

# Legal and Realty Services 2012 Annual Report

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## Introduction

The City of Guelph Legal and Realty Services Department is responsible for providing legal advice and guidance to City Council and City departments for the purposes of protecting the City’s interests and managing risk, representing the City in litigation in the various Courts and administrative tribunals and providing realty services for the corporation.

This department provides the following services:

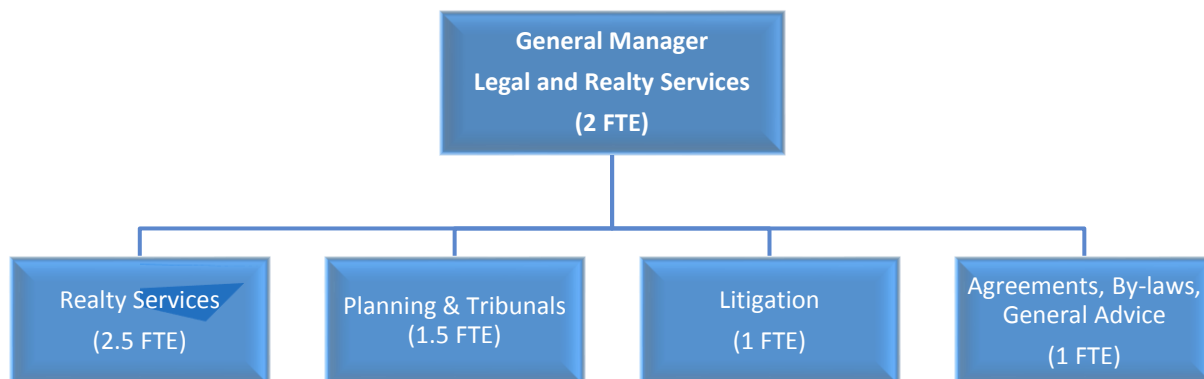
### Legal Services

Services include legal advice and opinions to Council;, Committees and all City departments in a timely and cost-effective manner, represents the City before the courts, the Ontario Municipal Board (OMB) and other administrative tribunals, manages external counsel, reviews and prepares contracts, by-laws and other legal documentation, and was responsible for legal aspects of real estate transactions.

### Realty Services

Provides inventory, acquisition and disposition of real estate services to all City departments, site search and selection process, negotiation of agreements, land development and resolution of land related matters, and administers the City land encroachment by-law. Commencing in 2013, Realty Services will also provide legal advice relating to realty matters.

The following represents the organization structure of the Legal and Realty Services department:



The 2012 Legal and Realty Services Annual Report is the second formalized annual report prepared by Legal and Realty Services for the City of Guelph. The format of this report is different than in previous years. This year’s report has been divided into the following five sections:

### **Section 1: Key Initiative Summary**

A summary of the department’s key initiatives throughout the year. This section expands on the “2012 Accomplishments” for the department as reported in the 2013 Operating Budget submission.

### **Section 2: The Legal and Realty Services Dashboard and Scorecard**

A visual interpretation of the data analysis, trends and targets.

### **Section 3: Performance Analysis Overview**

This section provides further context, detail and analysis regarding the performance measures reported in the dashboard and scorecard. This section will also look at external trends that are either having an impact or are expected to impact the way we provide legal and realty services in the coming years.

### **Section 4: 2013 and Beyond**

This section includes a brief overview of the Legal and Realty Services 2013 work plan including actions resulting from the analysis in section 3.

### **Section 5: Data Tables, Charts and Graphs**

This section includes data tables and charts.

