

## **COMMITTEE OF THE WHOLE – MAY 15, 2012**

### **NOTIFICATION OF LEGAL PROCEEDINGS**

#### **Recommendation**

The Commissioner of Legal and Administrative Services and City Solicitor and the Director of Legal Services recommend that this report be received for information, and that the confidential Litigation Memorandum and notification practices be expanded as detailed herein.

#### **Contribution to Sustainability**

Not applicable to this report.

#### **Economic Impact**

There is no economic impact associated with this Report.

#### **Communications Plan**

Not applicable to this report.

#### **Purpose**

The purpose of this report is to outline the current practice that staff follows for notifying Council of legal proceedings and to outline steps taken for improved notification and expanded reporting.

#### **Background - Analysis and Options**

On May 22, 2007, Council approved a recommendation that the City Solicitor or his/her designate be authorized to:

- i. Defend and settle all legal claims where the City of Vaughan is named as a defendant or respondent, for amounts which do not exceed the City's insurance deductible limit;
- ii. Commence counterclaims, cross claims or third party claims in response to legal action taken against the City of Vaughan, and to settle all such claims;
- iii. Prepare and execute any documents and take all actions required to give effect to the management and settlement of claims within this delegated authority.

By-law 203-2007 delegated the above authority to the City Solicitor, codifying the City's existing practice.

On April 17, 2012, Council directed that the City Solicitor review By-Law 203-2007 and report back on steps to be taken for improving notification of legal proceedings.

#### **Current Practice:**

There are at least three mechanisms through which staff currently advise Council of litigation matters, as follows:

- A report is made to Committee of the Whole (Closed Session) to provide status updates and legal advice, and/or to obtain specific instructions on a file.
- As matters arise or develop, legal staff provide Council with status updates of court proceedings, by email or through a confidential Memorandum.
- A periodic confidential "Litigation Memorandum" is provided to Council summarizing the status of legal proceedings not being handled by the City's insurer.

Legal procedures necessary to support or achieve the proper administration of the City are undertaken as a matter of course. Such matters include legal proceedings that are necessary to enforce by-laws or contractual obligations/agreements, or to pursue tax arrears, or for interpretation of legislation such as the *Building Code*, Ont. Reg. 350/06 or the *Fire Code*, Ont. Reg. 213/07 or for matters dealing with labour relations. The Litigation Memorandum does not currently reflect these administrative proceedings. As noted below, in future, such matters will be the subject of notification by email or confidential Memorandum, and the Litigation Memorandum will be expanded to include updates on all such matters.

In respect of Ontario Municipal Board Hearings, updates are provided to Council as soon decisions are rendered by the Ontario Municipal Board, as these matters tend to progress more quickly through the applicable process. Council is also kept apprised of all appeals or legal issues relating to Committee of Adjustment decisions. Presently, City staff have standing instructions regarding attendance at Ontario Municipal Board Hearings for appeals of Committee of Adjustment decisions for minor variances and consents: staff is directed to attend the Hearing in support of the Committee of Adjustment decision where City staff have no objections or are in support, or where City staff support a Committee of Adjustment refusal; or to attend only to request conditions (if any) where a Committee decision of the latter nature does not have broader impacts or where the parties are represented by lawyers and/or planners; or to attend only to request conditions (if any) where a Committee decision is contrary to a staff position; or to advise the Ontario Municipal Board that the City supports a revised proposal or settlement proposal where a revised proposal or settlement proposal is received and staff and the parties have no objections.

#### Recent Changes to Litigation Memorandum

In 2012, the Litigation Memorandum was revised to delete updates of Ontario Municipal Board Hearings. These are provided regularly throughout the year under separate cover, as OMB files tend to move more quickly through the applicable process than other litigation files.

Also in 2012, the Litigation Memorandum was expanded to include updates regarding any Human Rights Code Applications or Compliance Audit matters.

To date, the Litigation Memorandum has not included information about Labour Arbitrations. Nor have such matters, as a matter of practice, been the subject of specific notification to Council.

#### Further Proposed Changes to Litigation Memorandum

Future Litigation Memorandums will be further expanded by including updates of judicial proceedings or legal steps taken to support the proper administration of the City such as proceedings taken to enforce by-laws or contractual obligations/agreements, or to pursue tax arrears, or for the statutory interpretation of legislation such as the *Building Code* or the *Fire Code* or for labour relations matters. As well, these matters will be the subject of specific notification to Council by email, confidential Memorandum or report, as appropriate.

The Litigation Memorandum will also be expanded to more specifically identify matters being handled by external legal counsel.

The expanded Litigation Memorandum will ensure that Council is informed of all legal matters as they progress through the legal process. Staff will continue to provide updates through all of the existing mechanisms outlined above, to keep Council apprised of legal proceedings in a timely manner.

### **Relationship to Vaughan Vision 2020**

This report outlines processes to notify Council of legal proceedings being handled by City staff and/or external legal counsel, in support of the City's strategic objective of pursuing excellence in service delivery, as well as in support of strategic initiatives to enhance productivity, cost effectiveness and innovation, and to ensure financial stability.

### **Regional Implications**

Not Applicable.

### **Conclusion**

The City Solicitor will continue to provide interim updates through all of the existing mechanisms outlined in this report, to keep Council apprised of legal proceedings in a timely manner.

### **Attachments**

Attachment #1: Confidential Memorandum to Members of Council only.

### **Report prepared by:**

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Respectfully submitted,

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**Director of Legal Services**

**Janice Atwood-Petkovski**  
**Commissioner of Legal and Administrative Services**  
**and City Solicitor**