

**Subject: Comprehensive Legal Services Report for the Period July 1 to
December 31, 2024**

File Number: ACS2025-LEG-GEN-0001

**Report to Finance and Corporate Services Committee on 4 March 2025
and Council 26 March 2025**

Submitted on February 21, 2025 by Stuart Huxley, Interim City Solicitor

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Ward: Citywide

**Objet : Rapport Général sur les Services juridiques pour la période du 1
juillet au 31 décembre 2024**

Numéro de dossier : ACS2025-LEG-GEN-0001

Rapport présenté au Comité des finances et des services organisationnels

Rapport soumis le 4 mars 2025

et au Conseil le 26 mars 2025

Soumis le 2025-02-21 par Stuart Huxley, Avocat général (par intérim)

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Quartier : À l'échelle de la ville

REPORT RECOMMENDATION(S)

That the Finance and Corporate Services Committee recommend that Council receive this report for information.

RECOMMANDATION(S) DU RAPPORT

Que le Comité des finances et des services organisationnels recommande au Conseil de recevoir, à titre d'information, ce rapport.

EXECUTIVE SUMMARY

This report details the work undertaken and results achieved by Legal Services in the third and fourth quarters of 2024. In keeping with the format approved by City Council on August 25, 2011, the Comprehensive Legal Services Report combines the former Claims Settlements, Litigation Record and External Legal Costs reports into a single comprehensive report. It also includes information on the exercise of the authority set out in the City's Public Conduct Policy, for 2024, in accordance with the reporting requirements of that Policy.

In respect of all forms of litigation undertaken by Legal Services (civil, labour, Ontario Land Tribunal, human rights, etc.), the reported outcomes are consistent with prior reports and highlight the City's preference for resolving matters without the expense of full proceedings. The litigation outcomes also reflect the fact that, where the City does not resolve a case through a mutually-agreeable settlement, its rate of success is very high, with favourable decisions or orders in 33 of 37 cases concluded in the last two quarters of 2024. The costs associated with the settlement of 10 claims over \$100,000 in the last two quarters reflect the prevailing growth in court awards in personal injury matters for general damages, future loss of income/competitive advantage and future care costs.

The report details the fact that more than 85 per cent of litigation involving the City is handled by in-house resources, with fewer than 15 per cent of the current 532 litigated matters being referred to external counsel.

Legal Services also continued its support of a number of key City initiatives in Q3 and Q4 2024. Further, Legal Services drafted or reviewed 765 legal agreements and contracts in Q3 and Q4 2024 and processed more than 480 development agreements and requests.

In terms of outsourcing costs in Q3 and Q4 2024, these continued to be largely driven by the support for large capital projects such as Light Rail.

RÉSUMÉ

Le présent rapport expose le travail effectué et les résultats atteints par les Services juridiques au cours des troisième et quatrième trimestres de 2024. Suivant le modèle approuvé par le Conseil municipal le 25 août 2011, le Rapport général sur les Services juridiques regroupe en un seul document les rapports sur les règlements de réclamations, le bilan des litiges et les frais judiciaires externes. Il comprend également

des renseignements sur l'exercice des pouvoirs établi dans la Politique en matière de conduite publique pour 2024, conformément aux exigences en matière de rapports de ladite politique.

Pour tous les types de litiges traités par les Services juridiques (affaires civiles, droit du travail, affaires devant le Tribunal ontarien de l'aménagement du territoire [TOAT], droits de la personne, etc.), les résultats sont similaires à ceux présentés dans les rapports antérieurs et viennent mettre en lumière la préférence de la Ville pour les règlements à l'amiable. L'examen des litiges révèle également que lorsque la Ville ne parvient pas à une entente qui convient aux deux parties, son taux de succès est élevé : en effet, elle a obtenu une décision ou une ordonnance en sa faveur dans 33 des 37 affaires conclues au cours des deux premiers trimestres de 2024. Par ailleurs, les coûts associés au règlement de 10 litiges d'une valeur supérieure à 100 000 \$ au cours des deux derniers trimestres de 2024 reflètent l'augmentation actuelle des montants adjugés par les tribunaux pour les préjudices personnels en ce qui concerne les dommages-intérêts généraux, les pertes futures de revenus ou d'avantages concurrentiels et les coûts liés à des soins futurs.

Le rapport précise que plus de 85 % des litiges de la Ville concernant la Ville sont traités à l'interne, moins de 15 % des 532 litiges actuels ayant été confiés à un avocat externe.

Les Services juridiques ont aussi continué de contribuer à plusieurs initiatives municipales clés au cours des troisième et quatrième trimestres de 2024. En outre, durant la même période, la Direction a rédigé ou examiné 765 accords juridiques et contrats, et traité plus de 480 ententes et demandes d'aménagement.

Quant aux coûts de sous-traitance au cours des troisième et quatrième trimestres de 2024, ils ont continué à être largement déterminés par des projets d'immobilisations de grande envergure comme le train léger.

