

Legal and Realty Services 2013 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

- Legal advice and opinions to Council, Committees and all City departments in a timely and cost-effective manner.
- Representation of the City before the courts, the Ontario Municipal Board (OMB) and other administrative tribunals.
- Management of external counsel.
- Review and preparation of contracts, by-laws and other legal documentation.

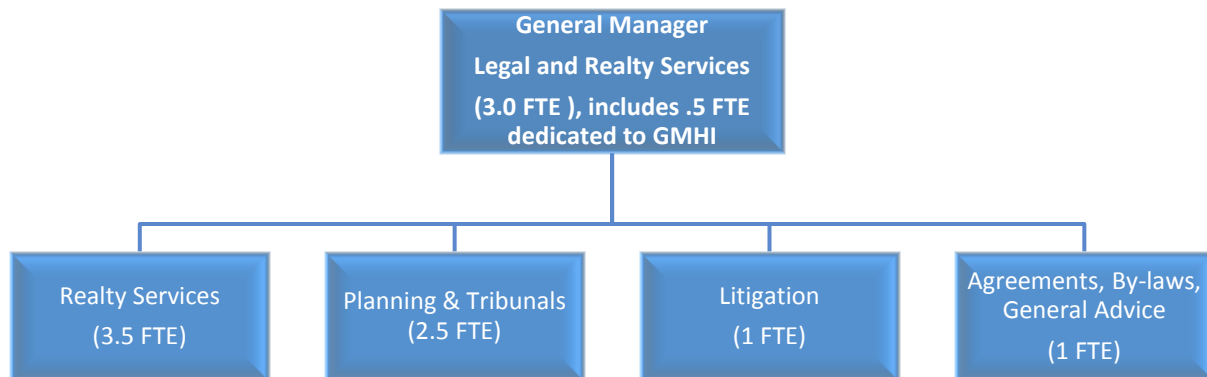
Realty Services

- Inventory of real estate assets of the City.
- Acquisition and disposition of real property for all City departments, including site search and selection process.
- Negotiation of agreements relating to real estate interests of the City, land development, encroachments, leases and licenses.
- Resolution of land related matters.
- Commencing in 2013 with the addition of a commercial real estate lawyer, Realty Services also began providing legal advice relating to real estate matters.

Guelph Municipal Holdings Inc.

- Corporate Secretarial function, including board and committee support, corporate filings and reports to board and Council.
- General Counsel to GMHI, providing or managing the provision of legal services to GMHI and providing strategic legal advice to the corporation.

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



The 2013 Legal and Realty Services Annual Report is the third formalized annual report prepared by Legal and Realty Services for the City of Guelph. The 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 “2013 Accomplishments” for the department as reported in the 2014 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: 2014 and Beyond

This section includes a brief overview of the Legal and Realty Services 2014 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

- Reduced the City's risk through the Procurement Project, which involves preparation and review of a new Purchasing By-law in Phase 1 and the development of new and updated related documents including tenders and Requests for Proposals in Phase 2.
- Actively contributed to the continued development of Guelph Municipal Holdings Inc. (GMHI) and its initiatives to manage City assets better
- As part of the Long-Term Care Home Project, development of governance and service delivery model for the City's proposed new long-term care home in collaboration with the Ministry of Health and Long-Term Care and preparation of documents relating to implementation.
- Completed a 3 ½ month trial on the issue of liability in the litigation with Urbacon.
- Litigated or otherwise resolved 18 litigation matters and continued to work with Risk Management to better understand and manage the City's litigation risks.
- Resolved some of the Ontario Municipal Board appeals of the Downtown Secondary Plan (OPA 43) and the Natural Heritage Plan (OPA 42) allowing the City to implement parts of the Plans and ensure a well-designed appealing and sustainable city.
- Completed hearings or otherwise resolved numerous appeals to the OMB of Committee of Adjustment decision
- Implemented service review recommendations including creating a policy for use of internal and external legal services and to more accurately track key performance measures .
- Collaborated to update Downtown and Brownfield Redevelopment CIP
- Developed, reviewed and updated a number of By-laws, including Parking, Property Standards, Yard Maintenance, Woodburning and Nuisance By-laws
- Actively involved in completion of 2014 Development Charges Background Study and development of the 2014 Development Charge By-law.
- Continued updating of governance models of related entities
- Commenced review of Committee of Adjustment procedures, with implementation of new by-laws and policies in 2014

