

## **Use of Collection Agencies to Collect Parking Fines**

<b>Date:</b>	August 27, 2007
<b>To:</b>	Government Management
<b>From:</b>	Treasurer
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2007\Internal Services\rev\gm07026rev (AFS # 5460)

### **SUMMARY**

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As requested by the Government Management Committee, staff have reviewed a communication package (dated April 18, 2007) and recommendations presented to the Committee by Councillor Howard Moscoe, Chair, Licensing and Standards Committee with regard to the use of collection agencies to collect unpaid parking fines. This report: i) responds to the questions raised in Councillor Moscoe's communication package to Committee; and, ii) recommends changes in how collection agencies are used by the City to collect unpaid parking fines.

### **RECOMMENDATIONS**

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**The Treasurer recommends that:**

1. Parking fines outstanding for more than eight (8) years not be forwarded to a collection agency for collection where an individual, or individual licence plate, owes less than \$300 in accumulated fines;
2. In addition to the current contract requirements stipulating that collection agencies pursuing unpaid City of Toronto parking fines must comply with all federal, provincial and municipal laws and regulations, including the *Collection Agencies Act*, and use a goodwill approach in their collection efforts, future contracts awarded to collection agencies for the collection of unpaid parking fines include appropriate wording/clauses to effectively require the agencies to adhere to the following additional terms:

- a) Collection agencies must not contact debtors prior to 9:00 a.m. or after 8:00 p.m. Monday through Friday;
  - b) Collection agencies not call debtors on weekends or Statutory Holidays;
  - c) Collection agencies must not use automated telephone diallers for parking fines older than five (5) years;
  - d) Collection agencies must provide debtors with the City of Toronto's parking tag web-site and phone line number and the Ministry of Government Services' contact information (including phone number) in any correspondence sent to the debtor; and, when requested by the debtor;
  - e) Collection agencies must document and forward to the City any and all complaints received by the collection agency within 72 hours of the complaint being made. The documentation must identify the debtor's name, telephone number, the nature of the complaint, and a detailed explanation of the resolution attempted or made; and,
  - f) Where complaints are received and are being investigated by the City, collection agencies must provide any information and documentation as requested by the City within 72 hours of such requests;
3. The collection agencies currently under contract with the City to collect unpaid parking fines be advised in writing of the additional requirements identified in recommendation 2 above;
  4. The Directors of Revenue Services and Court Services, through the Treasurer, report to Government Management Committee recommending a policy establishing protocols and thresholds under which *Provincial Offences Act* accounts receivable, including parking fines, shall be deemed uncollectible and therefore eligible for write-off consistent with the write-off directive and operating guideline published by the Ministry of the Attorney General.

### **Financial Impact**

Staff does not foresee any significant financial impact associated with the adoption of the recommendations contained in this report. Unpaid parking fines will continue to be pursued through the plate denial process and, where appropriate, through the use of collection agencies.

The City collects approximately \$80 million annually on all parking fines issued. The removal of the collection agencies as a tool to assist in the collection of fines older than eight (8) years is expected to reduce parking fine revenue by an insignificant amount (in or about \$10,000 annually).

Any financial impacts associated with the possible write-off of unpaid parking fines will be provided in the future report regarding a policy establishing protocols and thresholds under which parking fines shall be deemed uncollectible and therefore eligible for write-off.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

At its meeting held on June 12, 2007, the Government Management Committee had before it a communication (dated April 18, 2007) from Councillor Howard Moscoe, Chair, Licensing and Standards Committee, recommending that:

1. the City establish a statute of limitations of at least eight (8) years on uncollected parking fines;
2. if necessary, the City approach the Minister of Municipal Affairs and Housing to amend the regulations to allow this to happen;
3. the questions raised by my (i.e. Councillor Moscoe's) comments on the March 16 briefing note from the Manager of Parking Tag Operations be referred to the Treasurer for a response and report back to the Committee;
4. the City review its use of collection agencies, to collect parking tickets with a particular emphasis on:
  - a) a simple system that will permit customers to get specific information about their particular parking ticket;
  - b) an easily identifiable telephone number where a customer can file a complaint against a collection agency and a requirement that both of these telephone numbers be on all literature pertaining to the collection of a ticket by a collection agency used by the City;
  - c) a specific, made in Toronto, code of conduct that must be used by collection agencies employed by the City of Toronto; and
  - d) an evaluation of the specific tactics used by CBCL as outlined in the email attached;
5. the Treasurer report back to Committee on these matters within two months.

The Government Management Committee referred this matter to the Treasurer with a request that he, in consultation with the City Solicitor, report back to the Committee for its meeting on September 18, 2007 and to include in such report comment on the value of the cancelled tickets.

