TO: Chair and Members  
Audit and Administration Committee

WARD(S) AFFECTED: CITY WIDE

COMMITTEE DATE: April 21, 2010

SUBJECT/REPORT NO:
2009 Litigation File Closing Summary (LS10006) (City Wide)  
(Outstanding Business List Item)

SUBMITTED BY:
Peter A. Barkwell  
City Solicitor
City Manager’s Office

PREPARED BY:
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SIGNATURE:

RECOMMENDATION:

(a) That Report LS10006 – 2009 Litigation File Closing Summary, be received; and,

(b) That Item “E” – Litigation Summary Update, be considered complete and removed from the Audit & Administration Committee’s Outstanding Business List.

EXECUTIVE SUMMARY

The Audit and Administration Committee has requested that Legal Services report to it at intervals with respect to the outcome of litigation files being handled by Legal Services.
The data presented in the Report represents litigation files closed by Legal Services in 2009. The data is presented in a way which is intended to provide Committee members with a summary of this activity without revealing details of particular files.

This data does not include all claims against the City as some of those are resolved by Risk Management without involving Legal Services, and some are defended by the City's insurer, again, without involving Legal Services.

This data represents litigation handled by Legal Services including, personal injury, property damage, contractual claims, judicial reviews, appeals, in short all types of litigation in which the City becomes engaged.

This data does not include labour or employment litigation handled through the Human Resources Centre.

Alternatives for Consideration – Not Applicable

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS** (for Recommendation(s) only)

Financial: N/A

Staffing: N/A

Legal: N/A

**HISTORICAL BACKGROUND** (Chronology of events)

During 2009, Legal Services completed and closed 195 litigation files.

Files closed in 2009 will typically have been opened in prior years, so this should not be taken as a representation of 2009’s claims experience.

Of those, 118 files or 60.5% were closed with no payment being made by the City to the other party. Typically, this represents a file upon which the City agreed to a dismissal of the claim without costs.

On 15 files, or 7.7%, the City recovered costs from the other party. Two of those files represent instances in which the City went to Trial and had the claim dismissed with costs awarded to the City by the Court.

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
The remaining 62 files, or 31.8%, represent files upon which the City paid out funds to the other party in order to resolve the matter. A total of $4.77 Million was paid out on these 62 files, including all damages, interest, legal costs and disbursements.

In this time frame, one file was resolved for a total between $900,000 and $1 Million. Three files fell within the range of $200,000 to $350,000 and another eight files fell within the range of $100,000 to $200,000.

Files in which the total payout exceeded $250,000 were brought to Committee and Council for approval. Files in which the total payout was $250,000 or less were approved at the staff level pursuant to the City's Purchasing Policy.

Appendix A represents the distribution of files in graphic form. Numbers of files showing below zero are the files in which the City recovered costs from the other party. Please note that the "bands" grow wider as the dollar value increases. This is to put the data into a manageable form and to avoid showing multiple bands with no files in them (so, for example, there are no bands between $350,000 and >$900,000).

Appendix A to Report LS010006.
APPENDIX A TO REPORT LS10006
2009 Litigation Closed Files

Total Number of Files = 195