



Report to: General Committee

Meeting Date: March 6, 2017

SUBJECT: Inter-Municipal Provincial Offences Act Fine Collection Agreement

PREPARED BY: Shane Manson, Senior Manager, Revenue & Property Taxation
Jody Parsons, Court Administration Coordinator

RECOMMENDATIONS

- 1) That the report entitled “Inter-Municipal Provincial Offences Act Fine Collection Agreement” be received; and,
- 2) That the Treasurer be authorized to execute agreements, including all ancillary documents, with eligible Ontario municipalities that meet the qualifications in the Municipal Act and the Provincial Offences Act (POA), to allow for unpaid POA fines owing to those municipalities to be added to the City of Markham tax roll in order to collect such amounts on behalf of said municipalities, and to be in a form and content to the satisfaction of the City Solicitor; and
- 3) That the Treasurer be authorized to execute agreements, including all ancillary documents, with eligible Ontario municipalities that meet the qualifications in the Municipal Act and the Provincial Offences Act to allow for unpaid City of Markham POA fines to be added to the tax rolls of other municipalities in order to collect such amounts on behalf of the City, in a form and content to the satisfaction of the City Solicitor; and
- 4) That Markham City Council request the Province of Ontario to amend the Municipal Act, 2001 to allow outstanding fines to be added to municipal tax rolls in cases where a defendant owns property within a municipality on a joint or individual basis; and,
- 5) That a copy of this resolution be forwarded to the Minister of Municipal Affairs and Housing, the Federation of Canadian Municipalities (FCM), the Association of Municipalities Ontario (AMO), the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO), the Ontario Municipal Tax Revenue Association (OMTRA), the Municipal Finance Officer’s Association (MFOA), the Region of York, and York Region Municipalities; and further,
- 6) That staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE

To obtain authority for the City of Markham to enter into an Inter-Municipal Provincial Offences Act (POA) Fine Collection Agreement with the Region of York and with other eligible Ontario municipalities in order to increase Markham’s collection of outstanding POA fines.

BACKGROUND

The POA gives defendants charged with offences three options:

- i. Pay the fine;
- ii. Dispute the charge through early resolution; or
- iii. Request a trial.

If a defendant fails to choose one of the above-noted options, or fails to pay the fine imposed by the court following early resolution or trial, the fine goes into default. On average, twenty (20) per cent of all annual court-ordered fines registered default and require collection efforts by one of the Region's collection agencies (or through civil enforcement of fines).

In 2009, the Municipal Act, 2001 (the "Act") was amended to add section 441.1 - Unpaid Fines. This new section gave Ontario municipalities the authority to add unpaid POA fines to the tax roll provided that the debtor is the sole owner of the property. Under the Act, unpaid fines may be added to the tax roll by the Treasurer of the municipality and may be collected on behalf of other eligible Ontario municipalities in the same manner as property taxes. In order to be eligible, a municipality must have entered into a transfer agreement under Part X of the POA. The Region of York and its local municipalities have entered into a Memorandum of Understanding and a Local Side Agreement with the Ministry of Attorney General (the "Transfer Agreement").

Municipalities have the ability to add administrative fees through local by-laws to recover any additional costs and retain these costs when the fine is collected. POA fines, like other amounts added to the tax roll, will be subject to penalty and interest charges if the amount added to the tax roll is not paid by the due date.

In November 2011, the Ontario Association of Police Services Board released a white paper entitled "Provincial Offences Act Unpaid Fines: a Billion Dollar Problem" (attached as **Appendix "A"**), which identified significant amounts of outstanding POA fines in Ontario worth almost one billion dollars. The report recommended that the Province establish stronger collection sanctions, including a broader ability for driver's licence suspension, refusal of licence plate renewal, vehicle impoundment and garnishment of income tax refunds, as well as measures to enhance municipalities efforts to collect such fines.

The Region of York is seeking the ability (via an Inter-Municipal POA Fine Collection Agreement) to add outstanding fines owed to the Region to the tax rolls of York Region municipalities is attached as **Appendix "B"**. The Region estimates that less than one (1) percent of their unpaid fines are currently eligible for collection through the proposed municipal tax rolling process. However, they are seeking legislative changes to allow for expanded fine collection through this channel.¹

¹ The Act currently provides that if a property is jointly owned by two or more parties, and only one party is responsible for the payment of the fine, the fine cannot be added to the tax roll. The Region is requesting that the Province amend the legislation to allow for unpaid POA fines to be added to the tax roll of joint or solely owned property.

