

Legal and Realty Services 2014 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.

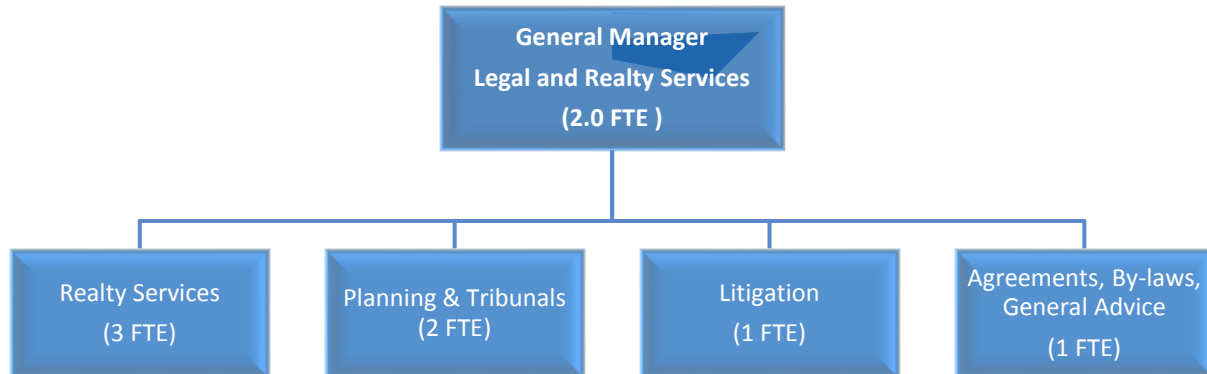
Realty Services

- 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.
- Legal advice relating to real estate matters.

Guelph Junction Railway

- Corporate Secretarial function, including board and committee support, corporate filings and reports to board and Council.

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



The 2014 Legal and Realty Services Annual Report is the fourth 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 “2014 Accomplishments” for the department as reported in the 2015 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 the department provides legal and realty services in the coming years.

Section 4: 2015 and Beyond

This section includes a brief overview of the Legal and Realty Services 2015 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. Developed a new Purchasing By-law which was approved by Council. Commenced Phase 2 of the Purchasing Project involving the updating of procurement documents including tenders and requests for proposals.
- Completed the amalgamation of Guelph Hydro Inc. and Guelph Municipal Holdings Inc. and incorporated GMHI Development Corporations, a land based development company, to hold City assets for short and long term development.
- Collaborated with Community and Social Services on an innovative plan for the City's long-term care home designation project which received Ministry approval on July 31, 2014.
- Collaborated with Community and Social Services to develop a new and comprehensive Alcohol Risk Management Policy, which was successfully rolled out.
- Collaborated with ITS to develop and implement a Bring Your Own Device Policy, which is in the pilot phase.
- Collaborated with Clerks and other stakeholders to develop and implement a policy and response to the Canada Anti-Spam Legislation.
- Collaborated with Clerks and Intergovernmental Affairs to develop an Open Data License for the roll out of the City's open data program.
- Resolved the damages portion of the litigation with Urbacon in the fall of 2014.
- Resolved the 14 Homebuilders litigation which was the last piece of legacy litigation inherited by the current legal department
- Litigated or otherwise resolved 16 litigation matters and continued to work with Risk Management to better understand and manage the City's litigation risks.
- Resolved various Official Plan Amendments (OPA) appeals to the Ontario Municipal Board (OMB) including the Downtown Secondary Plan (OPA43) and the Natural Heritage Plan (OPA42) which allow the City to implement development plans and ensures a well-designed, appealing and sustainable city.
- Completed hearings or otherwise resolved numerous appeals to the OMB of Committee of Adjustment decision
- Successful negotiation with Hydro One for permanent easements for GATR Project (5 Easements in Total)

- Successful sale of the rail spur along Wellington Street to Jade Family Holding required for the new Home Hardware Store @ 575 Wellington Street W
- Successful sale of 95 Willow Road to the County of Wellington
- Spearheading the resolution of the Wilson Farmhouse
- Sale of a portion of the Parking lot at 65 Delhi Street to Vesterra
- Land Exchange Agreement with Tricar for lands at 150 Wellington Street.

