

Clause 22 in Report No. 6 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on March 26, 2015.

Annual Report on use of Delegated Authority for
Representation on Matters Before
The Ontario Municipal Board – 2014

Committee of the Whole recommends adoption of the recommendation contained in the following report dated February 18, 2015 from the Commissioner of Finance and Regional Solicitor:

1. Recommendation

It is recommended that this report be received 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

Annual reporting to Council on expenditures for OMB matters

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

Five matters before the OMB in 2014 were handled by external counsel

Internal counsel continue to handle the majority of planning and development related appeals to the OMB. Accordingly, the Regional Solicitor was only required to use the delegated authority to retain external counsel to represent the Region on the following matters:

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

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

OMB decided in favour of the Region on Phase 1 of the Region Official Plan hearing

The OMB issued its decision on Phase 1 of the ROP hearing in the spring of 2014. The Board decided in favour of the Region and fully endorsed the Region's plan. One appeal of the Board's decision was made, but was successfully defended by external counsel, with the appeal being dismissed by Divisional Court as premature in December 2014. Other work on this file in 2014 included preparing for the next phase of hearing and continuing to negotiate settlements of issues with appellants. The next phase of the ROP hearing, originally scheduled for 2014, will now proceed in September 2015.

Expenditures for external legal services may increase in 2015 due to the next phase of the ROP hearing

OMB matters anticipated to be handled by external counsel in 2015 include the following appeals:

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

While the local OP matters are not expected to result in extensive use of external counsel, the ROP appeal will require significant expenditures for external legal services as the next phase of the hearing proceeds. It is expected that the need for external legal services for planning and development matters will decrease significantly in 2016, by which time the ROP hearing should be concluded.

Link to key Council-approved plans

The efficient use of external counsel through established retainer 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 2014 in the amount of \$530,106 inclusive of disbursements and HST, of which \$290,449 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.

For more information on this report, please contact Gabriel Szobel, Senior Counsel Planning and Development Law, at Ext. 71433.

The Senior Management Group has reviewed this report.

February 18, 2015

Attachments

Accessible formats or communication supports are available upon request