BACKGROUND

The inaugural Comprehensive Legal Services Report covering the first and second quarters of 2011 was approved by City Council on August 25th, 2011. A revised, quarterly report format originated from a motion that was passed by Council on April 27, 2011, that directed "the City Clerk and Solicitor to combine the existing Claims Settlements, Litigation Record and External Legal Costs reports into a single comprehensive report." On December 3, 2014, City Council approved an amendment to the Delegation of Authority By-law thereby revising the reporting requirement for these

matters to a semi-annual basis. Therefore, the information provided herein is with respect to the third and fourth quarters of 2024.

DISCUSSION

Civil litigation / Labour and Employment

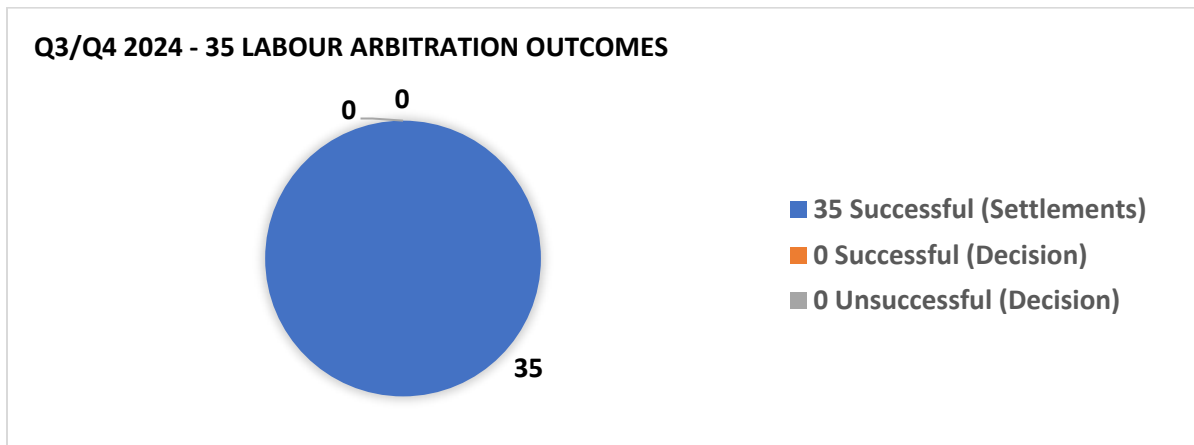
In keeping with the format developed as part of the initial Comprehensive Legal Services Report, outlined below is the litigation record for the 2024 third and fourth quarters, as well as an overview of claims received and concluded in that same period.

The report also provides a breakdown of the range and volume of civil litigation currently being handled by Legal Services, as well as information on whether carriage of these matters rests with in-house legal staff or with external legal counsel.

(a) Labour Relations Unit

A summary of labour arbitrations during the third and fourth quarters is set out below in Figure 1.

Figure 1 – Labour arbitration outcomes

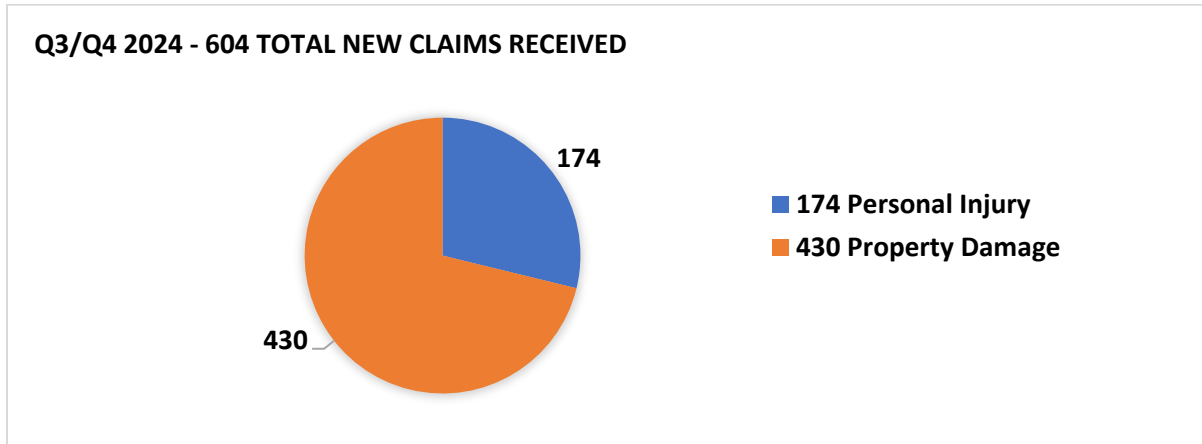


(b) Claims Unit

The Claims Unit received a total of 604 new claims in the last two quarters of 2024. This figure is made up of 430 property damage claims and 174 personal injury claims that were filed with the Unit. Of the total number of new claims received during this period, 117 (19 per cent) represent pothole claims, which tend to be the most common type of claim received by the Unit and are heavily influenced by seasonal weather patterns.