Below are the links to the communication package from Councillor Moscoe (re: Agenda Item GM5.16 on the Government Management agenda) and the Committee's decision (under agenda item GM5.16):

<http://www.toronto.ca/legdocs/mmis/2007/gm/bgrd/backgroundfile-4183.pdf>

[www.toronto.ca/legdocs/mmis/2007/gm/decisions/2007-06-12-gm05-dd.pdf](http://www.toronto.ca/legdocs/mmis/2007/gm/decisions/2007-06-12-gm05-dd.pdf)

## **ISSUE BACKGROUND**

The City issues approximately 2.8 million parking tickets each year, and collects payment on approximately 82 per cent of all tickets issued, representing annual revenues of approximately \$80 million.

At its meetings held on March 6 - 8, 2001, and July 20 – 22, 2004, City Council approved the use of collection agency services to assist in the collection of outstanding parking fines (re: Clause 1 of Report 2 of the Administration Committee titled “Parking Tag Fine Collection Strategy” and Clause 9 of Administration Committee Report 5 titled “Authority to Renew Option Years for RFP 9138-01-7489 for the Use of Collection Agency Services to Collect Outstanding Parking Tags”). These reports and decisions can be accessed at:

<http://www.toronto.ca/legdocs/2001/agendas/council/cc010306/adm2rpt/cl001.pdf>

<http://www.toronto.ca/legdocs/2004/agendas/council/cc040720/adm5rpt/cl009.pdf>

This report responds to questions raised in Councillor Moscoe's April 2007 communication package to the Government Management Committee regarding the use of collection agencies to collect unpaid parking fines.

## **COMMENTS**

The following sections respond to the issues and questions raised in Councillor Moscoe's communication package to Committee.

### *Statute of Limitations*

In his communication, Councillor Moscoe recommends that the City establish a statute of limitations of at least eight years on uncollected fines and that the City approach the Minister of Municipal Affairs and Housing to amend the regulations to allow this to happen.

The legislation governing the administration and processing of parking tickets is governed by the province of Ontario and is set out in the *Provincial Offences Act*, R.S.O 1990, c. P.33, as amended (POA). The City Solicitor's Office indicates that any "statute

of limitations" for parking offences fines would therefore have to be implemented by provincial legislation.

In essence a statute of limitations, if legislated, would prevent the City from attempting to collect upon any unpaid parking fines that are older than eight years, or other term as may be determined – either through the use of a collection agency or through the Ministry's plate denial process. Staff are not recommending that a statute of limitations be pursued. Rather, staff recommend that Council adopt a policy directing that parking fines outstanding for over eight (8) years not be forwarded to a collection agency for collection where an individual owes less than \$300 (representing approximately five parking tickets) and that the plate denial process continue to be used in the collection of unpaid parking fines until such time as the unpaid fine is deemed uncollectible and written off.

The Ministry of the Attorney General has recently provided guidelines to municipalities (in a document dated June 13, 2007 titled "Provincial Offences Act, Write-Off Directive and Operating Guideline") outlining the minimum requirements that municipalities must meet in order to write off unpaid *Provincial Offences Act* (POA) fines. Effectively, once all collection efforts are exhausted, including the plate denial process, municipalities can consider writing off unpaid fines that are deemed uncollectible. The Ministry guidelines require that the municipality create a formal write-off policy establishing protocols and thresholds under which POA accounts receivable shall be deemed to be uncollectible and therefore eligible for write-off. Staff are currently reviewing the guidelines provided by the Ministry and will report back to Government Management Committee on a recommended policy.

#### *March 16 Briefing Note from the Manager of Parking Tag Operations*

The April 18, 2007 communication from Councillor Moscoe includes a memorandum (dated April 16, 2007) to the Deputy City Manager and Chief Financial Officer. In his April 16, 2007 memorandum, Councillor Moscoe raises questions with regard to the March 16, 2007 briefing note titled "Use of collection agencies to pursue outstanding parking fines" and requests the Treasurer to respond the questions and issues raised.

Appendix A of this report provides staff's response.

#### *Review of the City's Use of Collection Agencies to Collect Parking Tickets*

Since introducing collection agencies as a collection tool, the average collection rate on fines issued to the agencies has been approximately 2% for a cumulative total of \$1.9 million. Table 1, below, summarizes the value of outstanding parking fines collected by the collection agency on an annual basis since 2003.

Table 1: Parking Fines Collected by the City's Collection Agencies

Year Assigned*	Fines Issued to Agencies for Collection	Fines Collected to date by Agency	Percentage Collected
2003	\$28,487,200.00	\$651,981.85	2.29%
2004	\$15,304,759.00	\$478,738.53	3.13%
2006	\$28,569,361.64	\$424,704.15	1.49%
2007	\$18,423,396.00	\$389,504.75	2.11%
Total	\$90,784,716.64	\$1,944,529.28	2.14%

\*no new assignment of files in 2005

Although, collection agencies are successful in collecting a small percentage of the accounts issued to them for collection, staff are recommending that collection agency services continue to be used, but that parking fines outstanding for more than eight (8) years not be forwarded to a collection agency for collection where an individual, or individual licence plate, owes less than \$300 in fines.