- Completed transfer of the train station to the City
- Revised Standard Realty and Planning Agreements
- Increased involvement in development applications and processes, including review of site plan agreements and Committee of Adjustment development agreements

Section 2: Legal and Realty Services Dashboard and Scorecard

Legal and Realty Services Dashboard

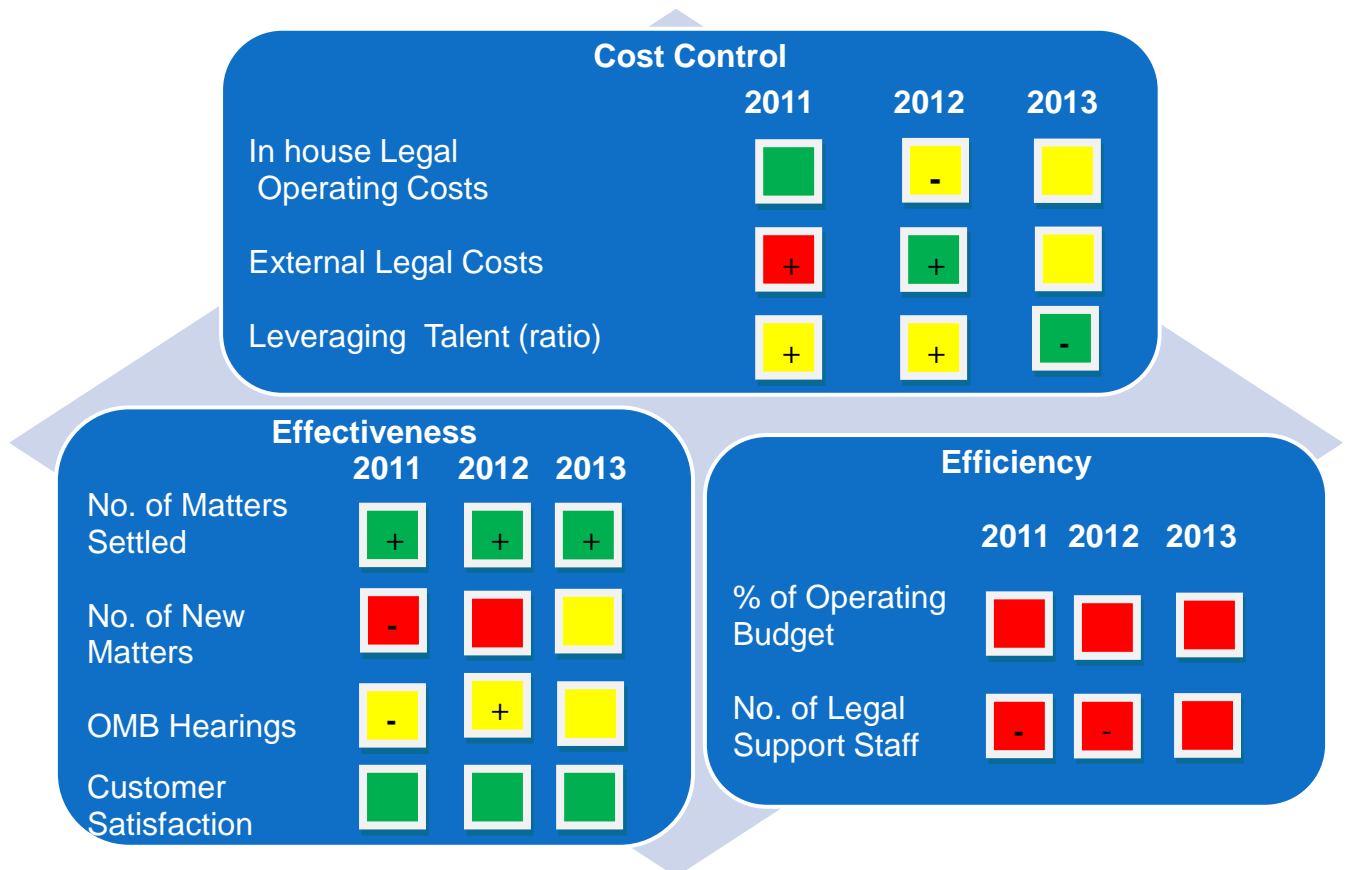
As illustrated below by the Legal and Realty Services Dashboard, several key metrics have been aligned into three categories to illustrate the performance and progress towards achieving the goals of the Corporate Strategic Plan. These gauges have three colours that represent thresholds for performance 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 2014.