Section 2: Legal and Realty Services Dashboard and Scorecard

Legal and Realty Services Dashboard

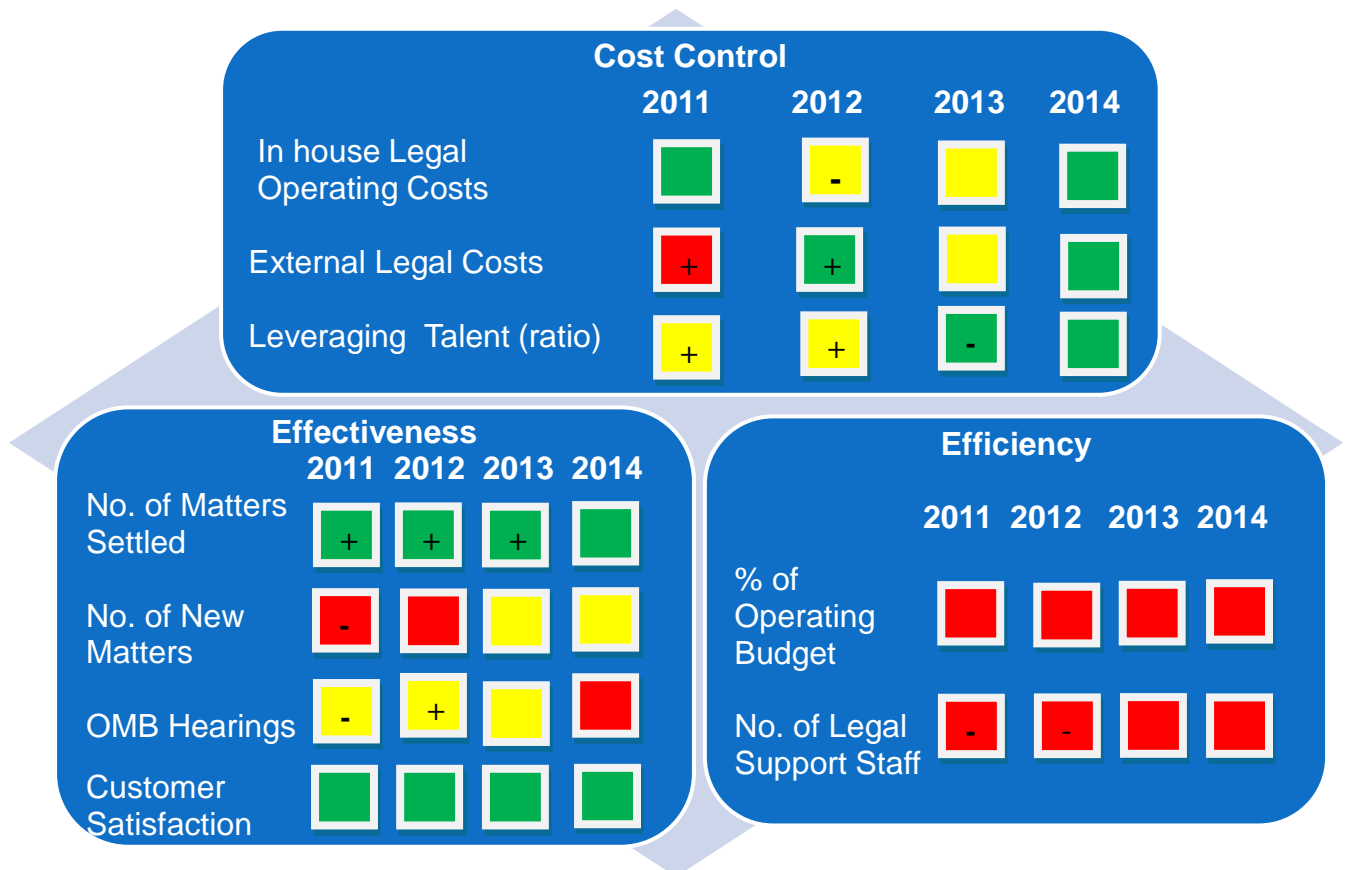
As illustrated below by the Legal and Realty Services Dashboard, several key metrics have been aligned into three categories to illustrate the performance and progress towards achieving the goals of the Corporate Strategic Plan. These gauges have three colours that represent thresholds for performance 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 2015.

