

AUDITOR GENERAL'S REPORT

A Review of Municipal Licensing and Standards Division's Management of Business Licences

Part One: Licence Issuance, Inspection and Complaint Investigation Functions

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EXECUTIVE SUMMARY

MLS issues and manages licensing in the City

The City of Toronto, through the Municipal Licensing & Standards Division (MLS), is responsible for regulating a myriad of businesses operating within its jurisdiction. Authority to regulate these businesses is inherent in the *City of Toronto Act, 2006*, and the City of Toronto Municipal Code Chapters 545 and 546.

The purpose of licensing is to ensure public health and safety, consumer protection and nuisance control.

\$28.9 million in licence fee revenue

In 2016, the total revenue from licences and permit fees amounted to \$28.9 million.

MLS issued and renewed 87,813 licences in 2016. These included 54,802 mobile businesses (e.g. taxis, private transportation companies, limos, and food truck licences), 22,830 stationary businesses and 10,181 trade licences.

Audit focused on stationary licences

Stationary licences are issued to businesses with fixed addresses. There are 25 categories of stationary business licences (e.g. eating establishments, retail food stores, places of amusement, Personal Services Settings, and commercial parking lots). Most of our analyses were focused on stationary businesses.

The objective of this audit was to assess the effectiveness and efficiency of MLS's functions in licensing businesses, and enforcement of the By-law.

The audit covered the period from January 1, 2015, to December 31, 2016. In some cases, we extended our review to historical enforcement data before 2015.

Audit results are provided in 3 reports: MLS's licensing and enforcement, its regulation of holistic centres, and eating establishments potentially operating as unlicensed nightclubs

MLS approval process organized, and enforcement officers well-versed in By-law requirements

Some businesses were operating without a licence, even though some had prior MLS enforcement activities

Our audit results are provided in three audit reports:

Part One – the subject of this report, provides an overview of MLS's licensing and enforcement functions.

Part Two – focuses on MLS's licensing and enforcement activities regarding holistic centres.

Part Three – focuses on licensed eating establishments potentially operating as unlicensed nightclubs.

Areas where MLS does well:

MLS's licence application approval process is organized and consistently implemented. Staff ensure the licence application forms and other required documents are completed and submitted by applicants prior to issuing a new licence. They conduct clearance inspections where required.

We found that MLS staff and enforcement officers are, in general, well-versed in the By-law requirements.

The main findings of our audit are:

Licensing issues

We found some businesses are operating without a licence. Some had never applied for a licence and some had been licensed in the past but their licence had become delinquent or was cancelled. Of these businesses operating without a licence, MLS had inspected most of them due to numerous complaints, investigation requests, proactive inspections or summons dating back to 2013. Despite the MLS enforcement activities, some of the businesses continued to operate without a licence for some time.

Proactive inspections

In 2016, MLS licensing enforcement officers spent 9,925 hours to conduct 19,104 proactive inspections.

We reviewed the inspection history, as of August 2017, of three types of stationary business licences – eating establishments, retail stores (food), and Personal Services Settings (e.g. hair and nail salons).

30% had no MLS inspections for 3 years or more

We found that 30 per cent of these licensed businesses were not inspected over the last three years or more. In some cases, an eating establishment was inspected 10 times in a year, while another eating establishment was not inspected at all that same year.

No pre-determined inspection schedule

District officers decide which businesses to inspect and there is no schedule or protocol to help them make these decisions. There is no alert system or report to inform officers when a business has not been inspected for some time. According to management staff, the Licensing Enforcement Unit is currently undergoing a resource re-deployment project focusing on an "intelligence-based" team approach to improve the current process.

No inspection template or checklist

MLS does not have any template or checklist for proactive inspections. The only record of a proactive inspection (when no issue is noted) is an officer's self-reported statistical entries in MLS's system and the notes in the officer's memo books.