In Support of..					
	Measure	Target	Initiative	Progress	2014 Target
COST CONTROL	In house legal operating costs per in house lawyer				
	\$ per hour of in-house legal service	-10% OMBI	Address inadequacy of resources	\$70 as compared to OMBI of \$145	■ - 30% less than OMBI
	External Legal Costs				
	\$ per hour of external legal services	-10% OMBI	Increased management of external legal matters	\$454 as compared to OMBI of \$387* *This was higher than previous years due to legacy lawyers	■ 10% less than OMBI
COST CONTROL	Leveraging Talent of internal and external counsel				
	Comparison of internal legal matters to external matters	15%	Increased carriage of litigation files by in house counsel Co-counselling complex files with external counsel	100% of agreements, by-laws and real estate are done in house. 90% of opinion work is done in house. 7 new litigation files handled in house	■ 16% are represented by external counsel for litigation/OMB matters
EFFECTIVENESS	OMB Matters				
	# of appeals		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 20 in 2011, 17 in 2012 and 14 in 2013.	■++ 10 new appeals

EFFECTIVENESS	Number of litigation/OMB matters resolved				
	# of litigation matters/OMB resolved in each year	75% of new matters resolved	Actively manage litigation/ OMB files to achieve early resolution	10 resolutions of 21 new matters received in 2013.	■ 48% of new matters resolved
	Number of new litigation matters				
	# of new litigation matters each year		Proactively engage in risk management and early involvement in problem areas	7 new matters, down from 11 in 2012	■ Reduction of 15%
Customer Satisfaction					
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. New customer satisfaction survey to be completed in 2014	■ 100%	
EFFICIENCY	% of Operating Budget				
	% of City Operating Budget allocated to Legal Services		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 2013 was .05% (excludes external legal/consultants).	■ .05%
	Legal Support Staff per lawyer				
No. of legal support staff per in house counsel	.5	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. Contract legal assistant and contract planning lawyer and permanent real estate lawyer hired in 2013, keeping ratio at .25	■ - .4	

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 and agreements.

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. Urbacon was brought to trial in 2013 after an unsuccessful mediation attempt in September 2012.

In 2013, Realty Services assumed responsibility for the review and registration of site plan agreements and the preparation of Committee of Adjustment development agreements. This resulted in the hiring of a contract legal assistant in June 2013.

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 and General Counsel functions for the corporation. At the end of 2013, the contract legal assistant hired in 2013 to assist with development applications and agreements began working half time for GMHI.

With the addition of a commercial realty lawyer in 2013, Legal and Realty Services now has a good cross-sectional representation of legal talent. We have been able to create a team of professionals who each concentrate on specific areas for streamlining of requests:

1 General Manager

1 Litigation lawyer

1 Tribunal lawyer

1 Lawyer who concentrates on solicitor work (contract and by-law drafting); and

1 Real estate lawyer

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. This contract has been extended to January 2015.

As a team, Legal & Realty Services continues to participate in numerous cross functional teams within the organization, including: Procurement/Purchasing review, Shared Rental Housing, Open Governance, Public Art Site Planning, Community Investment Strategy, Bring Your Own Device program, Legal Proceeding Program in Building and Inspection Services, Social Media Strategy, Alcohol Risk Management, DC By-law Peer Review, Guelph Cemetery Commission, Guelph Brownfields, Long-Term Care Home Project, Overtime Audit Implementation, IOR Implementation, Canadian Anti-Spam Legislation Implementation Project and IOR General Manager Steering Committee.