A summary of the 604 claims received during the third and fourth quarters is set out below by number.

Figure 2 – Total new claims received by number



The Claims Unit also concluded a total of 676 claims in the last two quarters of 2024. This figure represents the 492 property damage claims and 184 personal injury claims that were either closed-settled or closed-denied during this period. A summary of the 171 claims that were closed-settled (i.e. paid in whole or in part) during the third and fourth quarters is set out below in Figures 3 (by number) and 4 (by value).

Figure 3 - Claims concluded under \$100,000 by number

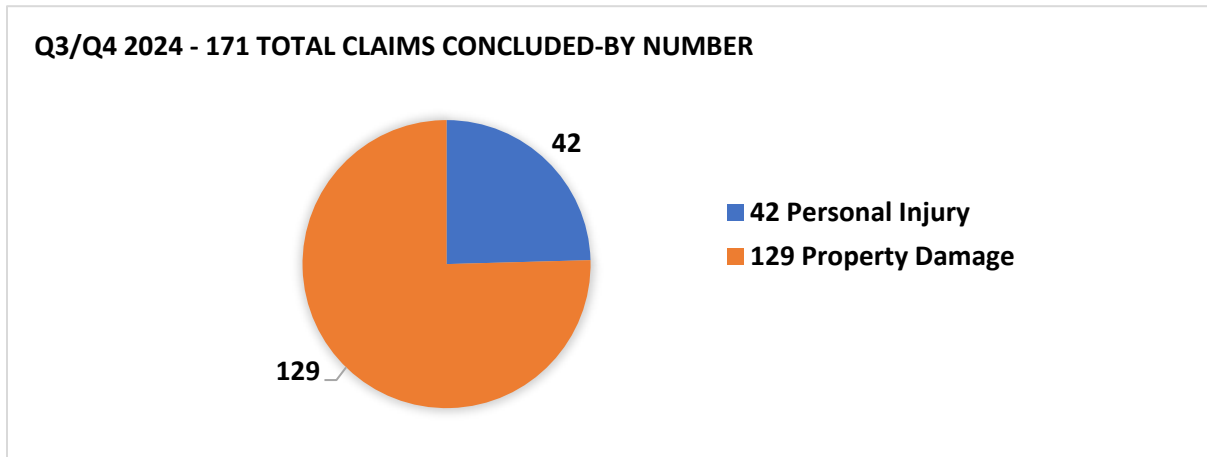


Figure 4 - Claims concluded under \$100,000 by value

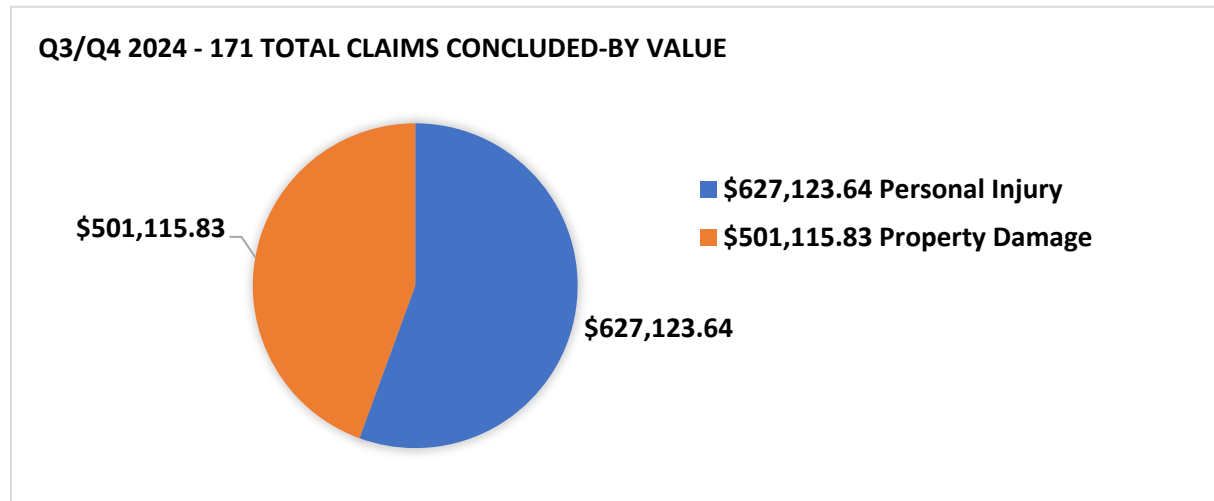


Table 1 - Claims concluded over \$100,000 – Q3 and Q4 2024

Department	Category	Claim Type	Net City Cost
Emergency and Protective Services	Bodily/Personal Injury	City Vehicle Hitting Pedestrian/Cyclist	\$703,919.33
Public Works	Bodily/Personal Injury	Slip and Fall	\$102,220.30
Public Works	Bodily/Personal Injury	Slip and Fall	\$201,730.80
Public Works	Bodily/Personal Injury	Slip and Fall	\$100,000.00
Transit Services	Bodily/Personal Injury	City Vehicle Hitting Pedestrian/Cyclist-AB	\$945,928.36
Transit Services	Bodily/Personal Injury	City Vehicle Hitting Pedestrian/Cyclist	\$1,738,732.49
Transit Services	Bodily/Personal Injury	MVA-Accident Benefits	\$296,440.43
Transit Services	Bodily/Personal Injury	MVA-City and Third Party Vehicle	\$1,504,865.72