## Section 1: Key Initiative Summary

- Departmental Service Review - completed in October, 2012
- Urbacon mediation - completed in September, 2012
- Wellington Terrace and other litigation and tribunal matters resolved
- OMB Hearing for 716 Gordon Street completed
- Resolution of the appeal of the 2008 Development Charges By-law
- Standard agreements for consulting services created
- Continued support for the development of Guelph Municipal Holdings Inc.
- A number of by-laws development, including the Public Nuisance By-law
- Review of the governance models of related entities commenced
- Sale of former Guelph Civic Museum completed
- Land exchanges and easements for residential development in the downtown completed
- Standard purchase agreements for HCBP developed
- Developed a strategy and business case for the Downtown Secondary Plan re acquiring land
- Purchased residential properties to protect and improve municipal water infrastructure
- Continued work on new agreements governing the City's partnership with other entities, including the County of Wellington and Public Health
- Drafted, reviewed or advised upon 81 agreements

## Section 2: Legal and Realty Services Dashboard and Scorecard

### Legal and Realty Services Dashboard

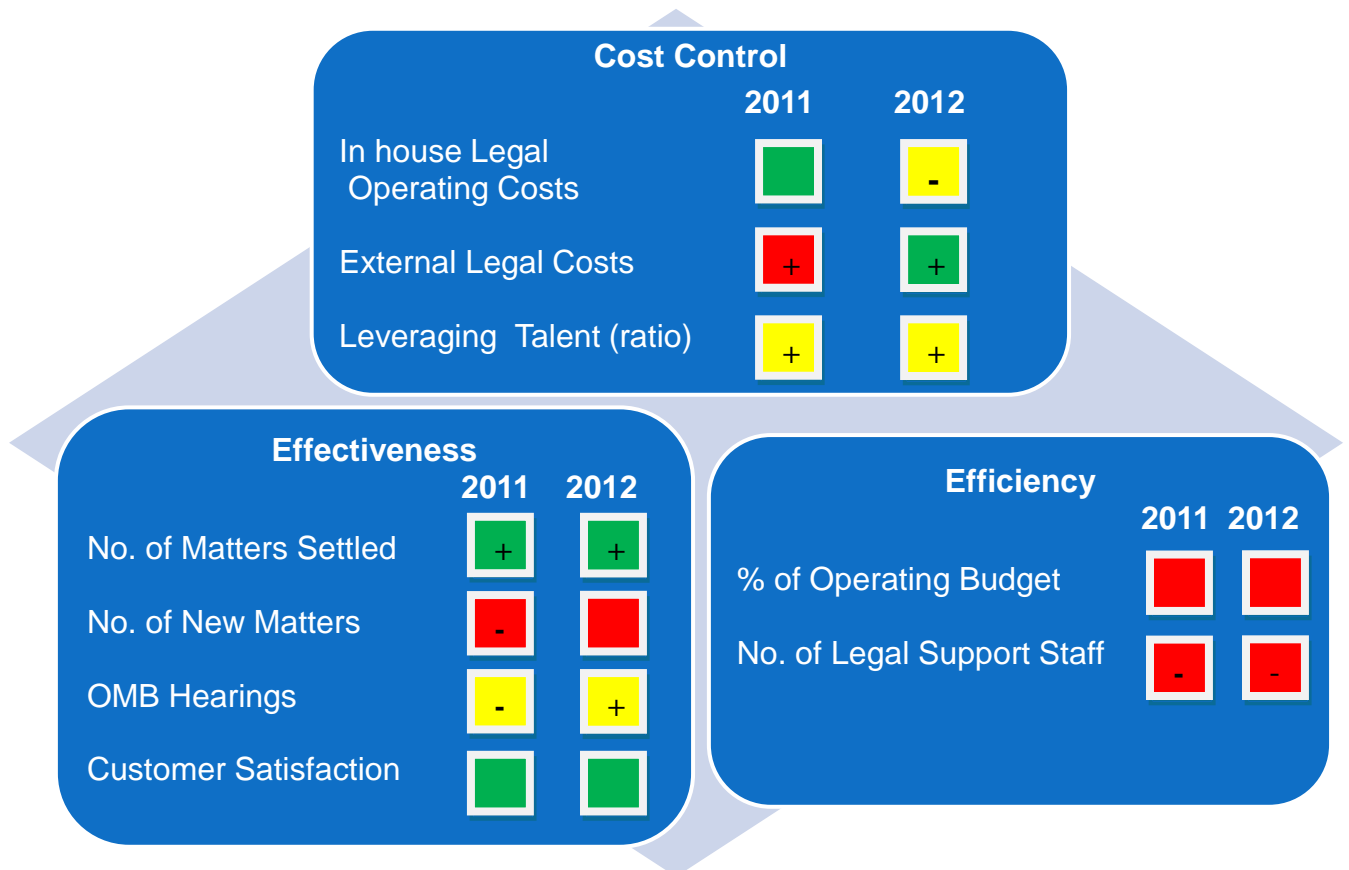
As illustrated below by the Legal and Realty Services Dashboard, several key metrics have been aligned into three categories to illustrate the performance and progress towards achieving the goals of the Corporate Strategic Plan. These gauges have three colours that represent thresholds for performance as follows:

