

City Attorney

2022 Budget Overview

Finance & Personnel Committee

October 1, 2021

Mission & Objectives

Mission:

Provide legal services and meet the City's legal needs in accordance with the City Charter and statutory requirements

Objectives:

1. Improve the city's fiscal capacity
 - Protect the city's interests in litigation
 - Manage risk so that liabilities do not disrupt finances
2. Build safe and healthy neighborhoods
 - Reduce nuisances that detract from neighborhood quality of life

2022 Budget Summary

	2021 Adopted Budget	2022 Proposed Budget	Amount Change	Percent Change
FTEs – O&M	59.50	59.50	0.00	0.0%
FTEs - Other	2.50	2.50	0.00	0.0%
Salaries & Wages	\$4,750,264	\$4,886,514	\$136,250	2.9%
Fringe Benefits	2,185,121	2,247,796	62,675	2.9%
Operating Expenditures	341,927	364,700	22,773	6.7%
Equipment	36,000	23,000	-13,000	-36.1%
Special Funds	0	0	0	0.0%
TOTAL	\$7,313,312	\$7,522,010	\$208,698	2.9%

Special Purpose Accounts

Account	2021 Adopted Budget	2022 Proposed Budget	Amount Change	Percent Change
Damages and Claims	\$1,225,000	\$1,225,000	\$0	0.0%
Insurance	922,000	1,146,200	224,200	24.3%
Outside Counsel / expert witness	150,000	150,000	0	0.0%
TOTAL	\$2,297,000	\$2,521,200	\$224,200	9.8%

Insurance Premium has dramatically increased across all industry.

2022 Revenues

Category	2021 Adopted Budget	2022 Proposed Budget	Amount Change	Percent Change
Charges for services	\$956,000	\$1,127,000	\$171,000	17.9%
TOTAL	\$956,000	\$1,127,000	\$171,000	17.9%

Charges for Services increase results from increased legal needs within various non-general fund departments.

Department Workforce

55 FTE: As of September 2021

Race/Ethnicity:

Racial/Ethnic Minority = 42%

- Am. Indian 2%
- Asian 4%
- Black 33%
- Hispanic 4%
- White 58%

Gender:

- Female 62%
- Male 38%

Current Vacancies (In various recruitment stages)

- 1 - IT Specialist – Senior
- 1 - Office Legal Assistant
- 7 - Assistant City Attorney

Organizational Opportunities

CAO Vacancies:

- More diverse staffing when filling vacancies
- Restructuring Office of the City Attorney to ensure accountability
- Implement retention strategies

Organizational Opportunities

Staff Retention Challenges and Successes in 2021

- 3 Retirements
- 10 Resignations
 - 7 Assistant City Attorneys
 - 1 Chief of Staff
 - 2 Deputy City Attorneys
- 15 Hires
 - 1 Chief of Staff
 - 2 Deputy City Attorneys
 - 9 Assistant City Attorneys
 - 1 Business Finance Officer
 - 1 Personnel Officer

The Milwaukee City Attorney's Office continues to be an employer of choice for public sector legal positions in Southeastern Wisconsin

Staffing and Office Challenges

- Administrative Transition
- Difficulties in the retention of attorneys due to market salary competition
- There were no pay progression or merit increases for general city employees in 2020 or 2021
- High number of claims; significant Civil Settlements

Highlights – Employment, Labor, & Benefits Section

Employment, Labor & Benefits Group:

- 151 pending discrimination cases at administrative agencies
- 10 pending discrimination cases in Federal Court
- 35 new discrimination complaints, 8 FPC appeals and 1 duty disability retirement appeals filed to date in 2021
- 2 WERC cases file in 2021
- 76 administrative cases assigned to date in 2021
- On-going telephone and in person consultations and assistance in HR matters

Highlights – Employment, Labor, & Benefits Section

Issued Opinions Regarding:

- Use of Public Safety Fee to Fund Fire/Police Activities
- Authority to Direct a Racial Bias Audit of MPD
- Acceptance and conditions of 2020 COPS Hiring Program Grant
- Mandatory Vaccinations of City Employees
- Naloxone Administration and Liability Concerns
- Review of Cannabis and Paraphernalia Ordinances
- Efforts to Seek State Legislation Relating to Employer Contributions
- Service Fees on Debit Card Transactions
- Emergency Detention Authority
- Residency Preference Points on Promotional Exams

Highlights – Employment, Labor, & Benefits Section

COVID Response:

- Extensive work advising on, and drafting documents for COVID matters:
 - Advised DER and Budget Office regarding permitted uses of the CARES and American Rescue Plan Act, and proper procurement methods for those funds
 - Assisted MHD with several coronavirus relief grants, FEMA support, and vaccine clinic and collaboration agreements
 - Assisted MHD with several coronavirus relief grants
 - Advised and assisted on enforcement of COVID-19 isolation, quarantine, and business closure orders with MHD
 - Assisted with emergency procurement issues in response to COVID-19
 - Assisted in drafting health orders related to the COVID-19 pandemic and provided legal guidance to MHD
 - Staffed and advised the new Board of Health
 - Advised on COVID-19 related employment issues, including mandatory vaccines
 - Advise City Departments on requests for reasonable accommodations based on medical reasons or for religious exemption, including but not limited to the City's mask policy and remote work based on COVID-19 concerns