Markham City Staff recommend entering into Inter-Municipal Provincial Offences Act (POA) Fine Collection Agreements with the Region of York and with other eligible Ontario municipalities in order to improve Markham's outstanding POA fine collection rate.

OPTIONS/ DISCUSSION

Current Process for Recovering Markham's Unpaid POA Fines

In 2013, Markham became the first municipality in York Region to start adding unpaid POA fines to its tax roll.² Staff estimates that approximately 20 percent of Markham's unpaid POA fines have been added to the tax roll which represents \$188,000 collected through this process. The City charges an administration fee (\$46 in 2016) to add POA fines to the tax roll. As previously noted, the City (like all Ontario municipalities) is currently unable to add fines to the tax roll in the following circumstances: 1) the defendant is not a Markham property owner; and, 2) the defendant's property is jointly owned. In these circumstances, outstanding fines are recovered through the Region of York's external collections agencies or via the Small Claims Court process.

Proposed Inter-Municipal POA Fine Collection Agreements

The proposed Inter-Municipal POA Fine Collection Agreement (attached as **Appendix "C"**) establishes the general terms, procedures, and responsibilities of the collection process and includes the following elements:

- Identification of the outstanding unpaid POA fine amounts with the originating municipality;
- Confirmation that the unpaid POA amount is owed by a person or company who is a property owner within a participating municipality and that the property is solely owned by the POA debtor responsible for the fine;
- Addition of the POA fine amount to the tax roll in the municipality in which the debtor owns a property and collection of such amounts;
- Inclusion of an administrative fee for the municipality adding the charges to the tax roll as well as late payment charges and any other applicable fees in accordance with the municipality's existing by-laws and processes; and,
- Remittance of the POA fine amount once collected to the municipality that requested the amount be added to the tax roll. The collecting municipality retains any penalty, interest or fees charged to the taxpayer to offset collection costs.

By entering into an Inter-Municipal POA Fine Collection Agreement with the Region of York and with other eligible municipalities, the ability to collect unpaid POA fines in Ontario will be improved. For Markham, unpaid POA fines of non-Markham property owners will be added to the tax roll of the municipality in which the debtor resides and

² POA fines include By-law infractions as well as Fire Code, Building Code and Ontario Heritage Act violations. Markham continues to be the only municipality in York Region to recover unpaid POA fines via the municipal tax roll.

once collected these fines will be remitted to the City. For example, if a defendant who resides in Vaughan that has an unpaid Markham POA fine, the City of Markham would transfer the unpaid fine to Vaughan to add to its tax roll. The City of Vaughan would then remit the POA fine amount back to the City of Markham. The City of Vaughan would retain the administrative fee charged to the resident to offset the collection costs in accordance with their existing by-laws and processes.

FINANCIAL CONSIDERATIONS

Council authorization is sought to proceed with the execution of Inter-Municipal POA Fine Collection Agreements between the City of Markham and Region of York as well as with other eligible Ontario municipalities in order to improve the collection of unpaid POA fines through the addition of such fine amounts to the property tax rolls of Ontario municipalities. In addition to improving the collection of Markham's own POA fines, the City will charge an administration fee in the amount of \$46.00 to other eligible Ontario municipalities to cover the City's costs. Staff will monitor the revenues generated and the costs incurred by the City as a result of the new process and report back in one year regarding same.

BUSINESS UNITS CONSULTED AND AFFECTED

Legal Services Department

RECOMMENDED BY

2/28/2017

X



Kimberley Kitteringham
City Clerk

X



Joel Lustig
Treasurer

28/02/2017

X



Trinela Cane
Commissioner, Corporate Services

[Appendix "A" - White Paper entitled "Provincial Offences Act – Unpaid Fines – A \\$Billion Problem"](#)

[Appendix "B" - May 12, 2016 Report from the Regional Municipality of York entitled "Provincial Offences Act Collections"](#)

[Appendix "C" – Draft Inter-Municipal POA Fine Collection Agreement](#)