



Regional Solicitor
Legal & Court Services

Memorandum

To: Regional Council

From: Joy Hulton, Regional Solicitor

Date: January 26, 2017

Re: **Enhancing Municipal Collection of Defaulted POA Fines-York Region Submission**

In Ontario, there is approximately \$1.4 billion in defaulted POA fines owing to municipalities, dating as far back as the 1960's. While the rate of collection is improving as a result of a recently adopted collection strategy, York Region currently has \$48.5 million in defaulted fines, including \$16.2 million from traffic offences. Municipalities have long called on the Provincial government to provide additional collection tools for defaulted fines.

On June 2, 2015, the government enacted the *Making Ontario's Road Safer Act, 2015* (formerly known as Bill 31), to implement new initiatives to enhance municipalities' ability to collect defaulted POA fines for traffic offences, through changes to the existing program for denial of licence plates.

Ministry Regulatory Proposal

The Ministry of Transportation is currently working towards full implementation of these changes in spring 2017. Implementation will include policy and regulatory changes to expand the existing plate denial regime to also deny all licence plates of individuals who default on a fine related to driving-based offences (which currently result in a licence suspension on fine default) and apply this plate denial regime retrospectively to aid in the collection of outstanding, historic defaulted driving-related fines.

The Ministry is proposing to:

- Limit retroactive licence plate denial to all outstanding driving-related fines over the last seven years; and

- Exempt jointly-owned vehicles (vehicles that are registered in the name of two or more persons) and vehicles registered to a company, from the application of plate denial

The Minister of Transportation has acknowledged that two-thirds of defaulted POA fines in Ontario are older than seven years. The proposed changes were posted for comments on the Regulatory Registry on December 4, 2016. Comments were due January 16, 2017.

York Region's submissions

While the Ministry's proposals for expansion to plate denials will provide some assistance, they do not go far enough to address the extent of defaulted fines. Court Services staff provided submissions on the Ministry proposal on two key points:

- **Retroactivity for seven years**

The retroactive application of plate denial should not be limited to seven years and should be applied to all outstanding POA fines currently in default. Defaulted fines are debts owing to the Crown and therefore not subject to any limitation period. The financial impact of a seven-year limitation could be significant as almost \$6 million of the Region's defaulted fines for traffic violations would be excluded from potential collection through plate denial. Staff therefore requested that the Ministry remove the proposed seven-year limitation so that licence plate denial would be applied to all outstanding fines.

- **Jointly-Owned and Company Vehicles**

Municipalities have not been provided with data on the number of jointly-owned vehicles potentially impacted by this proposal so staff was not able to estimate the financial impact of this restriction. However, other collection tools including those at common law permit recovery of fines against jointly-owned property. In addition, the Highway 407 Express Toll Route which provides toll revenue to the Province applies the rule of joint and several liability to owners of a licence plate – joint owners are both liable for paying any amounts owed. Staff therefore submit that the Ministry should not exempt jointly-owned vehicles from the application of plate denial. Similarly, vehicles owned by a company should not be exempt.

January 26, 2017
Regional Council

Conclusion

The collection of defaulted POA fines remains an ongoing challenge to all POA court programs. York Region looks at the expansion of plate denial as an opportunity to convey the message that the Province is taking a serious approach in collection of POA fines and to re-enforce the point that the administration of justice is not served if the financial obligations associated with the infractions are not paid. Any restrictions applied to the retroactive application of plate denial or exemptions of jointly owned vehicles and vehicles registered to a company, will threaten the effectiveness of the plate-denial collection mechanism excluding a large volume of fines currently in default. It also jeopardizes road safety by continuing to permit drivers suspended for HTA infractions to go undetected if they potentially operate the very same motor vehicle they were driving when the infraction occurred.

We have therefore encouraged, in comments submitted within the time lines set out by the Province, the Ministry to further enhance municipal collections of defaulted POA fines and make Ontario's roads safer through broad application of plate denial to all vehicles on Ontario's roads.

Joy Hulton
Regional Solicitor

JH/nm

#7236109