

PRESS RELEASE

July 26, 2001

Toronto Cyclists Call for Legal Action Against City Hall

TORONTO CYCLING ADVOCATES

CALL FOR LEGAL ACTION AGAINST CITY HALL

ARC -ADVOCACY FOR RESPECT FOR CYCLISTS -TORONTO

A recent study, published by the City of Toronto and entitled "The City of Toronto Car/Bike Collision Study, 2001", has shown that a strikingly high number of car-bike collisions are concentrated on five downtown streets -- Bloor Street, College Street, Dundas Street, Queen Street and King Street.

These streets are part of the Downtown east-west corridor routes which the City of Toronto has historically failed to properly serve in its bicycle facilities planning. Unfortunately, Toronto's much-touted Bicycle Master Plan, which establishes the future development of Toronto's cycling infrastructure, has also failed to address these heavily-used cycling thoroughfares.

Bike lanes, one of the most important measures known to improve the safety of urban cyclists, are absent on all of these five streets, with the exception of a discontinuous stretch on College Street.

Toronto cyclists have put the City of Toronto on notice of its legal obligation to provide safe road facilities for all road users and are encouraging cyclists and pedestrians who have been hurt or injured as a result of the City's neglect to bring legal action against the City for its role. (Copy of notice attached).

"Now that the City of Toronto knows that these streets are highly dangerous, I think the City's obligations under the Municipal Act and the common law behave it to take prudent measures to protect cyclists from high speed motor vehicle traffic on these city streets," commented Toronto lawyer Thomas J. Timmins.

"We are satisfied that the City of Toronto is or ought now to be aware of the danger that it has put these cyclists in." said Timmins.

"As a direct result of Toronto's policy of promoting cycling, there are now tens of thousands of cyclists out there using Toronto's streets every day. The City knows they are there and it knows they are in danger. To date nothing has been done to meaningfully remedy the situation. That spells p-o-t-e-n-t-i-a-l l-i-a-b-i-l-i-t-y."

"Basically," said Toronto cycling advocate Ben Smith Lea, "cyclists and pedestrians are subsidizing Toronto's decaying auto-based transportation network with their blood, their teeth, and their bones."

"While councillors and City staff might hope that politically-safe education or temporary police enforcement campaigns will solve the City's looming liability problem, these measures are, at best, partial solutions. This is an engineering problem.", continued Smith Lea

"When cyclists are hurt or killed by a car driver, it's a no-brainer to go after the car driver under Ontario's no-fault insurance scheme. However, what many litigants fail to consider is the municipal liability involved," said Timmins. "We would encourage cyclists who

have been hurt in a motor vehicle collision to get competent legal advice and to consider the recent City study when planning their litigation. Sometimes both the driver and the cyclist involved in a car-bike collision can be thought of as the victims of municipal negligence."

"Personally, I would think that, as a matter of common decency, now that the City knows where cyclists are being hurt and killed, it will take pro-active steps to provide safe facilities for these legitimate road users," said Toronto resident Doug Carroll.

"This reminds me of a 1994 Ontario Highway liability case, *Rutherford v. Niekrawietz*," explained Timmins. "There, MTC staff had simply ignored warnings from local residents and police regarding highway signage because the existing signage at an intersection was in keeping with standard engineering code. In that case, after a serious accident and a lengthy law suit, both the Ontario General Division and the Court of Appeal had harsh words for the MTC staff who relied on 'standard practice' and ignored the advice of local residents and police vis a vis road design and user safety."

"In this case, the cyclists have the new City staff report, the Toronto Coroner's Report of 1998, and hundreds of other studies and reports from around the world. They all say basically the same thing: Cyclists are being hurt and killed as a direct result of City complacency and car-centred road design."

Thomas J. Timmins is a lawyer practising in downtown Toronto, an avid bicycle commuter riding between Parkdale and the downtown core everyday, and a member of Advocacy for Respect for Cyclists (ARC). He can be reached for comment at (416) 369-7821. Ben Smith Lea and Doug Carroll are also avid Toronto cyclists and ARC members.

ARC is a group which formalizes the principle of cyclists standing up for each other. ARC was formed in August 1996 as a community response to a particularly brutal two weeks which saw two cyclists killed by trucks and another two arrested on a Critical Mass ride. Initially formed to lobby for a coroner's inquest and to help in the arrestees' defence, ARC has since expanded to provide support and legal advice to cyclists involved in car-bike collisions, to educate the public on cyclists' rights, and to hold direct actions aimed at changing society's dependence on the automobile. ARC is committed to the principles of non-violence, participatory democracy and active inclusion.

ARC Contact Information:

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July 25, 2001

By E-mail: clerk@city.toronto.on.ca

Toronto City Clerk's Office  
Toronto City Hall  
4th Floor, West Tower  
100 Queen Street West  
Toronto ON  
M5H 2N2

Dear Sirs/Madams:

Re: Notice of Highway Obstruction and State of Non-Repair, Queen Street, King Street, College Street, Dundas Street and Bloor Street

Please accept this letter as formal notice to the City of Toronto, given pursuant to the Subsection 284 (1.1) of the Municipal Act, concerning the existence of a highway obstruction and state of danger, that being constituted by the improper design of the above-noted streets and the provision of unsafe on-street parking facilities on the same (the "Highway Obstruction").

As a result of long-standing neglect by the City of Toronto, the above-noted streets have become both unsafe for bicyclists to travel upon and unsafe for pedestrians to cross. Motor vehicle speeds on these five streets regularly reach velocities which are lethal to both cyclists and pedestrians and the combination of high speed motor vehicles, on-street parking and a lack of rational bicycle lane route facilities and/or traffic calming measures on these streets has created an unreasonable risk of harm to both bicyclists and pedestrians.

The imminent danger presented by the Highway Obstruction has also denied many other non-motorized street users their fundamental right to safely travel along public highways and thoroughfares.

We note that, in the report recently published by the City of Toronto entitled "The City of Toronto Car/Bike Collision Study, 2001", the five streets noted above are shown to be highly dangerous for bicyclists. We also note that the Toronto Regional Coroner's Report of 1998, prepared in response to a number of cyclists' deaths on downtown City streets, has adequately established what the reasonable expectations of the City of Toronto in respect of providing proper traffic facilities for cyclists are.

ARC has invited all Toronto residents who have been hurt while cycling in the City,

including the family members and estate representatives of all cyclists who have been killed on City streets, to consider the role which the City has played in making Toronto's streets inhospitable for legitimate road users and it is our intention to support the legal actions brought forth by these legitimate road users to the best of our ability.

Should you have any questions or concerns in relation to this matter, or should any portion of this notice be in anyway unclear, please feel free to contact Thomas J. Timmins at (416) 369-7821 or by mail at the above-noted address.

We thank you for attending to this matter immediately.

Sincerely,  
ADVOCACY FOR RESPECT FOR CYCLISTS

Geoff McBride                      Arlene Clement

cc. City Councillors