Transit Services	Bodily/Personal Injury	City Vehicle Hitting Pedestrian/Cyclist	\$836,281.34
Transit Services	Bodily/Personal Injury	MVA, City and Third Party Vehicle	\$202,360.60
		Total:	\$6,632,479.37

The above-noted figures represent settlement of litigated and non-litigated claims, and include all costs borne by the City in finalizing a settlement, such as court costs, legal fees, investigative costs, etc.

Furthermore, claim settlement payments include those made pursuant to negotiated settlements as well as any court-ordered damages. The details with regard to these claims are confidential in keeping with

standard settlement practices. The specific circumstances and facts surrounding these confidential settlements are available to Members of Council from the City Solicitor.

Civil Litigation Unit

In the third and fourth quarters of 2024, 67 new Statements of Claim were received by Legal Services. With these, there are currently 532 outstanding civil proceedings against the City that are being addressed. Of the current open files, the City’s in-house Legal staff has carriage of 85 per cent, with 15 per cent of the remaining files referred to external counsel either at the direction of the City’s insurer or due to the scope, nature, specialization or volume of the litigation.

A summary of outcomes for civil litigation, Ontario Land Tribunal (“OLT”) and other administrative tribunals for the first and second quarters is set out below in Figures 5, 6 and 7.

Figure 5 - Civil litigation outcomes

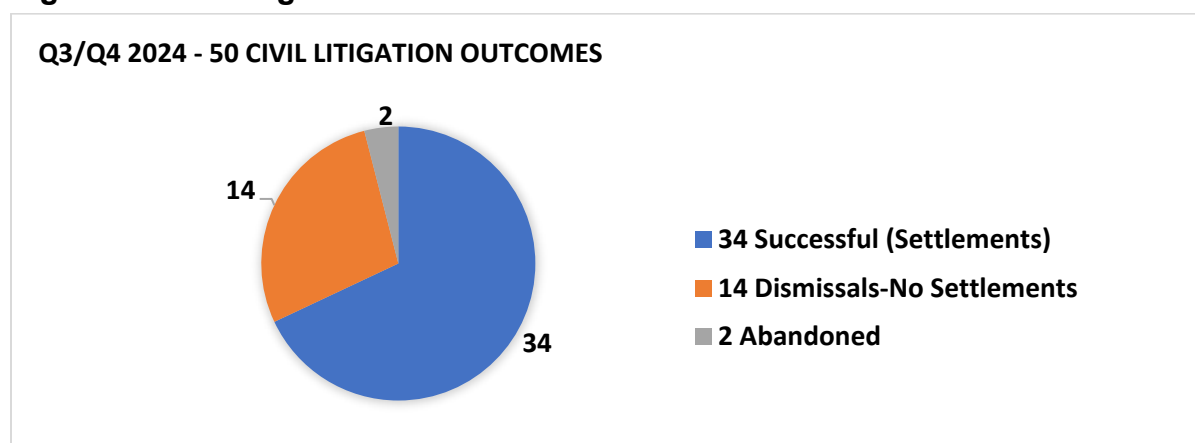
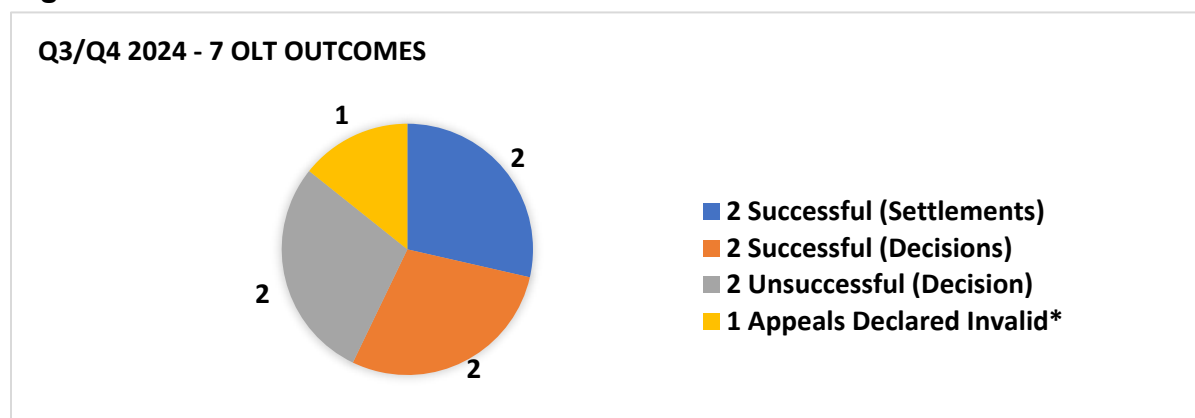