**GREEN** indicates that the LRS Division is reporting metrics that compare, meet or exceed the demands of the organization.

**YELLOW** indicates that the LRS Division is reporting metrics that do not meet the demands and require slight improvement.

**RED** indicates that the LRS Division is reporting metrics that do not meet the demands and require immediate attention.

### Legal and Realty Services Dashboard



## Legal and Realty Services Scorecard

The following Scorecard reflects the performance measures on the Legal and Realty Services Dashboard and illustrates the progress made toward targets in 2012.

In Support of..						
	Measure	Target	Initiative	Progress		2013 Target
<b>COST CONTROL</b>	<b>In house legal operating costs per in house lawyer</b>					
	\$ per hour of in-house legal service	-10% OMBI (\$112 for 2012)	Address inadequacy of resources	-49% of OMBI \$63 as compared to OMBI of \$125	■ -	35% less than OMBI
	<b>External Legal Costs</b>					
	\$ per hour of external legal services	-10% OMBI	Increased management of external legal matters	-12% of OMBI \$285 as compared to OMBI of \$324	■ +	10% less than OMBI
<b>COST CONTROL</b>	<b>Leveraging Talent of internal and external counsel</b>					
	Ratio of internal litigation matters to external matters	5:1	Increased carriage of litigation files by in house counsel Co-counselling complex files with external counsel	Currently 3.8:1 for Litigation files with 1 major file co-counselled. 100% of agreements, by-laws and real estate are done in house. 90% of opinion work is done in house.	■ +	4:1 for litigation/OMB matters
<b>EFFECTIVENESS</b>	<b>OMB Matters</b>					
	# of appeals	Reduction of 5%	Increase expertise of in house counsel with planning matters. Improve planning processes. Involvement of LRS in planning matters at early stage.	No. of new OMB appeals were 7 in 2010, 20 in 2011 and 17 in 2012.  15% reduction between 2011 and 2012.	■ +	14 new appeals

<b>EFFECTIVENESS</b>	<b>Number of litigation/OMB matters resolved</b>				
	# of litigation matters/OMB resolved in each year	75 % of new matters	Actively manage litigation/OMB files to achieve early resolution	28 resolutions in 2012 with 44 new matters - 63% as compared to 47% in 2011	■ + 75% of new matters resolved
	<b>Number of new litigation matters</b>				
	# of new litigation matters each year	Reduction by 25 %	Proactively engage in risk management and early involvement in problem areas	12 new matters, the same as in 2012	■ - Reduction of 15%
<b>Customer Satisfaction</b>					
Clients who are satisfied with LRS	100%	Provide quality, timely services to clients	As reported in the service review, 100% of LRS clients were satisfied with their service	■ 100%	
<b>EFFICIENCY</b>	<b>% of Operating Budget</b>				
	% of City Operating Budget allocated to Legal Services	5%	Control costs Ensure provision of adequate resources for department to be effective	The average percentage for government legal departments is 12%. The average percentage for all in house legal departments is 5%. The percentage allocated to Legal Services in 2012 was .05% (excludes external legal/consultants), a reduction of .01% from 2011.	■ .05%
	<b>Legal Support Staff per lawyer</b>				
No. of legal support staff per in house counsel	.7	Provide adequate resources to increase efficiency	Average support staff per lawyer in government legal departments is .7. Average support staff per lawyer in all in house legal departments is .67. Currently is .25 support staff for each lawyer in LRS.	■ - .25	



## Section 3: Data Analysis Overview

Legal & Realty Services continues to see an increase in demand for services relating to planning and development, generally attributable to growth in the City and the related new policies and plans. The number of OMB appeals are only one reflection of this increase in demand, with others being site plan applications and agreements and Committee of Adjustment appeals.

