

# City Attorney

2023 Budget Overview

Finance & Personnel Committee

September 29, 2022

# Mission & Objectives

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## **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 within our resource capabilities
2. Build safe and healthy neighborhoods
  - Reduce nuisances that detract from neighborhood quality of life

# 2023 Budget Summary

	<b>2022 Adopted Budget</b>	<b>2023 Proposed Budget</b>	<b>Amount Change</b>	<b>Percent Change</b>
FTEs – O&M	59.50	57.50	-2.00	-3.4%
FTEs - Other	2.50	2.50	0.00	0.0%
Total Positions Authorized	65.00	64.25	-0.75	-1.2%
Salaries & Wages	\$4,886,514	\$4,577,020	-\$309,494	-6.0%
Fringe Benefits	2,247,796	2,059,659	-188,137	-8.4%
Operating Expenditures	364,700	411,000	46,300	12.7%
Equipment	23,000	23,500	500	2.2%
Special Funds	0	0	0	0.0%
<b>TOTAL</b>	<b>\$7,522,010</b>	<b>\$7,071,179</b>	<b>-\$450,831</b>	<b>-6.0%</b>

# Special Purpose Accounts

<b>Account</b>	<b>2022 Adopted Budget</b>	<b>2023 Proposed Budget</b>	<b>Amount Change</b>	<b>Percent Change</b>
Damages and Claims	\$1,225,000	\$1,225,000	\$0	0.0%
Insurance	1,146,200	1,470,968	324,768	28.3%
Outside Counsel/Expert Witness	150,000	150,000	0	0.0%
<b>TOTAL</b>	<b>\$2,521,200</b>	<b>\$2,845,968</b>	<b>324,768</b>	<b>12.9%</b>

# 2023 Revenues

<b>Category</b>	<b>2022 Adopted Budget</b>	<b>2023 Proposed Budget</b>	<b>Amount Change</b>	<b>Percent Change</b>
Charges for Services	\$1,127,000	\$828,000	-\$299,000	-27.0%
<b>TOTAL</b>	\$1,127,000	\$828,000	-\$299,000	-26.5%

# Department Workforce Demographics

## 49 FTE: As of September 2022

### Race/Ethnicity:

Racial/Ethnic Minority = 43%

- Am. Indian 2%
- Asian 0%
- Black 33%
- Hispanic 8%
- White 57%

### Gender:

- Female 57%
- Male 43%

### Current Vacancies (In various recruitment stages)

- 1 - Special Deputy
- 1 - Deputy City Attorney
- 6 - Assistant City Attorney
- 1 - Risk Manager
- 2 - Legal Office Assistants
- 1 - Office Assistant III

# Staffing and Office Challenges

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- Administrative Transition
- Difficulties in the retention of attorneys due to market salary competition
- There were no merit increases for general city employees in 2020, 2021, or 2022
- High number of claims; significant Civil Settlements

# Highlights – Employment, Labor, & Benefits Section

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## **Employment, Labor & Benefits Group:**

- 138 pending discrimination cases at administrative agencies
- 14 pending discrimination cases in Federal Court
- 22 new discrimination complaints, 7 FPC appeals and 1 duty disability retirement appeals filed to date in 2022
- 6 WERC cases file in 2022
- 108 administrative cases assigned to date in 2022
- On-going telephone and in person consultations and assistance in HR matters



# Highlights – Employment, Labor, & Benefits Section

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## Issued Opinions Regarding:

- Redistricting Process & Voting Rights Act
- Pius Lease & Development of Dyer Field
- FPC Complaint and Intake Procedures
- Annuity & Pension Board Ex Officio's Trustee
- Process and Procedure Regarding Removal from Office

# Highlights – Employment, Labor, & Benefits Section

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## **Elections**

- Responding to multiple WEC complaints
- Advising Election Commission on a day-to-day basis
- Responded to and defended against Gableman 2020 election investigation
- Review and advising on new bills, laws, and shifting and developing case law

# Highlights – Employment, Labor, & Benefits Section

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## **Contracts and Other Work:**

- 232 legal services files opened
- Monitoring and negotiation of the City's insurance portfolio
- Supported labor negotiator for extending all three public safety labor contracts through 2022
- Successfully defended the City and ERS in multiple lawsuits seeking to expand various pension benefits under Chapter 36.
- Provided legal guidance and subject matter expertise to the City of Milwaukee Pension Task Force and throughout subsequent legislative drafting efforts.