In Support of..				
	Measure	Initiative	Progress	2015 Target
COST CONTROL	In house legal operating costs per in house lawyer			
	\$ per hour of in-house legal service	Address inadequacy of resources	\$70 as compared to OMBI of \$145	 30% less than OMBI
	External Legal Costs			
	\$ per hour of external legal services	Increased management of external legal matters	\$316 as compared to OMBI of \$387 (2012).	 10% less than OMBI
EFFECTIVENESS	Leveraging Talent of internal and external counsel			
	Comparison of internal legal matters to external matters	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. 95% of opinion work is done in house. 7 new litigation files handled in house in 2014. Last legacy litigation file closed in early 2015. 84% of litigation/OMB matters are handled in house, 16% handled by external counsel.	 15%
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 27 in 2011, 18 in 2012, 14 in 2013 and 27 in 2014. 17 Policy appeals 5 Development appeals 5 Committee of Adjustment appeals.	 Less than 10 new policy and development appeals

EFFECTIVENESS	Number of litigation/OMB matters resolved				
	# of litigation /OMB resolved in each year	Actively manage litigation/ OMB files to achieve early resolution	22 resolutions of 34 new matters received in 2014. 65% of new matters received in 2014 resolved, up from 48% in 2013. Last legacy litigation file closed in early 2015	■	75% 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 in 2013, 7 new matters in 2014	■	Reduction of 15%
EFFICIENCY	Customer satisfaction				
	Clients who are satisfied with LRS	Provide quality, timely services to clients	Customer Satisfaction Survey sent to 17 members of the Direct Report Leadership Team in summer 2014. 13 responses were received (76% participation) 85% satisfied with services results. 100% satisfied with timeliness of services.	■	100% satisfaction
	% 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	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. Current ratio is .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. The Urbacon matter, which went to trial on the issue of liability in 2013, was ultimately resolved in 2014 when the damages portion of the trial was successfully settled.

In addition, the homebuilders' litigation on the issue of DC indexing was settled in November 2014, thereby resolving the final large legacy file that was inherited by the newly formed department in 2011.

Legal services also works with a large number of internal cross functional teams to lend support and expertise in policy formation and decision making.

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. This type of support ended in the fall of 2014 following the completion of the amalgamation of GMHI and Guelph Hydro Inc.

In the fall of 2014, Legal Services began providing corporate secretarial and legal support to Guelph Junction Railway.

With the addition of a real estate lawyer in 2014, Legal and Realty Services now has a good cross-sectional representation of legal talent. The department consists of a team of professionals who each concentrate on specific areas for streamlining of requests:

1 Manager/Corporate Lawyer

1 Litigation lawyer

2 Tribunal lawyers

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

1 Real estate lawyer

Section 4: 2015 Looking Forward

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

- Resolve the appeals to the OMB of OPA 48 (Official Plan Review) and OPA 54 (Guelph Innovation District)
- Complete Phase 2 of the Procurement Project
- Complete negotiation with Metrolinx regarding Guelph Central Station and related issues
- Complete corporate and governance update of Guelph Junction Railway Company
- Implement software for legal file management and management of real estate assets of the City
- Complete review of Committee of Adjustment procedures
- IMICO - Ongoing
- Baker Street Project - Ongoing
- Continue work on plans and agreements for Phase 3 of HCBP
- Encroachment By-law Review
- Grand River Conservation Authority Lands Maintenance Agreements

As a team, Legal & Realty Services also continues to participate in numerous cross functional teams within the organization, including: Procurement/Purchasing review, Shared Rental Housing, Open Governance, Community Investment Strategy, Legal Proceeding Program in Building and Inspection Services, Social Media Strategy, The Elliott, Alcohol Risk Management, Guelph Cemetery Commission, IOR Implementation, IOR General Manager Steering Committee, Records and Information Management Strategy and Stormwater Funding Study Project.