MLS's procedures require enforcement supervisors to routinely review system reports and compare information to officers' memo books for accuracy. This practice is not routinely done.

Investigation requests

Complaint response key performance indicators are set but cannot be measured

Most investigation requests (70 per cent) about businesses come to MLS as public complaints. The remaining 30 per cent come from various sources including MLS staff and external enforcement agencies. MLS procedures lay out the timelines for responding to complaints, informing the complainant of the outcome of the investigation, and submitting paperwork about the investigation to supervisors. However, officers are not required to enter key dates into the MLS system, therefore it is not possible to know whether MLS meets these timelines.

Average 53 days to close an investigation request

Our analysis of the Investigation Request (IR) data found that it took, on average, 53.6 days to close an IR, ranging from 0 days to as long as 627 days. Approximately 48 per cent (1,731 out of 3,576) of IRs were closed within 30 days; 52 per cent took longer than 30 days.

35% were closed for lack of evidence or no infraction

About 40 per cent of investigation requests were resolved through issuing written notices, 35 per cent were closed for insufficient evidence or no bylaw infraction, and 17 per cent resulted in laying charges.

Significant variation in hours spent on the same type of complaint with the same outcome

Officers took on average 2.3 hours to work on a complaint. Some officers took half an hour to investigate a complaint and closed it for "no Bylaw infraction", while other officers took six hours to investigate the same type of complaint and closed it with the same reason. We recognize that there are reasons for different investigation lengths.

The Central District received many more complaints than the other two Districts – 2,167 for Central, 613 for East, and 1,053 for West. Each Central District officer investigated, on average, 168 complaints per year, which is double the average of the other two District offices. Management staff recently advised us that they have deployed more staff to the Central Office.

Tickets and summons

Fines totalled \$0.4 million in revenue

In 2016, MLS officers issued 1,111 tickets and 2,330 summons. The fines associated with these tickets and summons totalled \$455,870, according to the licensing database.

Significant differences among officers in the number of tickets and summons issued

The number of tickets and summons issued by officers varied significantly in 2015 and 2016, from one to 252 tickets per officer, and one to 829 summons per officer over the two years. Overall, 33 per cent of all tickets and summons were issued by five officers, out of a total of 38 officers.

Again, we recognize that there could be valid reasons for the differences, but management should review staff work assignments and determine if they should make any adjustments. Management staff advised us that they will focus on even distribution of work and monitoring of performance under the new resource redeployment project.

Licence Fees

By-law 545 prescribes the initial issuance and annual renewal of licence fees to be charged for each type of licence.

The majority of licence fees have not been changed since 2005

MLS has not revised application and renewal fees for the majority of licences since 2005, except for inflation adjustments. It is possible that the current fees are not recovering the full costs of the licensing and enforcement program.

The City introduced the user fee policy in 2011 requiring divisions to undertake a periodic comprehensive user fee review. MLS staff advised that it had retained a consultant to conduct an in-depth review of the current licensing fees framework.

Conclusion

7 recommendations to help improve management of licensing and enforcement functions

In this audit report, we make seven recommendations pertaining to the key licensing functions – licence issuance, inspections of licensed businesses, complaint investigations, and licence fees. We believe that the implementation of these recommendations will help the Division to better manage business licences and ensure compliance with the By-law requirements.

BACKGROUND

MLS issues and manages licensing in the City

The City of Toronto, through the Municipal Licensing & Standards Division, is responsible for regulating a myriad of businesses operating within its jurisdiction. Authority to regulate these businesses is inherent in the *City of Toronto Act, 2006*, and the City of Toronto Municipal Code Chapters 545 and 546.

The Auditor General's 2016 Audit Work Plan included a review of the City's licensing and enforcement operations administered by the MLS.

Audit objective

The objective of our audit was to assess the effectiveness and efficiency of MLS's functions in licensing businesses, and enforcement of the By-law.