# Highlights – Real Estate, Education, & Housing Section

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## Transactional, Advising, and Training:

- Counsel to Milwaukee Public Schools, Board of Zoning Appeals, Redevelopment Authority of the City of Milwaukee, Housing Authority of the City of Milwaukee, Port of Milwaukee, Historic Preservation Commission, Ethics Board, Public Debt Commission, Zoning Code Technical Committee (voting member), City Information Management Committee, and multiple City departments
- Assist all City departments in responding to public records requests and provide training to City officials and employees; provide ethics training; assist Ethics Board in issuing confidential advisory opinions
- Provide legal assistance regarding economic and real estate developments, including tax incremental financing, low income housing tax credit, and other development and leasing transactions, including DeLong facility and Marek Landscaping at the Port
- Assist DPW with infrastructure easements, storm water management issues, and MMSD-MPS green infrastructure improvements

# Highlights – Real Estate, Education, & Housing Section

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## Litigation:

- City concluded its multi-year nuisance receivership action against landlord Mohammad Choudry, which resulted in nuisances being abated at all the Choudry properties, the properties being sold to responsible third parties, including some owner occupants, and awarding over \$2.2 million in delinquent property taxes to the City
- Litigate all public records and open meetings matters
- Defend all BOZA decisions appealed to Circuit Court
- Litigate all eviction and related rent and damages claims for HACM and DCD
- Additionally handling *Collins* settlement agreement and its ongoing mediation, Fair Housing Act litigation, and First Amendment litigation in federal court

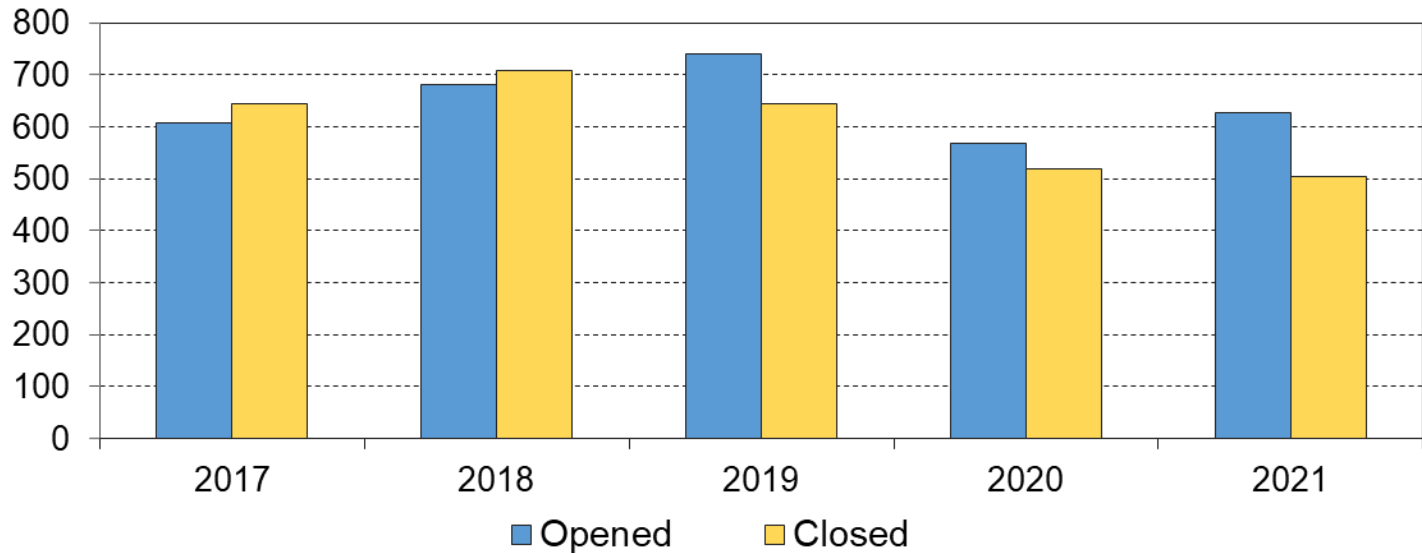
# Highlights – Litigation & Risk Management Section

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## 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
- All of the adjusters' determinations reviewed by Deputy or Assistant City Attorney and ultimately by City Attorney

