

## CHAPTER 4

Department of  
Corporation  
Counsel

## Chapter 4 Department of Corporation Counsel

The Department of the Corporation Counsel (COR) serves as the chief legal advisor and legal representative for all city agencies, the city council, and all officers and employees in matters relating to their official powers and duties. The department represents the city in all legal proceedings and performs all other legal services.

The department's goals are to:

- Work proactively with departments to reduce liability that may arise from day-to-day operations.
- Deliver quality legal services in a responsive and efficient manner.
- Establish and maintain solid attorney-client relationships.
- Maximize the intake of real property tax revenues by vigorously defending assessments and expeditiously resolving tax appeals.

The department's legal services activity has an administration division and three other divisions.

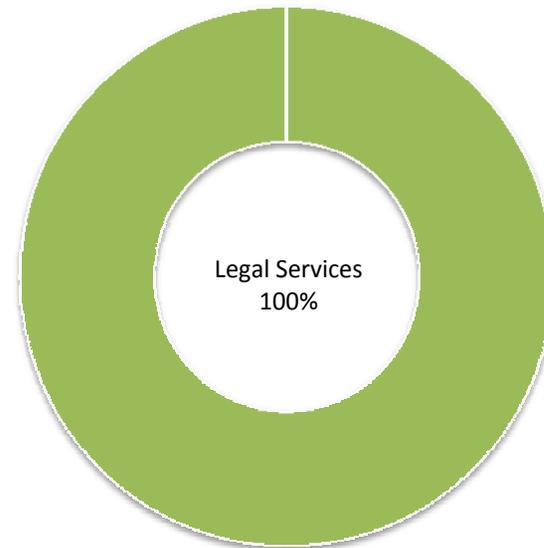
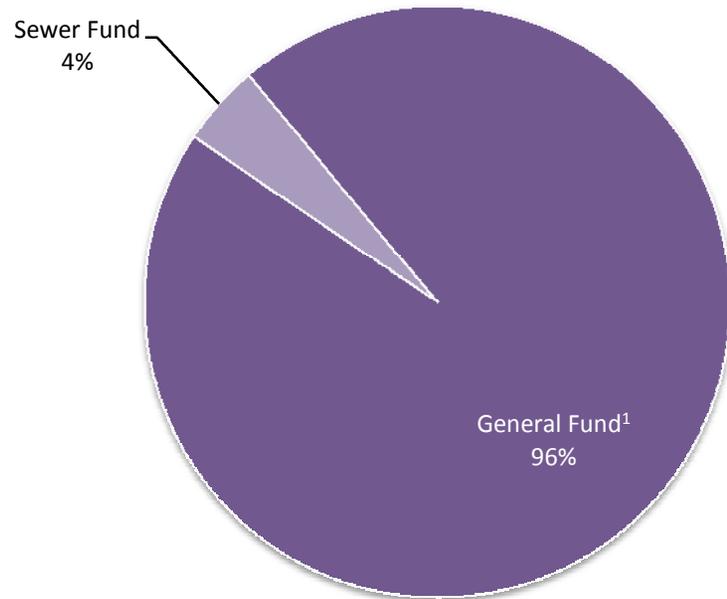
- Administration directs and coordinates operations for the department's Counseling and Drafting, and Litigation Divisions and the Real Property Tax Section. This activity also provides administrative support services in personnel, fiscal/budgetary and organizational management to the COR divisions and the Ethics Commission.
- Counseling and Drafting renders oral and written legal opinions to the mayor, city council, and all city departments; defends the city in administrative proceedings and appeals; drafts and reviews legal documents, ordinances, and resolutions; and drafts state legislation.
- Litigation represents the city and its employees (acting in the course and scope of their employment) before all courts in the State of Hawai'i; processes and litigates personal injury and property damage claims by or against the city; and seeks collections for monies owed to the city.
- Real Property Tax maximizes the intake of real property tax revenues for the city. This division provides legal advice, support and defends the city in real property tax appeals.

*To meet the diverse legal needs of its clients, by advising its clients proactively, and by effectively representing and litigating their interests, while maintaining the highest standards of professionalism and ethics.*

*- Mission Statement*

### Funding Sources

### Funding Uses



<sup>1</sup>Under the charter, the Honolulu Ethics Commission is attached to the Department of Corporation Counsel for administrative purposes only. The commission is fully funded by the General Fund and is not included in this chart.

