

Clause 11 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 29, 2018.

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Annual Report on Use of Delegated Authority for Representation on Matters before the Ontario Municipal Board - 2017

Committee of the Whole recommends adoption of the following recommendation contained in the report dated March 1, 2018 from the Regional Solicitor and Commissioner of Finance:

1. Council receive this report for information.
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Report dated March 1, 2018 from the Regional Solicitor and Commissioner of Finance 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 Implications

Seven matters before the OMB in 2017 were handled by external counsel

Internal counsel continue to handle the majority of planning and development related appeals to the OMB.

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
- CIM Developments Inc. – Town of Richmond Hill
- Ballantrae-Musselman’s Lake Secondary Plan (OPA 136) – Town of Whitchurch-Stouffville
- 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 in 2017 were lower than anticipated

Expenditures for external legal services in 2017 were lower than anticipated due to the adjournment of the ROP Phase 4 hearing to permit the advancement of Regional policy work pertaining to cemetery uses, and potential settlement discussions.

Expenditures for external legal services may increase in 2018 compared to 2017

In 2018, 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 2018 compared to the level of expenditure in 2017. Expenditures for the ROP and other ongoing matters are not expected to increase significantly. The first prehearing conference for the six appeals of the 2017 Development Charges Bylaw is taking place in May 2018. If the appeals of the 2017 Development Charges Bylaw are not settled, it is anticipated that the appeals hearing would occur in early 2019.

Scargall Owen-King LLP was retained in 2017 to represent the Region in matters pertaining to the Development Charges Bylaw.

5. Financial Considerations

External counsel has provided invoices for services rendered in 2017 in the amount of \$154,992, inclusive of disbursements and HST, of which \$7,074 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.

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 OMB and ensure that such services are provided in a cost-effective manner.

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 matter, and ensures access to external resources as required to protect and promote the Region's interests in matters before the OMB and the new Local Planning Appeal Tribunal (LPAT) that will replace the OMB effective April 3, 2018.

For more information on this report, please contact Barbara Montgomery, Senior Associate Counsel Planning and Development Law, at 1-877-464-9675 ext. 71435.

The Senior Management Group has reviewed this report.

March 1, 2018

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Accessible formats or communication supports are available upon request