Figure 6 – OLT outcomes



*Appeals Declared Invalid – these numbers reflect appeals to OLT that did not meet the tests of raising issues of inconsistency with the Provincial Policy Statement and/or non-conformity with the Official Plan.

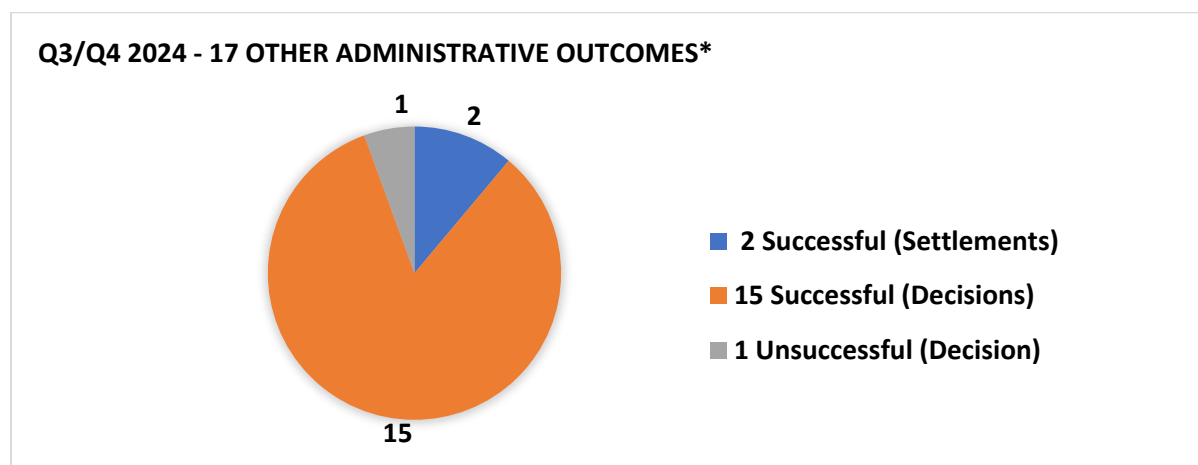
Reasons for unsuccessful outcomes:

1. 6305 Ottawa Street Subdivision application

The major issue with respect to this subdivision was whether or not a stormwater pond should be required to address the question of water quality. The evidence offered by the City was to the effect that there was not sufficient proof that the required removal of suspended solids would occur at a reasonable level of maintenance over the long term. However, the Tribunal held that while allowing for seasonal variations, there was sufficient redundancy in the proposed stormwater treatment mechanisms that the required goal for stormwater treatment could be achieved.

2. 927 Wellington Street West Permission application

This case concerned an application for a permission to change a legally non-conforming use from an automobile service station to retail of and leasing, rental, and sales of light construction equipment and contractor supply, repairs, and maintenance. The position of the City was that the current use had commenced before the application and was substantially different than the prior use which would disentitle the applicant to seek a permission since the *Planning Act* requires that the legally non-conforming use continue until the date the application for a permission is made. The Tribunal however was satisfied that the prior automobile service station use and the construction equipment and supply use were substantially similar and granted the permission.



*Other administrative outcomes include stats related to Assessment Review Board, Human Rights, Information Privacy Commissioner, Health Services Appeal Board, Agriculture, Food and Rural Affairs Appeal Tribunal, WSIB, WSIAT.

Reasons for unsuccessful outcome:

1. The City received the decision of the Agriculture, Food and Rural Affairs Appeal Tribunal (AFRAAT) in the Cranberry Creek Drainage Act Appeal.

The Tribunal set aside the June 2022 Engineer's Report for the Cranberry Creek Municipal Drain, which was initiated by the City to update the assessment schedules for maintenance and repair to account for changes of ownership, severances, land use changes and modifications to drainage area boundaries. City Council appointed the Engineer on September 8, 2021 to revise the assessment schedule set out in an earlier engineering report from 1969. Before the Tribunal, the appellants argued that errors existed in the 2022 Report relating to the assessment of the properties within the drain. The Tribunal agreed with the appellants and set aside the Engineer's Report. The Tribunal's decision is subject to the City's application for judicial review.