Section 4: 2014 Looking Forward

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

- Complete phase two of the Urbacon litigation (dealing with damages)
- Final hearing dates before the Ontario Municipal Board on the Downtown Secondary Plan appeals (OPA 43)
- Final hearing dates before the Ontario Municipal Board on the Natural Heritage Plan appeals (OPA 42)
- OPA 48 Appeals and Implementation
- Present the new Procurement By-law for approval
- Approval of the City's Long Term Care Home and transition
- Present new Committee of Adjustment By-laws, Policies and Terms of Reference
- GMHI - Creation of new development company (if approved by Council) and investigation of transfer of Guelph Junction Railway to GMHI
- IMICO - marketing and negotiations associated with the potential disposition and redevelopment of 200 Beverley Street
- Community engagement process for sale of 65 Delhi
- Develop new Delegation of Authority By-law for LRS for consideration by Council
- Develop concept plans and MOU's for the Baker Street Project
- Commence work on plans and agreements for Phase 3 of HCBP
- Metrolinx/GO negotiations - Potential transfer of surplus property by the City to Metrolinx as partial payment towards funds owed by the City to Metrolinx for the expansion of the GO train service into Guelph
- Zoning By-law Review

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

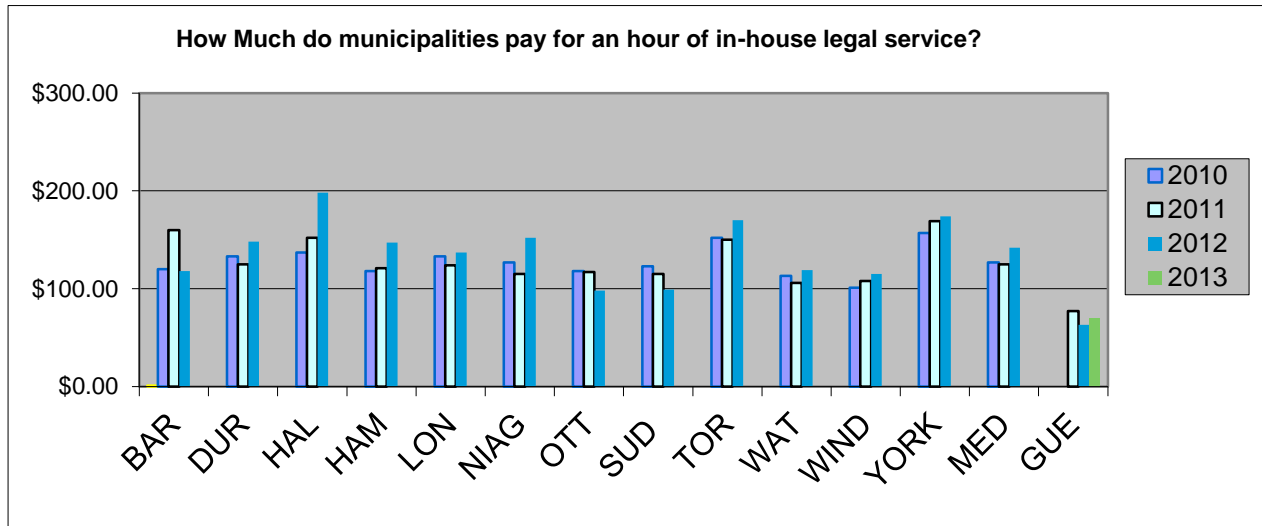
Direction: Ensure a well designed, safe, inclusive, appealing and sustainable City
Be economically viable, resilient, diverse and attractive for business

Section 5: Data

Efficiency Indicators (Legal Services only)