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**

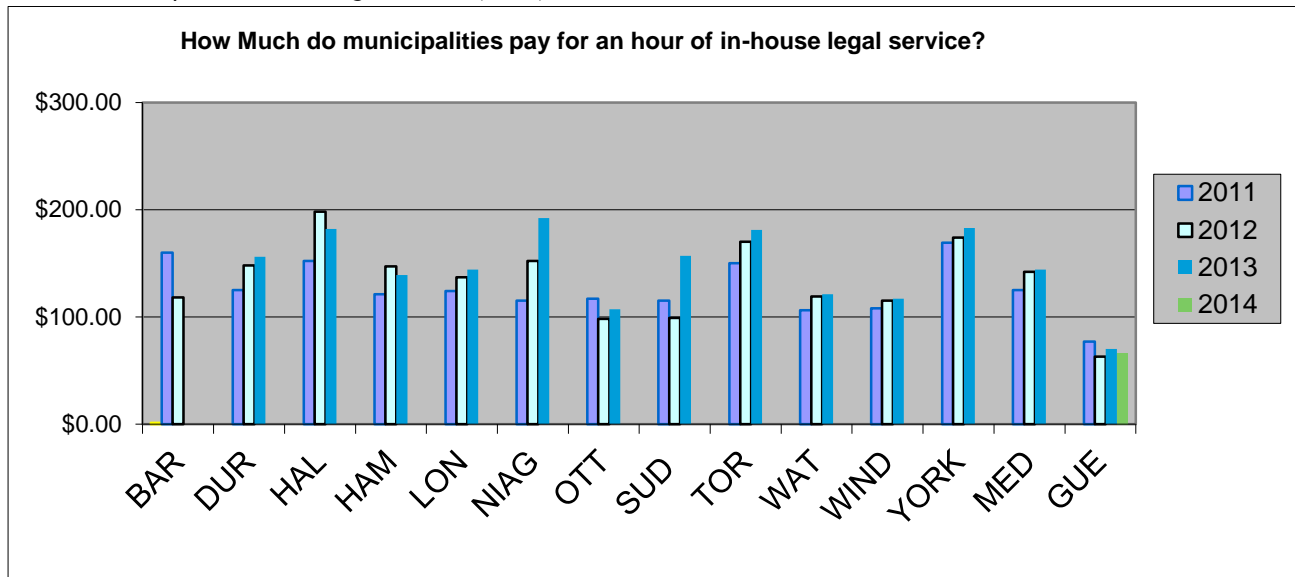
Direction: Ensure a well designed, safe, inclusive, appealing and sustainable City
Be economically viable, resilient, diverse and attractive for business

Section 5: Data

Efficiency Indicators (Legal Services only)

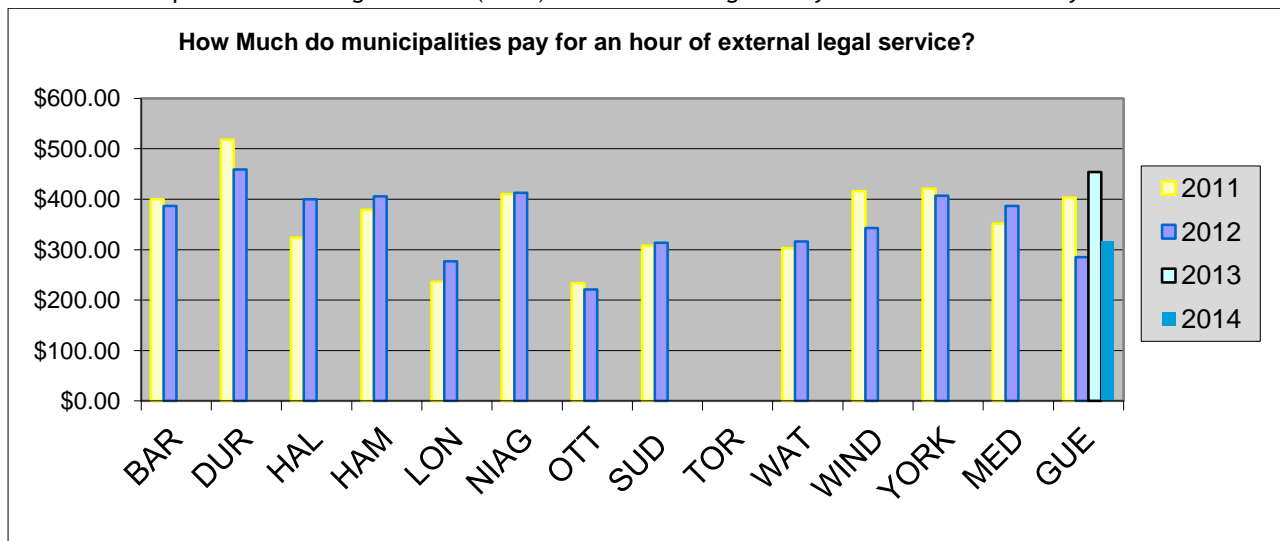
Indicator	Guelph (2014)	Guelph (2013)	OMBI ¹ (2013)	Guelph (2012)	OMBI ¹ (2012)	Guelph (2011)	OMBI ¹ (2011)
In-House Legal Operating Costs per In-House Lawyer	\$66	\$70	\$144	\$63	\$142	\$77	\$125