Corporate Commercial / Planning, Development and Real Estate / Municipal and Regulatory

Legal Services, in the third and fourth quarters of 2024, provided key legal support for various projects and strategic initiatives of the City. Some of the results of the varied services provided by in-house legal staff include the following:

1. Legal Services provided support to Transit Operations, Rail Construction Program, Confederation Line Light Rail office, Capital Railway, with respect to a wide variety of rail matters including specific projects, a variety of regulatory, and legal matters, including Regulatory Monitor Compliance Officer for the Confederation Line, Chief William Commanda Bridge, Trillium Line regulatory requirements. In addition, liaising with Stage 1 and Stage 2 Light Rail offices and external legal counsel concerning OLRT/Stage 2 matters in support role and a number of other rail matters affecting the City's rail corridors together with assisting in drafting legal agreements.
2. Legal Services provided support to the Transportation Services Department (including Transit Operations, Transportation Planning, Traffic Services), Roads and Parking Services, Infrastructure Services, and Rights of Way Branch with respect to a wide variety of road, lanes, cycling and pedestrian transportation matters relating to existing and new infrastructure, by providing timely and effective legal advice together with preparation, drafting, negotiating, and execution of a number of agreements including funding/contribution agreements.

3. Legal Services provided extensive support, legal and procedural advice to the City's standing, advisory committees and local boards concerning a wide variety of reports, projects and initiatives.
4. Legal Services provided extensive support to Finance and Realty Services on the Lansdowne 2.0 Proposal, including drafting and negotiating the MOU and architectural contract for the design of the North Side Stands and Event Centre.

Table 2 - General agreements and contracts – Metrics

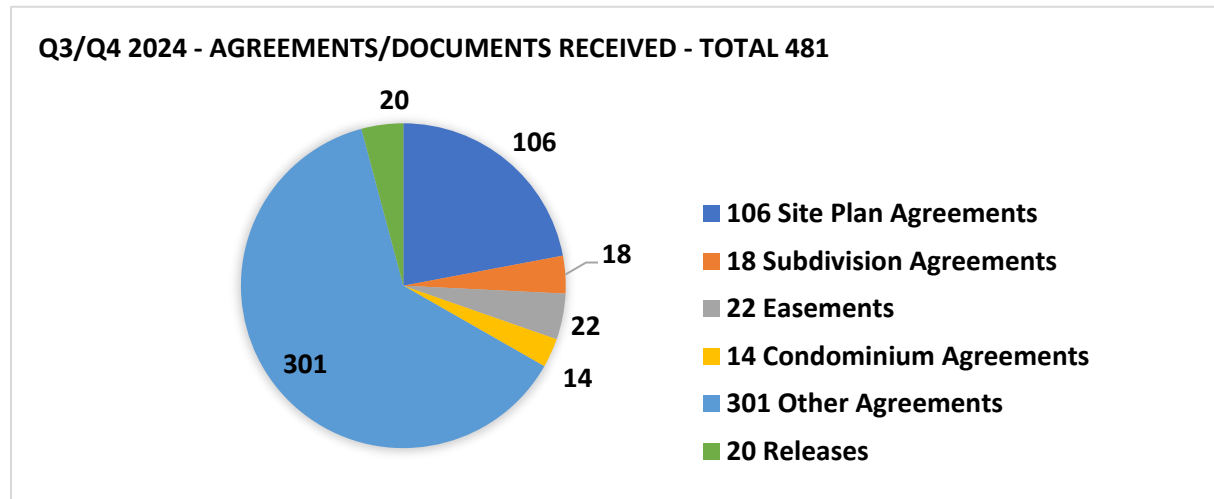
General Agreement/Contract Type	Routine	Moderately Complex	Complex	Total
Agreements and Contracts Reviewed/Drafted	338	372	55	765
Reports Reviewed/Drafted	69	30	9	108
Real Estate Purchases and Sales	27	3	0	30
Tax Sale Registrations, Property Standards Orders	45	8	0	53
By-laws Reviewed/Drafted	153	42	10	205
Construction Lien Payments Reviewed / Processed	315	n/a	n/a	315

Planning, Development and Real Estate

The Planning, Development and Real Estate Law Unit is collectively responsible for the preparation of a variety of Development Agreements such as Subdivision, Site Plan, and Condominium, as well as agreements related to consent or minor variance applications. In addition, staff are also responsible for providing real estate law services (purchases, sales, expropriations, tax sales, leases, easements, mortgages, title searches and registrations) on behalf of the City.