The plate denial process will continue to be used in the collection of outstanding parking fines. Currently, staff do not forward unpaid parking fines to a collection agency if the fines are outstanding for less than three (3) years. This ensures that the plate denial system has been used through a full renewal cycle (currently persons can purchase a plate sticker for either one or two years) prior to referral to a collection agency. In recent years, the Ministry of Transportation enhanced its plate denial procedures to ensure plate denial of all plates owned by an individual. This change should improve the collection rate at the plate denial stage. A threshold of \$300 is being recommended recognizing that in order to reach this value an individual will likely have multiple outstanding tickets. As plate denial is still a very effective tool in collecting outstanding parking fines, this process will continue to be utilized while fines are being pursued by a collection agency.

To ensure that parking ticket recipients have access to information about their particular parking ticket(s), the Revenue Services Division operates a parking ticket phone line (416-397-TAGS) five (5) days a week from 8:30 a.m. to 4:30 p.m. This phone number is printed on all parking tickets and overdue notices, including Notices of Impending Conviction, and Notices of Fine and Due Date. The 416-397-TAGS phone number is also provided to the collections agencies.

The Ministry of Government Services regulates, monitors and investigates collection agencies in Ontario. Collection agencies which do not operate within the boundaries of the *Collections Agencies Act* and its regulations, may face disciplinary action such as fines or licence suspensions.

Complaints regarding the conduct of a collection agency can either come to the City of Toronto through the 416-397-TAGS phone line or to the Ministry of Government Services toll free line at 1-800-889-9768 or in Toronto at 416-326-8800. Based on experience to date, the nature of complaints received by the City tend not to involve the conduct of the collection agency, but rather customers wishing to express their objection

to the City pursuing the unpaid fines and/or simply wishing to have more information on the offence itself so that they can exercise any of the available options including re-opening the case and requesting an extension of time to pay. If it is determined through the 416-397-TAGS line that the nature of the complaint being received regarding a collection agency is conduct related, staff will direct the caller to management staff (e.g. the Supervisor of Parking Tag Operations or the Manager of Water and Parking Tag Operations), and management staff will speak with the complainant and conduct an investigation. If the investigation determines that the collection agency has violated any of the City's contract requirements, staff will consult with the City's Legal and Purchasing Divisions as to what disciplinary action should be taken. During this time, staff will advise the complainant that they should also contact the Ministry of Government Services to report the alleged conduct.

### *Code of Conduct*

Collection agencies are bound by the *Collection Agencies Act*. The Act requires agencies to mail debtors a private written notice setting out the name of the creditor to whom the debt is owed, the balance owing, the name of the collection agency, and the authority of the collection agency to demand payment of the debt. Collection agencies cannot call on the debtor, either by phone or in-person, before the sixth day after the mailing of the written notice. The *Collections Agencies Act* further prohibits collection agencies from:

- continuing to contact a debtor if they have not received the written notice; unless a second copy of the written notice is sent to an address provided by the debtor, and then contact may only be made six days after sending this second notice;
- contacting the debtor if the debtor sends a registered letter to the agency saying that they dispute the debt and suggest the matter be taken to court;
- contacting the debtor if the debtor or their lawyer notify the agency by registered mail to communicate only with the debtor's lawyer, and the debtor provides the lawyer's name, address and telephone number;
- contacting the debtor on Sunday, except between the hours of 1 p.m. and 5 p.m., and on a holiday;
- contacting the debtor other than by ordinary mail more than three times in a seven-day period without the debtor's consent, once the agency has actually spoken with the debtor;
- using threatening, profane, intimidating or coercive language, or using undue, excessive or unreasonable pressure;
- continuing to contact the debtor if the debtor has told the agency that they are not the person the agency is looking for, unless the agency takes reasonable precautions to ensure the person contacted is the debtor;
- giving false or misleading information to any person;
- recommending to a creditor that a legal action be commenced against the debtor without first sending the debtor notice;
- contacting the debtor's employer except on one occasion to obtain the debtor's employment information, unless the debtor's employer has guaranteed the debt,

- the call is in respect of a court order or wage assignment or if the debtor has provided written authorization to contact their employer;
- contacting the debtor's spouse, a member of the debtor's family or household, or a relative, neighbour or acquaintance except to obtain the debtor's address and telephone number unless the person contacted has guaranteed the debt or the debtor has given permission for the person to be contacted.

