

# The Regional Municipality of York

Committee of the Whole  
Finance and Administration  
March 12, 2020

Report of the Regional Solicitor  
and Commissioner of Finance

## Use of Delegated Authority for Representation on Matters before the Local Planning Appeal Tribunal 2019

### 1. Recommendation

Council receive this report for information.

### 2. Summary

Pursuant to Report No. 10 of the Finance and Administration Committee adopted by Council on December 18, 2008, an annual report is to be submitted to Regional Council on the use of authority delegated to the Regional Solicitor and Commissioner of Finance for expenditures on external legal services for matters before the Local Planning Appeal Tribunal ("LPAT").

Key Points:

- Delegated authority for expenditures on external legal services for planning and development matters was established in 2008
- The authority ensures the Region's interests related to LPAT matters can be addressed in a timely manner
- Expenditures for the previous year are reported to Regional Council annually
- Annual reports to Regional Council include projections of anticipated expenditures for the current year

### 3. Background

[In 2008](#), Regional Council delegated to the Regional Solicitor the authority to retain external legal services for LPAT matters, up to a value of \$250,000 per matter, and delegated to the Commissioner of Finance the authority to transfer funds from the Tax Stabilization Reserve to pay related invoices. The rationale for this delegation was to enable timely defence of the Region's interests on appeals of planning matters.

[In 2010](#), due to appeals of the Regional Official Plan (ROP), a further delegation of authority was made to pay invoices for external counsel retained for those appeals and related local official plan appeals.

## 4. Analysis

### **Seven matters related to LPAT appeals were handled by external counsel in 2019**

Delegated authority was used to pay legal fees for the following matters:

- Regional Official Plan
- Vaughan Official Plan 2010
- Buttonville – City of Markham
- OPA 76 (Sylvestre)- Town of East Gwillimbury
- Ballantrae-Musselman's Lake Secondary plan (OPA 136) – Town of Whitchurch-Stouffville
- Pacifico – Township of King
- 2017 Development Charges Bylaw

External counsel was retained in each of these matters pursuant to retainer agreements with Borden Ladner Gervais LLP, WeirFoulds LLP and Scargall-Owen King LLP for 2019-2021.

### **Expenditures for external legal services increased from 2018**

The cost of external legal services in 2019 represents an increase from expenditures in 2018. The first phase of the LPAT hearing for the OPA 136 appeals took place in 2019, which resolved two site specific appeals. The LPAT mediation of the second phase of the OPA 136 appeals commenced in 2019 and is expected to continue in 2020. External counsel assisted the Region in resolving two appeals of the 2017 Development Charge Bylaw without a hearing.

### **Expenditures for external legal services may increase in 2020 compared to 2019**

In 2020 external counsel will continue to represent the Region in the ongoing appeals noted above. It is expected that expenditures for external legal services in planning and development matters will increase in 2020 compared to the level of expenditure in 2019. Expenditures for the ROP appeals may increase as the remaining site specific matters are addressed and if the Phase 4 hearing proceeds. There are two remaining appeals of the 2017 Development Charge Bylaw appeals and it is expected that hearings for those appeals will occur in 2020, if those appeals are not resolved. It is anticipated the Pacifico application for leave to appeal will be heard by the Divisional Court in 2020.

## 5. Financial

The cost of external legal counsel for planning and development matters was \$188,709.77 inclusive of disbursements and HST, of which \$9,019.68 was for ROP matters. The Commissioner of Finance has transferred funds in that amount from the Tax Stabilization Reserve to pay these invoices.

The retainer agreements in place with the three firms retained by the Region provide for all external legal work, including representation in matters before the LPAT and ensure that such services are provided in a cost-effective manner.

## 6. Local Impact

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

## 7. Conclusion

The use of delegated authority in retaining external counsel allows external legal resources to be accessed and managed in an effective and efficient manner, and helps to protect and promote the Region's interests in matters before the LPAT.

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For more information on this report, please contact Bola Ogunmefun, Senior Associate Counsel at 1-877-464-9675 ext. 71459. Accessible formats or communication supports are available upon request.

Recommended by: **Joy Hulton**  
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Commissioner of Finance and Regional Treasurer

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Chief Administrative Officer

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