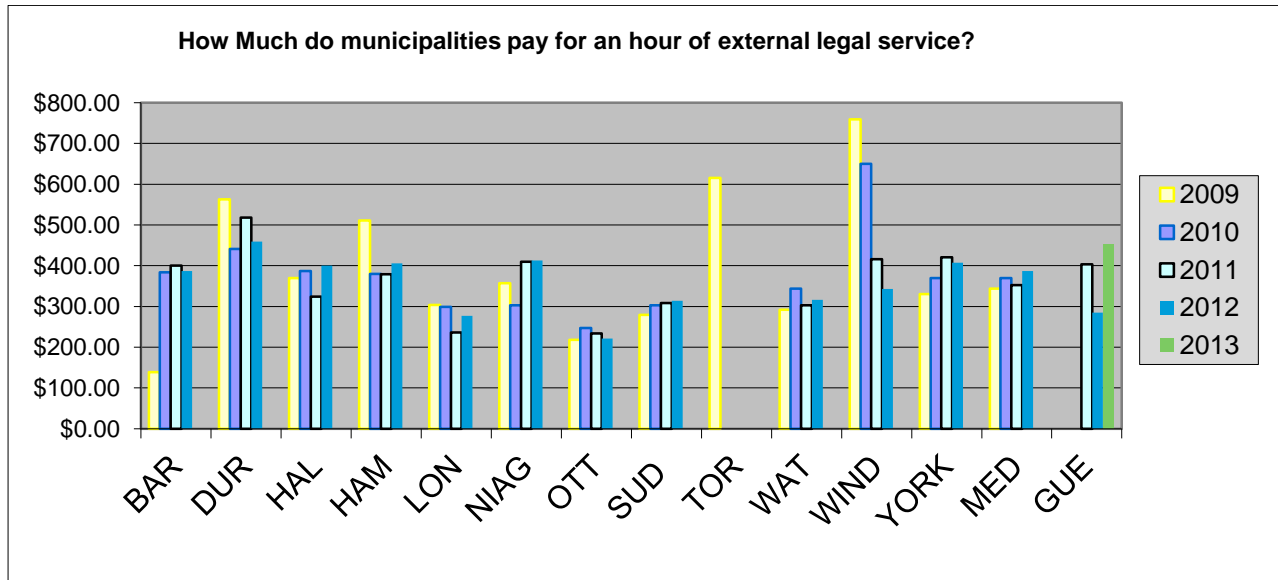
Indicator	Guelph (2013)	Guelph (2012)	OMBI ¹ (2012)	Guelph (2011)	OMBI ¹ (2011)
In-House Legal Operating Costs per In-House Lawyer	\$70	\$63	\$142	\$77	\$125

¹Ontario Municipal Benchmarking Initiative (OMBI) Median



Indicator	Guelph (2013)	Guelph (2012)	OMBI ¹ (2012)	Guelph (2011)	OMBI ¹ (2011)
External Legal Cost per External Lawyer Hour	\$454 ²	\$285	\$387	\$403	\$352

¹Ontario Municipal Benchmarking Initiative (OMBI) Median ²average hourly rate of 6 external lawyers



2013 In House Counsel Barometer (CCCA) ¹	LRS	Government Overall	All In House
Percentage of Organization's Annual Budget ²	.5%	12%	5%
Number of Lawyers	6	14	12
Legal Support Staff per Lawyer	.25	.7	.67

¹ CCCA - Canadian Corporate Counsel Association (through Canadian Bar Association)

² Measures general importance and involvement of Legal Department in overall operations

In House Counsel Compensation & Career Survey 2012	LRS (2013)	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:

* (Do not include insurable matters)

	2010	2011	2012	2013
Ongoing Litigation from previous years	11	14	16	14
Ongoing Litigation referred to External Counsel	7	8	7	5
New Litigation Matters	3	11	11	7
New Litigation Matters referred to External Counsel	1	0	0	0
* Number of Litigation Matters Completed/Resolved	0	9	13	7

- 18 litigation matters (including insurable matters) closed in 2013 - 11 settled, 1 in which the co-defendant assumed the City's defence, 2 argued in court with decisions rendered, and 3 discontinued or withdrawn

Planning and Tribunals

The Numbers:

	2010	2011	2012	2013
OMB Appeals Ongoing From Previous Years	3	7	22	29
Ongoing Appeals referred to External Counsel	1	1	2	3
New OMB Appeals	4	20	17	14
New OMB Appeals referred to External Counsel	0	1	1	1
Number of OMB Appeals Completed/Resolved	0	4	10	24

Agreements, By-laws and Advice

The Numbers:

	2009	2010	2011	2012	2013
Agreements drafted, reviewed or advised upon	50	47	38	81	59
By-laws drafted, reviewed or advised upon	16	13	14	17	15
Opinions	175	175	174	180	191
TOTAL	241	235	226	278	265

Realty Services

By the Numbers:

Indicator	2009	2010	2011	2012	2013
By-laws Submitted	81	65	65	78	86
Acquisitions (Land)	7	40	26	37	18
Dispositions (Land)	4	3	13	3	2
Title Searches	1528	2401	2667	1924	2280
Leases Executed	2	3	9	4	1
Licenses Executed	3	12	16	9	11
Encroachment Agreements	9	10	8	16	25
Compliance Letters Issued	56	72	68	85	35
Subdivision lots released	235	353	812	369	691
Registrations	78	72	80	189	183
SPC Agreements					29
Development/Storm Sewer Agreements					7
Real Property Matters					38