

**2011
Corporation Counsel
Annual Report**

Legislation

This office prepared 13 Local Laws, nine Ordinances, and 64 Resolutions in 2011 that were passed by the Common Council. While many topics of extreme importance were enacted, including several Local Laws which will have large implications, including: amending the ward boundaries in the City which is an issue that will follow us into 2012 and amending the insurance benefits for non-union employees.

The City also enacted legislation approving several infrastructure projects including the Vliet Street Waterline Replacement and Sewer Separation Project and tunnel repair, near completion of the Bridge Avenue Bridge Reconstruction Project, water main replacement project for Continental, Gansvoort and Park Avenues, the Senior Center Roof replacement project and the Delaware Avenue Multi-Use Path.

The City also appointed the first members of the Ethics Board which commenced operation with its first meetings and complaints being filed.

Claims and Litigation

There were 50 Wright Risk Insurance claims opened in 2011, and of those, 42 were closed and 8 remain open. There are two claims open from 2009 (James Antoniak – fall in road and Evelyn Langton – false arrest). There are three claims open from 2010 (Barbara Spizowski – breach of duty, Joan Mahan – fall on sidewalk, and Katherine St. Onge – struck by moving object).

The following are updates on the City's tax certiorari cases:

- Rite Aid v. City of Cohoes: This matter is scheduled for trial on Wednesday January 25, 2012. Petitioner is claiming a market value of \$1,900,000.00. The current assessment indicates market value of about \$5 million; our appraisal indicates that assessment is not defensible, but Petitioner has refused every settlement offer proposed, as the petitioner is insistent on a cash refund. The City's appraisal supports a value of \$3,100,000.00. Our most recent offer was made at a conference with Judge Devine on December 23, 2011.
- Commercial Net Lease v. City of Cohoes: At the last court conference, petitioner's counsel indicated that he would be discontinuing this proceeding. However, no stipulation of discontinuance has been received as of the date of this response.
- Cohoes Rehabilitation v. City of Cohoes: Although the property (multiple subsidized housing units) has sold to third party, Petitioner is still serious in maintaining proceeding, seeking cash refund. The Assessor and I have been unable to project market value based upon the voluminous income and expense data provided. We are recommending that an appraiser be retained to provide valuation analysis.
- Sacred Heart Church v. City of Cohoes: We are currently in the process of preparing a summary judgment motion to dismiss the petition once we receive disclosure responses. The Albany Diocese claims that the property should be exempt however the church was closed prior to taxable status date, and thus must be treated as taxable property, as it is being marketed for sale by the diocese.
- First Niagara Bank v. City of Cohoes: This is a 2011 proceeding involving three separate parcels of property. Currently the three parcels are assessed at a full market value of \$3,366,482.00. The petitioner is claiming a full market value of \$1,122,161.00. Discovery demands will be sent out shortly.

Through the diligent effort of Mariann the City was able to recoup \$6,329.32 from individuals that hit City property which required repairs. This is yet another way the Corporation Counsel's Office is trying to do its part to save the City Money.

Labor and Personnel

The office handled several personnel and labor issues in 2011. Collective bargaining concluded with the Clerical and DPW unions for successor agreements to those which expired on December 31, 2010. Negotiations with the Firefighters' union commenced, but were not concluded as of December 31, 2011. As in past years, the major issue for negotiations involves controlling the increasing cost of health insurance by changing plans and requiring increased contributions toward premiums.

Decisions were rendered by arbitrators in two cases involving the Firefighters' union. In the first, the union objected to the City's requirement that an employee receiving disability benefits and working light duty begin eight (8) hours at the beginning of a payroll period as opposed to a Monday. The arbitrator agreed with the City's position. In the other, the union argued that the City violated the agreement by "moving" a firefighter out of his bid position when only five (5) firefighters were working. Again, the arbitrator agreed with the City's position and the grievance was denied.

Throughout the year, various other grievances were filed. However, the office was successful in resolving those grievances without the need to go to arbitration. The office continues to try to resolve grievances where appropriate. We attempt to resolve grievances filed by the various unions so as to minimize any financial impact. Unfortunately, there are times where grievances cannot be resolved. As we concentrate on the proper administration of the collective bargaining agreements, we are seeing a slight decrease in the number of grievances being filed.

Staffing

Brian Kremer continues to work seamlessly and has been able to cover the occasional Court appearance when I am unavailable. Mariann Ceccucci, is handling the lions share of duties in the office and is an invaluable part of the office. Quite honestly, I am a bit concerned about when she does decide to retire. With Erika leaving currently, there is no one that would be able to step into Mariann's shoes but we will figure it out. Nancy walker has regained assisting with the Vehicle and Traffic matters and Colleen Hytko has stepped up and taken responsibility for the workers compensation matters. Overall, we have a lean operation and are still committed to getting the job done in the most efficient and professional manner.