Our audit results are provided in three audit reports:

Audit results are provided in 3 reports: MLS's licensing and enforcement, its regulation of holistic centres, and eating establishments potentially operating as unlicensed nightclubs

Part One – the focus of this report, provides an overview of MLS's licensing and enforcement functions.

Part Two – focuses on MLS's licensing and enforcement activities regarding holistic centres.

Part Three – focuses on licensed eating establishments potentially operating as unlicensed nightclubs.

Our audit covered the period from January 1, 2015, to December 31, 2016. In some cases, we reviewed enforcement data prior to 2015.

***City of Toronto Act, 2006*, authorizes the City to licence various businesses, trades and occupations**

The *City of Toronto Act, 2006*, Section 86, gives the City the ability to regulate various business activities, trades, occupations within the City of Toronto. The Act grants the City the power to prohibit the carrying on or engaging in the business without a licence, refuse or grant a business licence, or impose conditions for operating a business.

Municipal Code Chapters 545 and 546 regulate the licensing of mobile, stationary, and trades businesses for the purpose of ensuring public health and safety, consumer protection and nuisance control.

Two Units within MLS are responsible for licence issuance and enforcement functions:

56 staff for licence issuance and renewal

- The Business Licensing and Regulatory Services Unit, consisting of 56 full-time staff, is primarily responsible for issuing new licences and renewing business and trade licences, permits, and related business licensing functions.

43 officers for inspection and enforcement of business licences

- The Licensing Enforcement Unit (a part of the By-law Enforcement Unit), consisting of 40 full-time front-line enforcement officers and three supervisors, is responsible for various inspection and enforcement activities relating to licensing and permitting requirements under various bylaws.

The Licensing Enforcement Unit is further divided into East, Central and West Districts.

Over 87,000 new and renewed licences in 2016

In 2016, MLS issued and renewed 87,813 business licences which included 54,802 mobile licences, 22,830 stationary licences, and 10,181 trade licences.

Stationary businesses are those that operate from fixed business addresses, such as eating establishments and food retail stores. Whereas mobile licences include businesses that are not operating from one specific location, such as vehicle-for-hire (taxi) drivers and food trucks.

Trade licences include building renovators, master plumbers, and drain contractors, etc.

Table 1 shows some of the most common types of stationary licences issued in 2016:

Table 1: Most Common Stationary Licences Issued in 2016

Type	Total
Eating Establishment (e.g. restaurant/café)	7,938
Retail Store (Food)	5,852
Public Garage	3,014
Personal Services Settings (e.g. nail/hair salon)	2,914
Laundry	645
Commercial Parking Lot	458
Holistic Centres	410

The revenue from licence and permit fees amounted to \$28.9 million in 2016.

AUDIT RESULTS

This section of the report contains the findings from our audit work followed by specific recommendations.

Areas where MLS does well:

MLS's licence application approval process is organized and consistently implemented

Based on a review of a sample of licensing files, MLS's licence application approval process is organized and consistently implemented. Staff ensure the licence application forms and other required documents are completed and submitted by the applicants prior to issuing new licences.

When approving new licence applications, MLS officers conduct clearance inspections for certain types of businesses to ensure all licensing requirements are met. The clearance inspection results are recorded in standardized forms and kept on file.

We found that MLS staff and enforcement officers were, in general, well-versed in the By-law requirements.

A. ISSUANCE OF BUSINESS LICENCES

By-law 545 specifies which types of business are required to obtain a business licence from MLS. The By-law sets out varying provisions dependent upon the nature of the business, e.g. a public garage vs. eating establishment requirements. A key role of MLS is to ensure businesses operating in the City are issued the appropriate business licences in compliance with the By-law.

Each type of business licence comes with a specified licensing fee prescribed in the By-law. For example, the annual licensing fee for an eating establishment (i.e. restaurant) is \$481, whereas the fee for a nightclub is \$468. It costs \$355 to obtain a licence for Personal Services Settings (PSS) (e.g. hair salons, nail salons), compared to \$270 for a holistic centre.