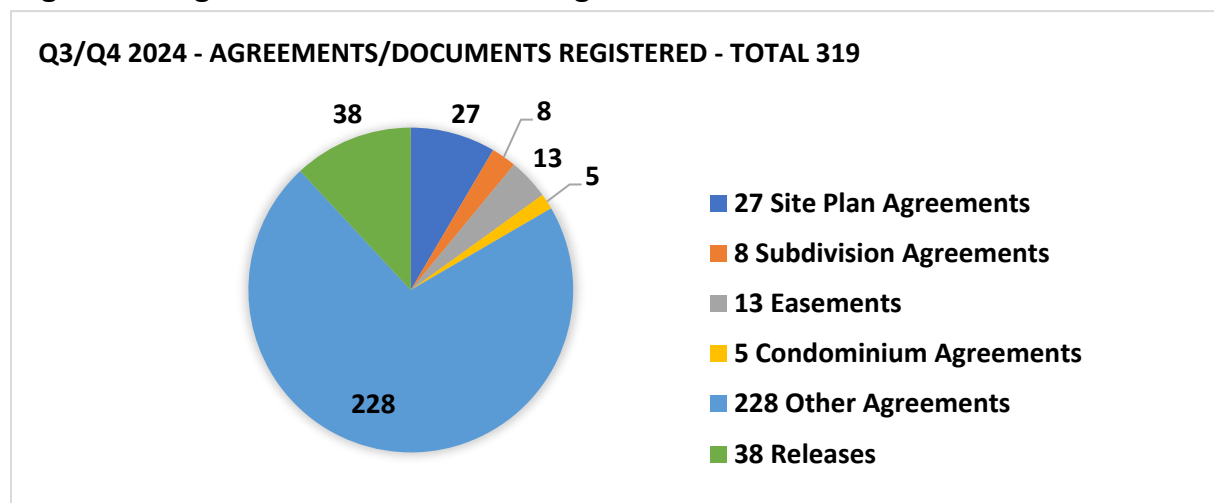
In the third and fourth quarters of 2024, 481 individual documents were logged by the Development Law Unit that were required for drafting and registration. Of these 481 requests, 86 per cent were considered routine; 7 per cent were considered moderately complex and 7 per cent were considered complex. A summary is set out below in Figure 8 (by type).

Figure 8 - All agreements/document requests received - Total



The Unit also completed registration on 319 individual agreements and documents in the third and fourth quarters of 2024. Of these 319 documents registered, 51 per cent were considered routine; 36 per cent were considered moderately complex; and 13 per cent were considered complex. A summary is set out below in Figure 9 (by type).

Figure 9 – Agreements/documents registered – Total



*Stats shown in Figures 8 and 9 do not include work related to by-laws.**There are 17 different agreement types that fall under 'Other'

Table 3 - External legal costs – Q3 2024

Firm	Portfolio/ Practice Area	Legal Fees	Disbursements	Taxes	Total
Borden Ladner Gervais	Corporate, Commercial, Development	\$91,401.35	\$3,676.42	\$12,210.23	\$107,288
Borden Ladner Gervais	Light Rail Project	\$5,196.50	\$349.70	\$712.39	\$6,258.59
Borden Ladner Gervais	Litigation	\$14,112.50	\$590	\$1,844.41	\$16,546.91
Caza Saikaley	Litigation	\$10,608	\$1,482.84	\$1,571.86	\$13,662.70
Cunningham Swan	Litigation	\$450	\$0	\$58.51	\$508.51
Emond Harnden	Labour and Employment	\$435,295.85	\$0	\$56,590.73	\$491,886.58
Gowlings	Corporate, Commercial, Development	\$60,694.50	\$12.99	\$7,891.99	\$68,599.48
Gowlings	Litigation	\$204,493	\$5,847.38	\$27,293.85	\$237,634.23
Hicks, Morley	Labour and Employment	\$37,807.50	\$1,637	\$5,127.79	\$44,572.29
Lerners	Litigation	\$23,822.50	\$0	\$3,097.01	\$26,919.51
Norton, Rose, Fulbright	Light Rail Project	\$17,393.50	\$102	\$2,274.45	\$19,769.95
Sicotte Guilbault	Corporate, Commercial, Development	\$654.50	\$0	\$85.09	\$739.59
Singleton Urquhart	Light Rail Project	\$817,593.75	\$103,322.25	\$119,195.06	\$1,040,011.06
Totals:		\$1,719,523.45	\$116,920.58	\$237,953.37	\$2,074,397.40