¹Ontario Municipal Benchmarking Initiative (OMBI) Median



Indicator	Guelph (2014)	Guelph (2013)	OMBI ¹ (2013)	Guelph (2012)	OMBI ¹ (2012)	Guelph (2011)	OMBI ¹ (2011)
External Legal Cost per External Lawyer Hour	\$316 ²	\$454 ²	N/A	\$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

Litigation

The Numbers:

* (Do not include insurable matters)

	2010	2011	2012	2013	2014
Ongoing Litigation from previous years	11	14	16	14	14
Ongoing Litigation referred to External Counsel	7	8	7	5	5
New Litigation Matters	3	11	11	7	7
New Litigation Matters referred to External Counsel	1	0	0	0	0
* Number of Litigation Matters Completed/Resolved	0	9	13	7	11

- 16 litigation matters (including insurable matters) closed in 2014

	2010	2011	2012	2013	2014
Costs of External Counsel	\$259,251	\$287,915	\$322,429	\$53,385	\$107,341

- 2014 external counsel costs include \$47,745 in costs incurred from the Urbacon litigation and \$15,000 settlement costs

Planning and Tribunals

The Numbers:

	2010	2011	2012	2013	2014
OMB Appeals Ongoing From Previous Years	4	7	28	29	19
Ongoing Appeals referred to External Counsel	2	2	2	4	1
New OMB Appeals	4	27	18	14	27
City not Participating	0	5	1	2	1
New OMB Appeals referred to External Counsel	1	1	2	1	0
Number of OMB Appeals Completed/Resolved	1	6	17	24	11

- 1 Human Rights Tribunal matter was resolved in 2014.

	2010	2011	2012	2013	2014
Costs of External Counsel		\$124,679	\$240,933	\$143,025	\$53,008
Costs of External Consultants		\$110,226	\$337,944	\$191,907	\$169,064

- 2013 external consultant costs include \$30,000 settlement cost

Agreements, By-laws and Advice

The Numbers:

	2009	2010	2011	2012	2013	2014
Agreements drafted, reviewed or advised upon	50	47	38	81	59	65
By-laws drafted, reviewed or advised upon	16	13	14	17	15	10
Opinions	175	175	174	180	191	158
TOTAL	241	235	226	278	265	233

Realty Services

By the Numbers:

Indicator	2009	2010	2011	2012	2013	2014
By-laws Submitted	81	65	65	78	86	20
Acquisitions (Land)	7	40	26	37	18	3
Dispositions (Land)	4	3	13	3	2	4
Title Searches	1528	2401	2667	1924	2280	2352
Leases Executed	2	3	9	4	1	1
Licenses Executed	3	12	16	9	11	4
Encroachment Agreements	9	10	8	16	25	27
Compliance Letters Issued	56	72	68	85	35	87
Subdivision lots released	235	353	812	369	691	318
Registrations	78	72	80	189	183	21
SPC Agreements					29	47
Development/Storm Sewer Agreements					7	11