Legal Services has successfully reduced the number of litigation files not related to planning or to insured matters, while continuing to monitor the Urbacon and other litigation.

Legal Services has also seen an increase in contract and by-law review work, partially due to the complexity of the matters being referred. The number of agreements reviewed by LRS more than doubled in 2012 while the number of by-laws reviewed increased slightly.

Legal Services has made a significant contribution to the development of Guelph Municipal Holdings Inc., including providing administrative support for the Board and performing Corporate Secretary functions for the corporation. This has created even less administrative support from the one legal assistant in LRS for the four lawyers.

Realty Services had experienced significant growth in requests for compliance letters and subdivision lot releases in 2011. This has been reduced significantly in 2012 to almost equivalent to 2010 levels. In addition, the number of encroachment agreement requests doubled from 2011 numbers. This work is for external clients and therefore there is little control over the numbers. It is anticipated as development in the City continues to grow, the requests for compliance letters, title searches and encroachment agreements will increase.

In addition to the work above, in late 2012, Realty Services assumed responsibility for the review and registration of site plan agreements. The full impact of this

additional work was not measurable in 2012, however it is anticipated that due to the growth in development work, this assumption of responsibility will have a greater impact on Realty Services' capacity in 2013.

Legal Services filled a long standing vacancy in the Realty department with a Realty and Planning Specialist who provides support for the Realty Manager with negotiations for smaller projects and encroachment agreements and the Associate Solicitor - Planning with OMB hearing preparation. This is not a legal assistant position.

As a team, Legal & Realty Services continues to participate in numerous cross functional teams within the organization, ranging from Long Term Care to Baker Street Redevelopment and Open Government. This is an essential part of the role of LRS in providing risk management to the City.

The biggest challenge facing Legal & Realty Services remains its lack of legal support staff. This issue is becoming more critical as demand for services increase and the need for succession management becomes more urgent. Neither of the Realty Law Clerk nor the one administrative/legal assistant have back up for vacation or sick time, which has resulted in unfulfilled client expectations.

It is noteworthy for the City that external legal costs compare very favourably to the OMBI measure reported.

The In House Legal Costs per lawyer have decreased between 2011 and 2012. This should not be viewed favourably as it continues to show insufficient resourcing of LRS, which negatively affects the ability of LRS to provide quality and timely services to the City and to external clients.

## Section 4: 2013 Looking Forward

Legal and Realty Services will be undertaking the following initiatives in collaboration with the relevant departments:

- Review and revise procurement documents and contracts to decrease the City's risk in the procurement process
- Implement service review recommendations including creating a policy for use of legal services, including external counsel and to more accurately track key performance measures
- Assist with development of Guelph Municipal Holding Incorporated (GMHI) initiatives to achieve its mandate to manage City assets better
- Complete Ontario Municipal Board appeals of Downtown Secondary Plan (OPA 43) and the Official Plan (OPA 42) allowing the City to implement development that ensures a well-designed, appealing and sustainable city
- Official Plan Update (OPA 48) potential appeals
- Governance Issues with related entities
- Community Improvement Plan Downtown CIP
- Baker Street/Library Project
- Revision of Standard Realty and Planning Agreements
- Preparation for proclamation of Canadian Anti-Spam Legislation
- Preparation for proclamation of Ontario Not-For-Profit Corporations Act
- Increased involvement in development applications and processes

These projects are aligned to the following strategic focus areas of the Corporate Strategic Plan Framework (2012-2016)

- Organizational Excellence  
Direction: Build robust systems, structures and frameworks aligned to strategy
- Innovation in Local Government  
Directions: Deliver better public service  
Ensure accountability, transparency and engagement
- City Building  
Direction: Ensure a well designed, safe, inclusive, appealing and sustainable City

Legal and Realty Services is in the process of recruiting for an Associate Solicitor - Real Estate and Development which replaces the previous position of Manager of Realty Services. An additional Associate Solicitor-Planning was recruited for a one year contract position commencing in January, 2013 to address the large number of OMB appeals and reduce reliance on external counsel. By mid 2013, LRS will have a total of six lawyers (five permanent), which will only increase the issues surrounding adequate resources for legal support staff.