All collection agencies pursuing outstanding parking fines on behalf of the City of Toronto must, as per the City's contract, comply with all federal, provincial and municipal laws and regulations, including the *Collection Agencies Act*, and must use a goodwill approach in their collection efforts.

To further strengthen this concept of a goodwill approach and to further enhance the restrictions legislated under the *Collection Agencies Act*, staff recommend that in addition to the current contract requirements, future Requests for Proposal (RFPs) and contracts awarded to collection agencies for the collection of unpaid City of Toronto parking fines include appropriate wording/clauses to effectively require the agencies to adhere to the following additional terms:

- a) Collection agencies must not contact debtors prior to 9:00 a.m. or after 8:00 p.m. Monday through Friday;
- b) Collection agencies must not call debtors on Saturday, Sunday or on Statutory Holidays;
- c) Collection agencies must not use automated telephone diallers for parking fines older than five (5) years;
- d) Collection agencies must provide debtors with the City of Toronto's parking tag web-site and phone line number and the Ministry of Government Services' contact information (including phone number) in any correspondence sent to the debtor; and, when requested by the debtor;
- e) Collection agencies must document and forward to the City any and all complaints received by the collection agency within 72 hours of the complaint being made. The documentation must identify the debtor's name, telephone number, the nature of the complaint, and a detailed explanation of the resolution attempted or made; and,
- f) Where complaints are received and being investigated by the City, collection agencies must provide any information and documentation as requested by the City within 72 hours of such requests.

#### *Evaluation of Collection Tactics used by Canadian Bonded Credits Limited (CBCL)*

The April 18, 2007 communication from Councillor Moscoe includes a copy of an email (dated April 17, 2007) and requests staff to evaluate the specific collection tactics used by Canadian Bonded Credits Limited (CBCL) as outlined in the April 17, 2007 email.

The collection tactics employed by CBCL, and any of the collection agencies under contract with the City to pursue outstanding parking fines, must comply with the



requirements of the *Collections Agencies Act* and the terms and conditions outlined in the City's contract agreement with the collection agencies. If an agency is found to be in violation of any of these, action will be commenced against the firm up to and including termination of the contract.

While the public may negatively view the fact that the City continues to pursue outstanding parking fines dating back to 1989, the City does so given that this debt remains outstanding and not pursuing this collection may be viewed as irresponsible. Staff has continually reviewed the likelihood of collecting payments from these old fines, and year after year, the findings reveal that the City collects on average, \$500,000.00 annually for tags issued from 1989 through to 1995. The use of collection agencies in assisting to collect these older fines has proved successful in recovering payments owed.

Upon speaking with complainants who were contacted by collection agencies, staff observed that the primary concerns with the use of collection agencies was both the use of automated telephone diallers by some collection agencies along with the fact that the City was pursuing older fines, dating as far back as 1989. Calls are regularly placed to phone numbers that collection agencies determine are associated with the person they are attempting to locate; however, unless the person answers the phone the technology continues to make attempts to connect with a person. Consequently, persons not answering these calls do become frustrated. The difficulty presented under this scenario is that the person, by not answering the call, does not engage in a discussion to determine payment liability or seek further information about the nature of the debt. Given that the fines being pursued by Court Services relate to tickets issued prior to 1995, the Division has instructed its collection agencies to discontinue the use of automated dialling technology. The Revenue Services Division has not issued similar instructions to its collection agencies given that the fines being pursued are more recent and the Division currently only issues accounts to a collection agency if an individual has accumulated more than \$250 in outstanding parking fines.

One of the additional requirements being recommended by staff under the "Code of Conduct" section of this report is that collection agencies be prohibited from using automated telephone diallers for parking fines older than five (5) years.

#### *Summary of Cancellations and Withdrawals – 2006*

Although the City of Toronto's collection rate is one of the highest in Canada, approximately 18% of all parking tickets are not collected upon for a variety of reasons. In 2006, of the approximately 2.8 million tickets issued, 502,963 or 17.63% of these were cancelled (representing approximately \$15 million) for reasons including valid permits, incomplete tickets, parking equipment malfunctions, defective signage, special considerations (e.g. emergency situations, funerals).

Below is a link to the “Parking Ticket Activity – 2006” report (dated April 17, 2007). This report was received by Government Management Committee at its meeting of June 12, 2007.

<http://www.toronto.ca/legdocs/mmis/2007/gm/bgrd/backgroundfile-3977.pdf>).

## **CONTACTS**

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## **SIGNATURE**

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Cam Weldon  
Treasurer

## **ATTACHMENTS**

Appendix A: Response to Questions raised by Councillor Moscoe on the March 16, 2007 Briefing Note titled “Use of collection agencies to pursue outstanding parking fines”