Certain licences require significantly higher licensing fees. For example, an adult entertainment club would pay \$13,187 for the licensing fee and \$12,745 annually for renewals. Similarly, a body-rub parlour is required to pay \$13,102 for licensing and \$12,660 annually for renewal.

All stationary business licences are subject to Zoning By-law provisions and are verified through Toronto Building. In addition, certain business licences such as nightclubs and body-rub parlours are subject to specific zoning restrictions.

A.1. Businesses Operating Without Valid Licences

To assess whether there were businesses operating in Toronto without valid licences, we conducted internet searches using a variety of keywords such as "new restaurants" or "restaurants reviews", and matched the results to MLS's licensing database. The majority of businesses we searched were licensed by MLS. However, we noted a small number had no valid licences.

18 unlicensed businesses found through internet searches and review of MLS database

Based on simple searches of websites, event calendars, and recent customer reviews, and a comparison with MLS's records, we identified 18 businesses that, based on their advertised information and customer reviews, would suggest that they were operating businesses subject to By-law 545 licensing requirements. But these 18 businesses did not have valid or up-to-date business licences. They include:

- 4 Eating establishments
- 4 Nightclubs
- 4 Public halls
- 6 Holistic centres/Personal Service Settings¹

13 never applied for licence

Of these 18 premises, 13 premises never applied for licences, and five premises were previously licensed but their licences had become delinquent/cancelled.

11 had been visited by MLS officers

When we checked MLS enforcement history, we noted that 11 of the 18 unlicensed businesses had MLS enforcement records, including numerous complaint investigations, proactive inspections, and charges dated as early as 2013.

Below is the enforcement history of two of the 11 premises as examples:

An eating establishment never renewed its licence despite multiple MLS visits

Eating Establishments Operated Without Licence for 2 Years

In one case, an eating establishment was previously licensed but never renewed their licence once it expired in 2015.

MLS enforcement staff made four visits in 2016 to verify if the place was operating. The owner was cautioned in July 2017 for operating without licence with a note on file that further follow-up required. As of September 2017, the business continued to operate without a licence.

¹ Six businesses are either a holistic centre or a nail salon/spa, or a combination of both.

Another eating establishment had 14 MLS visits in 2016

In another case, MLS received two investigation requests from the public for an eating establishment operating without a licence in 2016.

MLS enforcement staff conducted 14 follow-up visits to the business in 2016.

In May 2016, a Notice of Violation (NOV) was issued for operating without a licence and the business was given 15 days to comply.

In March 2017, the NOV was closed after 10 months with a note that the business complied. However, in September when we checked the MLS records, the business continued to be unlicensed. There is insufficient information in MLS's system to determine the reasons why the NOV was closed and how exactly the business complied when it still continued to be unlicensed.

A.2. Inspected Unlicensed Businesses May Continue Operating Without Licence

When officers inspected the unlicensed businesses, records show only 43% of them subsequently acquired licences

According to MLS data, in 2015 and 2016, MLS enforcement officers inspected 929 unlicensed stationary businesses, of which 399 (or 43 per cent) have subsequently acquired licences.

Of the remaining 530 (57 per cent) businesses without subsequent records of licence, there is limited information in many of these cases in the MLS system. As well, the limited system information is not in the form that can be readily analyzed to confirm whether the businesses are still active.

There is no Standard Operating Procedure (SOP) specifically on follow-up process of unlicensed stationary businesses. As a result, officers may not follow-up on the unlicensed businesses in a consistent manner, or update the MLS system accordingly.

Potential loss of revenue from unlicensed businesses despite MLS inspections

In addition to being non-compliant with the By-law, unlicensed businesses might have continued to operate and thus resulted in a potential loss of annual licensing fees.

In our view, a review of the existing legal framework and By-law provisions relating to unlicensed businesses is needed to identify ways that the Division can more effectively ensure compliance with the By-law requirements.