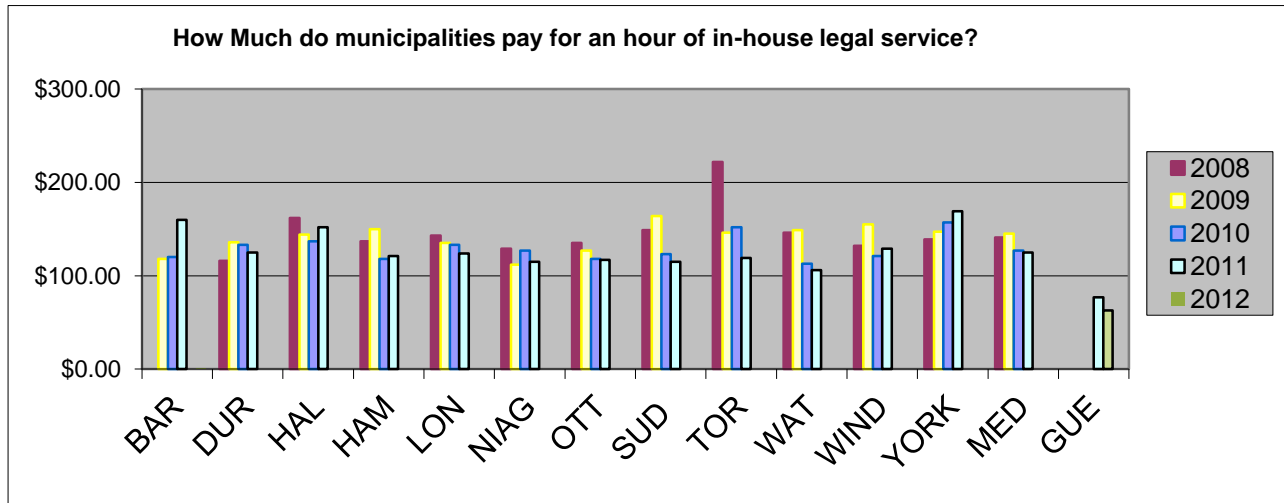
Legal and Realty Services anticipates requesting an additional resource for Legal Assistance in the 2014 budget resources.

## Section 5: Data

### Efficiency Indicators (Legal Services only)

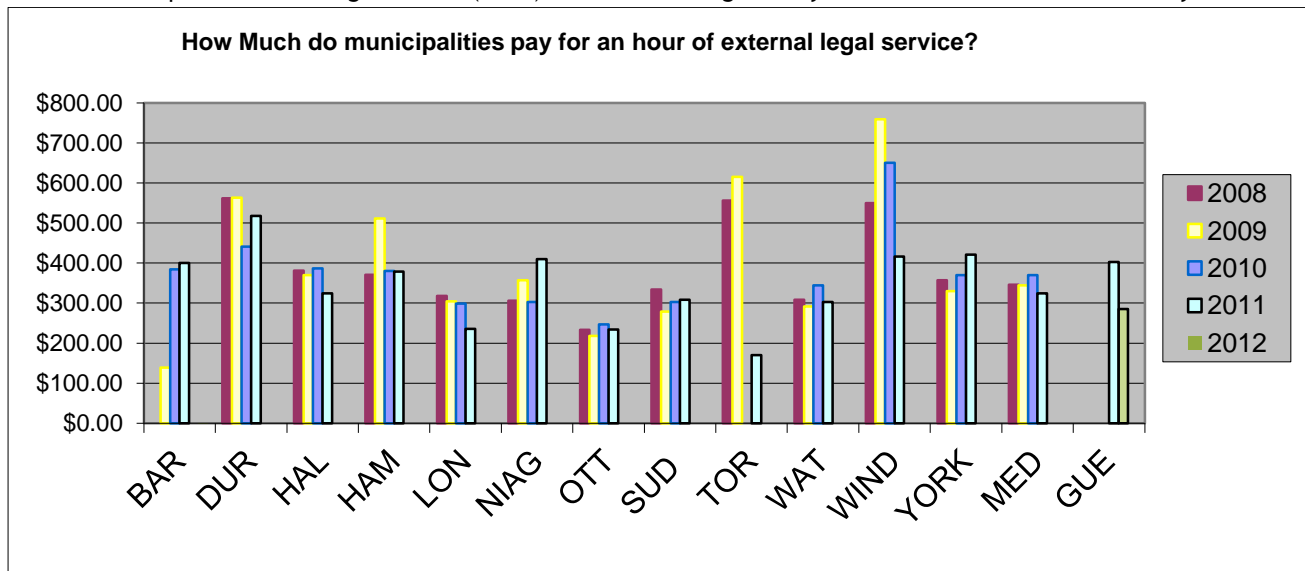
Indicator	Guelph (2012)	Guelph (2011)	OMBI <sup>1</sup> (2011)	OMBI <sup>1</sup> (2010)
In-House Legal Operating Costs per In-House Lawyer	\$63	\$77	\$125	\$127