#### Staffing

	Operating Expenditures (\$ million)	Total Authorized FTE	Total Vacant FTE	Cost per FTE <sup>2</sup>	Total Overtime Expenditures <sup>3</sup>	Total Attorney FTE Filled	Total Attorney FTE Vacant
FY 2009	\$6.3	81.0	10.5	\$78,181	\$88	42.0	1.0
FY 2010	\$7.1	82.0	7.5	\$86,998	\$862	41.0	4.0
FY 2011	\$6.7	81.0	6.0	\$82,517	\$250	44.0	1.0
FY 2012	\$7.7	81.0	4.0	\$95,662	\$88	43.0	2.0
FY 2013	\$6.6	81.5	11.0	\$81,574	\$631	41.0	4.0
Change from last year	-14%	1%	175%	-15%	617%	-5%	100%
Change over last 5 years	5%	1%	5%	4%	617%	-2%	300%

Source: Executive Operating Program and Budget (FY 2010-FY 2015), Department of Budget and Fiscal Services, and Department of the Corporation Counsel. <sup>2</sup>Cost Per FTE = Total Operating Expenditures/Total Authorized FTE. <sup>3</sup>Overtime pay is established by bargaining unit agreement, as applicable.

## Cases

Over the last five years, the department's operating expenditures increased 5% from \$6.3 million in FY 2009 to \$6.6 million in FY 2013. According to the department, the increase was partly attributed to the four funded positions for the Honolulu Authority for Rapid Transit (HART) and the cost of storage space for files required to be retained pursuant to law.

Total authorized staffing for attorney positions decreased 1% while vacancies increased by 2.0 FTE positions from the prior fiscal year. Overtime expenditures increased from \$88 to \$631 over the last five years. The department reported that overtime was authorized on a limited basis to address workload requirements due to staffing shortages and court deadlines.

COR continues to assist the Department of Environmental Services (ENV) and the Department of Design and Construction (DDC) in fulfilling the terms of the global wastewater consent decree entered on December 17, 2010, by the United States District Court to resolve the claims of the United States Environmental Protection Agency (EPA), the State of Hawai'i Department of Health (DOH), and various non-governmental entities (collectively, the NGOs) related to the city's compliance with the federal Clean Water Act and State law. The consent decree allows 10 years for completion of work on the waste-

water collection system, 14 years to upgrade the Honouliuli Wastewater Treatment Plant (WWTP) to secondary treatment, and up to 25 years, with the possibility of a three-year extension, to upgrade Sand Island WWTP to secondary treatment. The department reported no compliance issues in FY 2013.

In FY 2013, Real Property Tax Cases increased 480% from 204 cases in FY 2009 to 1,184 cases in FY 2013. According to the department, real property tax appeals increased due to owners filing in a 200-unit condominium project which challenged property assessments for two years; and filings for a 20-parcel development on federal property that was assessed back taxes for five years.

Also in FY 2013, the department resolved appeals before the State Tax Appeal Court and recovered approximately \$16.3 million in total property taxes which was \$7.3 million above the tax amount claimed by the appellant tax payers.

Litigation cases decreased 32% from 4,030 cases in FY 2009 to 2,731 cases in FY 2013. According to the department, the 2009 statistics included a number of cases which were closed by the COR divisions in FY 2010. The annual number of cases for the Litigation Division has historically ranged between 2,600 and 3,000 per year.

	Counsel and Drafting Cases	Litigation Cases	Real Property Tax Cases	Real Property Tax Recoveries (\$ million)	Total Number of Cases
FY 2009	12,353	4,030	204	-	16,587
FY 2010	10,584	2,664	406	\$5.0	13,654
FY 2011	11,025	2,558	528	\$3.1	14,111
FY 2012	11,814	2,619	889	\$3.5	15,322
FY 2013	11,954	2,731	1,184	\$16.3	15,869
Change from last year	1%	4%	33%	366%	4%
Change over last 5 years	-3%	-32%	480%	-	-4%

Source: Department of the Corporation Counsel