Table 4 - External legal costs – Q4 2024

Firm	Portfolio/ Practice Area	Legal Fees	Disbursements	Taxes	Total
Agro Zaffiro	Litigation	\$1,581	\$4,694	\$790.53	\$7,065.53
Aird & Berlis	Corporate, Commercial, Development	\$62,747.50	\$4,009.25	\$8,678.40	\$75,435.15
Borden Ladner Gervais	Corporate, Commercial, Development	\$256,890.01	\$31,320.52	\$37,396.65	\$325,607.18
Borden Ladner Gervais	Light Rail Project	\$250,791.20	\$8,954	\$33,757.77	\$293,502.97
Borden Ladner Gervais	Litigation	\$223,684.60	\$7,694.10	\$29,953.33	\$261,332.03
Caza Saikaley	Litigation	\$2,784.50	\$450	\$420.49	\$3,654.99
Emond Harnden	Labour and Employment	\$94,179.48	\$0	\$12,243.46	\$106,422.94
Gowlings	Corporate, Commercial, Development	\$35,063.50	\$0	\$4,558.27	\$39,621.77
Gowlings	Litigation	\$222,946.51	\$1,127.28	\$29,581.45	\$253,655.24
Hicks Morley	Labour and Employment	\$12,486.50	\$0	\$1,623.25	\$14,109.75
Lerners	Litigation	\$20,273.50	\$0	\$2,635.73	\$22,909.23
Norton, Rose, Fulbright	Light Rail Project	\$5,900	\$25.50	\$770.32	\$6,695.82
Perley- Robertson	Litigation	\$12,091	\$707.20	\$1,588.11	\$14,386.31
Shillingtons	Corporate, Commercial, Development	\$13,238	\$422.79	\$1,775.91	\$15,436.70
Sicotte Guilbault	Corporate, Commercial, Development	\$49,808.50	\$339	\$6,475.12	\$56,622.62
Singleton Urquhart	Light Rail Project	\$571,014	\$43,557.50	\$79,894.33	\$694,465.83
Totals:		\$1,835,479.80	\$103,301.14	\$252,143.12	\$2,190,924.06

For external legal costs relating to litigated matters, the above-noted figures may also be reported in the over \$100,000 claims concluded section, as those amounts include all costs borne by the City in finalizing a settlement, including any external legal fees incurred.

Items of Interest

Public Conduct Policy

In December 2018, City Council adopted the Public Conduct Policy, intended to further “the City’s objective of dealing with all residents in ways that are consistent and fair while acknowledging that there may be a need to protect staff, Members of Council and residents of the City of Ottawa from unreasonable behaviour and frivolous and/or vexatious actions.” Where an individual’s behaviour is determined to be unreasonable, or a request is classified as frivolous or vexatious, the Policy provides a range of possible responses, including such things as written warnings and the imposition of restrictions on the individual’s communications with the City. Also included is a comprehensive appeal procedure, which is available to any individual who has been the subject of restrictions under the Policy.

In 2024, Legal Services was notified of 175 Public Conduct Policy matters. Three of these resulted in restrictions on communications with staff, while the remaining 172 cases were notices issued under the *Trespass to Property Act*.

In accordance with the annual reporting requirements of the Public Conduct Policy, instances of the application of the Policy in 2025 will form part of the Comprehensive Legal Services Report for Q3-Q4 2025, to be presented to the Finance and Corporate Services Committee and City Council in Q1 2026.

Coroner’s Inquest

During the fourth quarter of 2024, the City participated in the Coroner’s Inquest into the death of Abdirahman Abdi after his arrest on July 24, 2016. The Inquest concluded December 17, 2024 with the Jury making 57 recommendations directed towards the prevention of further deaths or respecting any other matter arising out of the inquest, as provided for in the *Coroners Act*. Jury recommendations were directed towards various entities, including the Ottawa Police Service, Police Service Board, Public Health, Ministry of the Solicitor General, the Ontario Police College, the City, and others. Legal Services continues to work with City staff in the review of the Inquest recommendations.

FINANCIAL IMPLICATIONS

Financial implications are as outlined in the report.

LEGAL IMPLICATIONS

There are no legal impediments to receiving this report for information.

COMMENTS BY THE WARD COUNCILLOR(S)

This section is not applicable as this is a city-wide report.

CONSULTATION

This is largely an administrative report issued on a semi-annual basis to meet the requirements of the *Delegation of Authority By-law*. As such, no consultation was undertaken.

ACCESSIBILITY IMPACTS

Legal Services supports and considers the *Accessibility for Ontarians with Disabilities Act, (2005)* in its operations. This report is administrative in nature and has no associated accessibility impacts.

DELEGATION OF AUTHORITY IMPLICATIONS

Under Section “K” of the *Delegation of Authority By-law* No. 2024-265, the City Solicitor is authorized to purchase City insurance, represent and defend the City in legal proceedings, settle both litigated and non-litigated claims, and is assigned the exclusive authority for retaining all external legal counsel required by the City, among other things. By way of this report, the City Solicitor is fulfilling the requirement to report out on the use of this delegated authority during the last two quarters of 2024.

RISK MANAGEMENT IMPLICATIONS

There are no risk management concerns arising from this report.

TERM OF COUNCIL PRIORITIES

This report has no direct impact on the 2023-2026 Term of Council Priorities.

SUPPORTING DOCUMENTATION

Document 1 – Aggregate Metrics for Q1 to Q4 2024

Document 2 – External Legal Costs for Q1 to Q4 2024

DISPOSITION

Subject to any direction by the Finance Corporate Services Committee and Council, the City Solicitor will continue to produce this report on a semi-annual basis.