

Clause 14 in Report No. 5 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on March 24, 2016.

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Annual Report on Use of Delegated Authority for Representation
on Matters Before the Ontario Municipal Board - 2015

Committee of the Whole recommends adoption of the following recommendations contained in the report dated February 11, 2016 from the Commissioner of Finance and the Regional Solicitor:

1. Council receive this report for information.
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Report dated February 11, 2016 from the Commissioner of Finance and the Regional Solicitor now follows:

1. Recommendations

It is recommended that Council receive this report for information.

2. Purpose

This report provides the annual update on the use of authority delegated to the Regional Solicitor and Commissioner of Finance for expenditures on external legal services for matters before the Ontario Municipal Board (“OMB”).

3. Background

The Regional Solicitor has delegated authority to retain external legal services for OMB matters, including matters associated with appeals of the Regional Official Plan (“ROP”) and amendments to the ROP. The Commissioner of Finance is authorized to transfer funds from the Tax Stabilization Reserve to pay related invoices. An annual report to Council is required as part of this delegated authority.

4. Analysis and Options

Four matters before the OMB in 2015 were handled by external counsel

Internal counsel continue to handle the majority of planning and development related appeals to the OMB. There were no new retainers in 2015. Delegated authority was used to pay legal fees for the following ongoing matters:

- Regional Official Plan and ROP Amendment No. 3
- Vaughan Official Plan (2010)
- Tesmar Holdings Inc. – City of Vaughan
- Buttonville – City of Markham

External counsel was retained in each of these matters in accordance with the retainer agreements established with three law firms for 2013-2015 as approved by Council in November 2012.

Settlement of Phase 3 of the Regional Official Plan hearing resulted in decreased expenditures in 2015

Activity related to the ROP appeals in 2015 included the full resolution of Phase 3 of the ROP hearing through settlements with appellants, the significant scoping of Phase 4 through a partial settlement, and the issuance of several OMB orders bringing into force additional ROP policies. As a result, the Phase 3 hearing scheduled for September 2015 did not proceed, and the Phase 4 hearing scheduled for 2016 is now scoped to addressing one policy in the ROP pertaining to cemeteries.

Expenditures for external legal services may increase in 2016 as compared to 2015 expenditure

Expenditures for external legal services were lower than expected in 2015 due to the settlement of Phase 3 of the Regional Official Plan. External counsel will continue to represent the Region in three appeals in 2016:

- Regional Official Plan
- Vaughan Official Plan (2010)
- Buttonville – City of Markham

It is expected that the use of external legal services in planning and development matters will increase in 2016 over the level of expenditure in 2015. The hearing for Phase 4 of the Regional Official Plan hearing is scheduled to begin in June 2016 and is expected to last two weeks. The hearing for the Buttonville appeal is scheduled to begin in May 2016. The Tesmar Holdings Inc. matter is ongoing but staff do not anticipate much activity on this matter in 2016.

External legal services continue to be provided pursuant to retainer agreements with Borden Ladner Gervais LLP, WeirFoulds LLP and Scargall Owen-King LLP for 2016-2018. These agreements include favorable hourly rates for the provision of all external legal work, including representation in matters before the OMB.

Link to key Council-approved plans

The efficient use of external counsel through established agreements furthers the Strategic Priority Area set out in the Region's Strategic Plan of managing the Region's finances prudently.

5. Financial Implications

External counsel has provided invoices for services rendered in 2015 in the amount of \$246,768 inclusive of disbursements and HST, of which \$147,156 was for the ROP/ROPA matters. The Commissioner of Finance has transferred funds in that amount from the Tax Stabilization Reserve to pay these invoices.

External legal services are provided pursuant to retainer agreements with three law firms that resulted from a competitive procurement process. These agreements include favorable hourly rates for the provision of all external legal work, including representation in matters before the OMB.

6. Local Municipal Impact

There is no local municipal impact; however, the local municipalities benefit from the Region's participation in matters before the OMB.

7. Conclusion

The use of delegated authority in retaining external counsel allows the Regional Solicitor to manage external legal resources in an effective and efficient manner, and ensures access to external resources as required to protect and promote the Region's interests in matters before the OMB.

Annual Report on Use of Delegated Authority for Representation and Matters
Before the Ontario Municipal Board - 2015

For more information on this report, please contact Gabe Szobel, Senior Counsel
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The Senior Management Group has reviewed this report.

February 11, 2016

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