<sup>1</sup>Ontario Municipal Benchmarking Initiative (OMBI) Median



Indicator	Guelph (2012)	Guelph (2011)	OMBI <sup>1</sup> (2011)	OMBI <sup>1</sup> (2010)
External Legal Cost per External Lawyer Hour	\$285	\$403 <sup>2</sup>	\$324	\$370

<sup>1</sup>Ontario Municipal Benchmarking Initiative (OMBI) Median    <sup>2</sup>average hourly rate of 4 most used external lawyers



2012 In House Counsel Barometer (CCCA) <sup>1</sup>	LRS	Government Overall	All In House
Percentage of Organization's Annual Budget <sup>2</sup>	.5%	12%	5%
Number of Lawyers	4	14	12
Legal Support Staff per Lawyer	.25	.7	.67

<sup>1</sup> CCCA - Canadian Corporate Counsel Association (through Canadian Bar Association)

<sup>2</sup> Measures general importance and involvement of Legal Department in overall operations

In House Counsel Compensation & Career Survey 2012`	LRS (2012)	Government Overall (ONT)	All In House (ONT)
Base Salary GC Director	133,000	155,500	170,500 + bonus
Legal Counsel	103,500	133,000	130,500

## Litigation

### The Numbers:

(Does not include insurable matters)

	2010	2011	2012
Ongoing Litigation from previous years	11	14	16
Ongoing Litigation referred to External Counsel	7	8	7
New Litigation Matters	3	11	11
New Litigation Matters referred to External Counsel	1	0	0
Number of Litigation Matters Completed/Resolved	0	9	13

## Planning and Tribunals

### The Numbers:

	2010	2011	2012
OMB Appeals Ongoing From Previous Years	3	7	23
Ongoing Appeals referred to External Counsel	1	1	2
New OMB Appeals	4	20	17
New OMB Appeals referred to External Counsel	0	1	1
Number of OMB Appeals Completed/Resolved	0	4	10
Tribunals/Hearings Ongoing From Previous Years	2	4	5
New Tribunals/Hearings	2	2	2
Number of Tribunals/Hearings Completed/Resolved	0	1	5
Tribunals/Hearings Referred to External Counsel	1	0	0

## Agreements, By-laws and Advice

### The Numbers:

	2009	2010	2011	2012
Agreements drafted, reviewed or advised upon	50	47	38	81
By-laws drafted, reviewed or advised upon	16	13	14	17
Opinions	175	175	174	180
<b>TOTAL</b>	<b>241</b>	<b>235</b>	<b>226</b>	<b>278</b>

## Realty Services

### By the Numbers:

Indicator	2009	2010	2011	2012
By-laws Submitted	81	65	65	78
Acquisitions (Land)	7	40	26	37
Dispositions (Land)	4	3	13	3
Title Searches	1528	2401	2667	1924
Leases Executed	2	3	9	4
Licenses Executed	3	12	16	9
Encroachment Agreements	9	10	8	16
Compliance Letters Issued	56	72	68	85
Subdivision lots released	235	353	812	369
Registrations	78	72	80	189