Highlights – Employment, Labor, & Benefits Section

Contracts and Other Work:

- 232 legal services files opened
- Supported DNC audit to a “no finding” result, including expenditures of \$7 million overseen directly by City Attorney staff, and an additional \$8 million in conjunction with other departments
- Milwaukee Public Schools' charter school contracts (and related litigation)
- Milwaukee Fire Department's ambulance service contracts
- Department of Public Work's recycling services contract
- Municipal Court's debt collection contract

Highlights – Real Estate, Education, & Housing Section

Assisted in creating and amending several TIDs:

- TID 105 Community Within the Corridor; TID 102 ThriveOn Collaboration and the former Coakley/Schusters buildings; TID 84 amendment and the Journal Square development; TID 108 Milwaukee Tool

Assisted on development projects:

- Conversion of surplus MPS properties to housing; Thirteen 31 Place Apartments; Veterans Outreach of Wisconsin tiny home project for homeless veterans; New State Theater nonprofit all-ages music venue; MERI fund scattered site development; acquisition of site for water pumping station (West Allis and Milwaukee water agreement); cell tower leases; environmental remediation and testing issues; Riverwalk and dock wall matters; Hank Aaron Trail work

Highlights – Real Estate, Education, & Housing Section

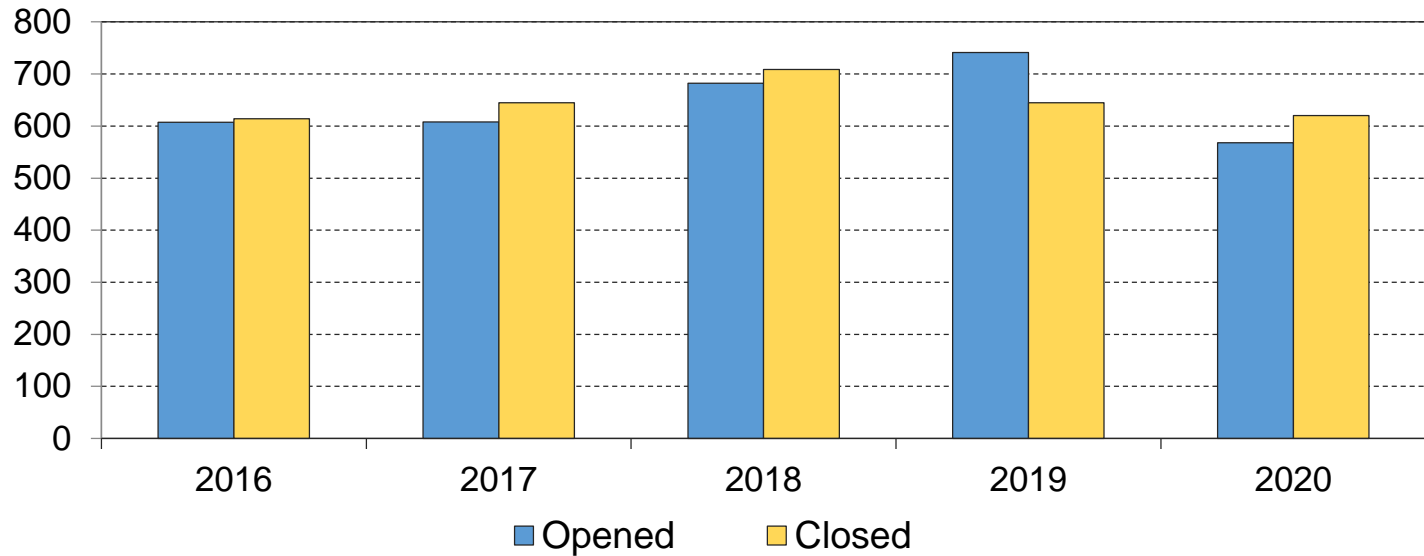
- Assisted all City Departments in responding to public records requests and related litigation also, provided training to City officials and personnel regarding public records and open meetings
- Provided legal assistance regarding economic and real estate developments, including tax incremental financing, low income housing tax credit, and other development transactions
- Served as counsel to multiple City departments including: the Historic Preservation Commission, the Board of Zoning Appeals and successfully represented BOZA in court actions challenging BOZA decisions, Served as a Member of the Zoning Code Technical Committee, Served as counsel to the Ethics Board, MPS and advised MPS on a variety of matters including a vaccination mandate for MPS staff and, Port of Milwaukee and its Finance and Marketing Committees on a variety of issues including leasing and redevelopment (including DeLong facility and Marek Landscaping)
- Pursued enforcement actions against nuisance landlords and secured Court order imposing in person liability and authorizing receiver sale of parcels in Choudry litigation, Represented RACM, DPW, and DCD in a variety of real estate matters. DPW assistance included infrastructure easements, storm water management issues, and MMDS-MPS green infrastructure improvements. Secured dismissal of Hatch federal suit raising Fair Housing Act challenges to City sale procedure

