

The Regional Municipality of York

Committee of the Whole
Finance and Administration
March 7, 2019

Report of the Regional Solicitor
and Commissioner of Finance

Annual Report on Use of Delegated Authority for Representation on Matters before the Local Planning Appeal Tribunal 2018

1. Recommendation

1. Council receive this report for information.

2. Summary

An annual report is required to be provided 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
- Expenditures for matters before the LPAT in 2017 were \$166,209 which was less than anticipated due to the resolution of several matters

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 (add hyperlink to 2008 report). 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

Eight matters related to LPAT appeals were handled by external counsel in 2018 with a total expenditure of \$144,788

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

- Regional Official Plan
- Vaughan Official Plan 2010
- Buttonville – City of Markham
- Tesmar – City of Vaughan
- 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 2016-2018.

Expenditures for external legal services decreased from 2017

The cost of external legal services in 2018 represent a decrease from expenditures in 2017. Expenditures for the ROP and matters related to the ROP were less than anticipated due to the further adjournment of the ROP Phase 4 hearing at the request of the appellant. Four of the 2017 Development Charges Bylaw appeals were resolved without a hearing, and the scheduling of the first prehearing conference was postponed to provide an opportunity for those appeals to be resolved. External counsel was retained to respond to the Pacifico application for leave to appeal an LPAT decision dismissing their appeals.

Expenditures for external services are anticipated to increase in 2019

In 2019, external counsel will continue to represent the Region in the ongoing matters noted above. It is expected that expenditures in planning and development matters may increase in 2019 compared to the level of expenditure in 2018. Expenditures for the ROP appeals may increase as remaining site specific matters are addressed and if the Phase 4 hearing proceeds. If the remaining 2017 Development Charge Bylaw appeals are not resolved, hearings for those appeals may occur in 2019. The Pacifico application for leave to appeal will be heard by the Divisional Court in 2019. In addition, the new timelines and procedures related to LPAT hearings may result in additional need for external counsel.

5. Financial

External counsel has provided invoices for services rendered in 2018 in the amount of \$144,788 inclusive of disbursements and HST, of which \$8,743 was for ROP matters. In comparison to 2017, the total amount was \$154,992, inclusive of disbursements and HST. The Commissioner of Finance has transferred funds in that amount from the Tax Stabilization Reserve to pay these invoices.

6. Local Impact

There is no direct 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.

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

Recommended by: **Joy Hulton**
Regional Solicitor

Laura Mirabella, FCPA, FCA
Commissioner of Finance and Regional Treasurer

Approved for Submission: **Bruce Macgregor**
Chief Administrative Officer

February 22, 2019
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