust or Risk Management first report this potential liability and absence of insurance to City Council or to the Audit and Finance Committee?

Thanks for your help to date

Regards

Gary Santucci

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**Rossini, Rob** <Rob.Rossini@hamilton.ca>  
To: Gary Santucci <garysantucci@gmail.com>

Thu, Sep 20, 2012 at 11:40 AM

Mr. Santucci,

Here are my final responses on this matter and I will not be responding further.

4. Yes, you are correct our legal and risk management costs were not included in the \$127,000 settlement. The cost is however, privileged/confidential information.

5. The HWT is reimbursing the City the \$127,000 only.

7. The HWT is paying the \$127,000 from their own operating budget. The City and the HWT have agreed to a payment arrangement (5 years @ \$25,000 per year plus \$2,000).

8. Given the low value of the potential claim, we formally advised Council for the first time on October 5, 2011 with the report FCS11093. Staff have delegated authority to settle all claims up to \$250,000.

thx

Rob

**Roberto Rossini**, General Manager  
Finance & Corporate Services  
City of Hamilton, 1st Floor City Hall, 71 Main Street W.  
Hamilton, Ont., L8P 4Y5  
Tel: [905-540-6150](tel:905-540-6150)  
Cell: [905-570-4762](tel:905-570-4762)  
Email: [rob.rossini@hamilton.ca](mailto:rob.rossini@hamilton.ca)

-----Original Message-----

**From:** Gary Santucci [<mailto:garysantucci@gmail.com>]

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