# Handling of Claims



Claims	2017	2018	2019	2020	2021	2022 (as of 09/20)
Total claims opened	608	682	741	568	627	318
Total claims closed	645	709	645	520	504	343
Total claims opened & closed within same year	417	454	451	306	302	110
Percentage opened & closed within same year	68.6%	66.6%	60.9%	53.9%	48.2%	34.6%

# Highlights – Litigation & Risk Management Section

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## Litigation:

- The Office of the City Attorney provides a legal defense in cases brought against the City and City employees including motor vehicle accident cases, general negligence cases and federal civil rights cases. General negligence cases are capped at \$50,000. The damages that can be awarded in Federal civil rights cases are not capped.
- The Office of the City Attorney also represents the City as a plaintiff in actions to recover for damages to City facilities.
- Assistant City Attorneys working with a Deputy City Attorney manage significant caseloads and settle cases where appropriate and take cases to trial when necessary.
- Recent successes included a significant wrongful imprisonment case where the District Court agreed with our argument that the police officers involved were protected by qualified immunity. The decision was recently affirmed by the 7th Circuit Court of appeals. We were also recently successful in obtaining a District Court dismissal of a case alleging that officers had engaged in a wrongful strip search.



# Highlights – Litigation & Risk Management Section

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## Matters in Litigation other than mortgage foreclosure actions:

- 182 in 2020, 224 in 2021, 107 in 2022 through September 20th
- 149 cases closed in 2020 without payment
- 215 cases closed in 2021 without payment
- 93 cases closed without payment in 2022 through September 20th

# Highlights – Litigation & Risk Management Section

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## **Mortgage Foreclosure Actions:**

- 110 cases opened in 2020, 80 opened in 2021, 86 opened in 2022 through September 20th
- 146 cases closed in 2020, 196 closed in 2021, 41 closed in 2022 through September 20th
- 69 remained pending at end of 2020, 66 remained pending in 2021, and 141 remain pending in 2022 through September 20th

# Highlights – Litigation & Risk Management Section

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## Property Assessment Litigation:

- 36 cases pending as of September 20, 2022
- Only two judgments against the City in the past 9 years. The City's appeal of one judgement is pending before the Wisconsin Supreme Court
- In 2022 (as of Sept.) a favorable decision in one tax assessment trial and a separate dispositive motion saved the City over \$1.7 million dollars.
- The 24 assessment cases closed through September 20, 2022 has saved the City \$2,738,646 in liability.

# Highlights – Litigation & Risk Management Section

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## Significant Property Assessment Lawsuits:

- *Manpower Inc. v. City of Milwaukee*
  - Circuit court granted City's motion for partial summary judgment, resulting in an approximate \$1,120,000 in savings
- *Rider Hotel v. City of Milwaukee*
  - Successfully argued a Circuit court trial, saving the City \$589,271 in liability.
- *Saint John's Communities, Inc. v. City of Milwaukee*
  - The City's appeal of the circuit court judgment is now pending before the Wisconsin Supreme Court.

# Highlights – Neighborhood Revitalization & Ordinance Enforcement Section

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- U.S. Black Spruce v. COM – pending litigation involving Northridge Mall raze orders. Circuit Court upheld raze orders. Black Spruce appealed. Court of Appeals remanded case back to Circuit Court with instructions to apply vacant building standard. Hearing scheduled 10/03/2022.
- Oxford House – pending legal issue involving sober living facilities. Oxford House has requested reasonable accommodation. BOZA hearing on reasonable accommodation request not yet scheduled.
- COM v. Szablewski – pending litigation involving chronic reckless driving as public nuisance. Case filed 07/15/2022. Szablewski failed to file Answer within 45 days in Circuit Court. Motion for Default Judgment filed 09/13/2022.

# Highlights – Neighborhood Revitalization & Ordinance Enforcement Section

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## Legal Services and Outreach:

- Planning in progress for the Annual City-Wide CPU Training at the Police Academy 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

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## **Building & Zoning Code Prosecutions:**

- 2022: 13 trials, 111 pretrial conferences (thru 08/30/22)
- 2021: 66 trials, 185 pretrial conferences

## **Municipal Court Prosecutions:**

- 2022: 608 trials, 6,347 pretrial conferences (thru 08/30/22)
- 2021: 1,046 trials, 9,308 pretrial conferences

## **Department Trainings:**

- Nuisance Abatement Training for MPD Command Staff