Highlights – Litigation & Risk Management Section

Claims:

- Staffed by two adjusters and an administrative assistant
- Process all claims filed with city for investigation, analysis and any settlement
- City attorney may settle claims not involving a motor vehicle accident in an amount up to \$5,000
- City attorney may settle motor vehicle claims up to the statutory limit of \$250,000 but larger claims are submitted to Common Council for approval
- All of the adjusters' determinations reviewed by Deputy or Assistant City Attorney and ultimately by City Attorney

Handling of Claims



Claims	2016	2017	2018	2019	2020	2021 (as of 09/20)
Total claims opened	607	608	682	741	568	430
Total claims closed	614	645	709	645	520	292
Total claims opened & closed within same year	401	417	454	451	306	151
Percentage opened & closed within same year	66.1%	68.6%	66.6%	60.9%	53.9%	35.1%

Highlights – Litigation & Risk Management Section

Matters in Litigation other than mortgage foreclosure actions:

- 184 in 2019, 182 in 2020, 162 in 2021 through September 22nd
- 171 cases closed in 2019 without payment
- 149 cases closed in 2020 without payment
- 170 cases closed without payment in 2020 through September 22nd

Highlights – Litigation & Risk Management Section

Mortgage Foreclosure Actions:

- 222 cases opened in 2019, 110 opened in 2020, 56 opened in 2021 through September 22nd
- 280 cases closed in 2019, 146 closed in 2020, 174 closed in 2021 through September 22nd
- 196 remained pending at end of 2019, 69 remained pending in 2020, and 75 remain pending in 2021 through September 22nd

Highlights – Litigation & Risk Management Section

Property Assessment Litigation:

- 22 cases pending as of September 22, 2021
- Only two judgments against the City in the past 8 years. The City's appeal of one judgement is pending
- In 2021 (as of Sept.) decisions in three tried in the Circuit Court were issued in favor of the City

Highlights – Litigation & Risk Management Section

Significant Property Assessment Lawsuits:

- *Metropolitan Associates v. City of Milwaukee*
 - 2015-2018 assessment of seven apartment complexes sustained in City's favor
- *Wisconsin & Milwaukee Hotel LLC v. City of Milwaukee and JSWD Commerce LLC v. City of Milwaukee*
 - 2017 – 2019 assessments of the downtown Marriott Hotel and downtown SpringHill Suites hotels successfully settled for \$558,000 (a small fraction of the total exposure amount)
- *Always Towing & Recovery Inc., et al, v. City of Milwaukee, et al.*
 - Multiple plaintiffs in the scrap metal recycling business accused the City of violating anti-trust laws. The City was successful in having the case dismissed in District Court. Plaintiffs appealed. The 7th Circuit Court of Appeals affirmed the decision in favor of the City

Highlights – Neighborhood Revitalization & Ordinance Enforcement Section

- *Servite v. COM*. DPW tort case; filed answer to complaint and motion to dismiss. Motion hearing is in August, writing reply brief that is due in 5 days as of today (7/28/2021)
- *COM v. Gomez* – filed nuisance litigation March 2018 resulting in the settlement agreement for the forced sale of 2 properties, proper management of an additional 50 properties with 102 units and \$2,500 reimbursement to MPD for executed drug warrants. Continued monitoring to ensure compliance with stipulated settlement
- *COM v. Crosbie* – assumed case from departing staff. Nuisance litigation involving 5 properties with 175 units with multiple outstanding judgments, tax delinquencies, and outstanding code violations. Continued monitoring to ensure compliance with stipulated settlement

Highlights – Neighborhood Revitalization & Ordinance Enforcement Section

Legal Services and Outreach:

- Planning in progress for the Annual City-Wide CPU Training at the Police Academy November 4, 2021 for MPD, DNS, District Attorney's Office CPU team, ACA's, Safe and Sound
- Collins Settlement compliance training
- MPD Training re: Prostitution
- MPD recruit Training re: Proper citation writing, charging decision, trial process

Highlights – Neighborhood Revitalization & Ordinance Enforcement Section

Building & Zoning Code Prosecutions:

- 2021: 53 trials, 155 pretrial conferences (thru 08/30/21)
- 2020: 80 trials, 158 pretrial conferences

Municipal Court Prosecutions:

- 2021: 744 trials, 6,524 pretrial conferences (thru 08/30/21)
- 2020: 1,671 trials, 9,968 pretrial conferences

Department Trainings:

- Nuisance Abatement Training for MPD Command Staff