SUBJECT: Small Claims Court – claim limit increase to $35,000

TO: Corporate Services, Strategy, Risk & Accountability Cttee.

FROM: Legal Services Department

Report Number: L-23-20

Wards Affected: all

File Numbers: 185-01

Date to Committee: October 8, 2020

Date to Council: October 19, 2020

Recommendation:

Authorize the Executive Director of Legal Services & Corporation Counsel or her designate to commence, defend, and/or settle claims in the Small Claims Court, as deemed necessary and advisable by the Executive Director of Legal Services & Corporation Counsel or her designate, for claims up to the Small Claims Court jurisdiction limit of $35,000, with such matters being reported in all future litigation reports; and

Authorize the Executive Director of Legal Services & Corporation Counsel or her designate to sign any agreements, releases, indemnities, minutes of settlement and other documents required for the settlement of any Small Claims Court claims, actions or other proceedings commenced by or against the City of Burlington up to the Small Claims Court jurisdiction limit of $35,000 plus interest and costs.

PURPOSE:

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth
- Deliver customer centric services with a focus on efficiency and technology transformation

Executive Summary:

The purpose of this report is to update Committee and Council on the effect of *Ontario Regulation 626/00, Small Claims Court Jurisdiction and Appeal Limit* under the *Courts of Justice Act,* R.S.O. 1990, c. C.43, which came into effect on January 1, 2020 and increased the jurisdictional monetary limit of the Small Claims Court from $25,000.00 to $35,000.00, and to seek to increase the delegated authority of the Executive Director of Legal Services & Corporation Counsel to commence, defend and/or settle Small Claims Court cases by a corresponding amount.

Background and Discussion:

The Small Claims Court has jurisdiction to hear and determine claims for the payment of money or recovery of property. On January 1, 2020, the claim limit of the Small Claims Court increased from $25,000 to $35,000, excluding interest and costs.

The Corporate Legal Services Department currently manages all Small Claims Court actions. The City is typically a defendant in Small Claims Court actions. It is rare that the City would initiate an action in Small Claims Court as a plaintiff. An example of when the City would commence an action would be for account collections, such as non-payment of City invoices or a claim for City property damage. In such cases, a demand letter initiated by City staff or a write-off of the amount owed, usually settles the matter. However, on occasion where out of court resolution is not possible, such a claim may be brought.

The increase in the Small Claims Court jurisdictional limit may result in an increase in the number of claims being made against the City, as the public may be more inclined to commence a claim in Small Claims Court, without having to engage in the more complex procedures of the Superior Court, which often requires retaining independent legal counsel. A person who may be discouraged or intimidated by a higher civil court action would more readily seek relief through Small Claims Court. Court forms and instructions are accessible on-line and the reforms to the court's procedures, now make it simpler for litigants to engage in the court process. When they are commenced, Corporate Legal Services staff will defend such claims.

Financial Matters:

Small Claims Court actions are usually handled in-house. However, depending on the number of claims filed against the City, increased court costs may be incurred in defending these claims.

Matters dealt with through Small Claims Courts have not had any impact on the City's insurance premiums.

Total Financial Impact

Not applicable.

Source of Funding

Not applicable.

Other Resource Impacts

Not applicable.

Climate Implications

Not applicable

Engagement Matters:

N/A

Conclusion:

It is difficult to gauge the effect of the increased monetary limit in Small Claims Court. However, the City may experience an increase in the number of claims being filed against it.

Respectfully submitted,

Justyna Boroch Hidalgo

Assistant City Solicitor

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Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.