Recommendation:

- 1. City Council request the Executive Director, Municipal Licensing and Standards Division, in consultation with the City Solicitor, to review the By-law provisions, related enforcement framework, and the Division's Standard Operating Procedures pertaining to unlicensed businesses, with a view to strengthening the City's efforts to ensure compliance with licensing requirements.**

B. PROACTIVE INSPECTIONS

MLS's Licensing Enforcement Unit conducts two types of enforcement activities on the road: proactive inspections and investigations.

Proactive inspections, as the name suggests, are done proactively by enforcement staff while they are in the district.

Investigations are conducted in response to requests for service received from the public or other sources.

When conducting a proactive inspection, an enforcement officer is required to verify that the premises complies with all the By-law requirements.

There are 44 different licence classes, each with specific requirements as prescribed in the By-law.

Enforcement officers need to be knowledgeable about the By-laws requirements, and maintain proper documentation of proactive inspections.

B.1. A Considerable Percentage of Businesses Had No Inspection for Over Three Years

Average proactive inspection takes less than 30 minutes

In 2016, MLS licensing enforcement officers spent 9,925 hours to conduct 19,104 proactive inspections.

On average, it took less than half an hour to conduct a proactive inspection, including travel time.

30% of certain businesses had no proactive inspections or investigations for 3 years or longer

We reviewed the inspection history, as of August 2017, of four types of stationary business licences – eating establishments, retail stores (food), Personal Services Settings (PSS), and holistic centres.

We found about 30 per cent of the eating establishments, retail food stores, and PSS's had no MLS proactive inspection or investigation over the past three years or more. In comparison, holistic centres were much more frequently inspected with all of them having received at least one MLS inspection in the past three years.

Table 2 outlines our analysis results of uninspected licensed businesses.

Table 2: Number of Active Stationary Licences Uninspected for Three or More Years as of August 2017

Licence Type	Number of Uninspected Licences	Total Number of Licences	Percentage of Uninspected Licences
Eating Establishment	2,411	7,949	30%
Retail Store (Food)	1,793	5,934	30%
Personal Services Setting	970	3,041	32%

Some had 10 inspections while others had none in the same year

We also observed that inspection frequency varied within the same licensing class. For instance, some eating establishments had more than 10 proactive inspections within a year while another eating establishment within the same district had no inspection at all in the same year.

There could be valid reasons for the marked difference in proactive inspection frequency among licenced businesses. However, it is important that management staff undertake periodic reviews of proactive inspection records to identify anomalies or concerns for further follow-up.

B.2. No Requirement for Inspection Frequency or Interval

District officers decide when and how often to inspect

No system report to alert officers about businesses that haven't had an inspection

MLS has no prescribed inspection frequency (e.g. at least one inspection per year) for different licences. District officers decide when and how often they should inspect businesses. There is also no system report to alert district officers of licensed businesses that have not been inspected for a period of time.

Management explained that district officers are familiar with the business activities within their districts to know how best to allocate their inspection time.

Senior management explained that priority response will continue to be with service requests, including public complaints. According to management, they are currently introducing an intelligence-based team approach to service requests and proactive inspections as part of the current resource redeployment project.

B.3. Documentation of Proactive Inspections is Limited to Officers' Own Memo Books

Clearance inspection results for new licence applications are recorded in standardized forms

When approving new licence applications, MLS officers conduct clearance inspections for certain types of businesses to ensure all licensing requirements are met. The clearance inspection results are recorded in standardized forms and kept on file.

In conducting proactive inspections, MLS officers issue formal documents - Notice of Violation (NOV), Infraction Notice, Certificate of Offence, or Summons to Defendant, depending on the nature of the issue.

Proactive inspections do not require officers to complete any inspection form

However, when no infraction or concern is noted during a proactive inspection, MLS does not require officers to provide any form of inspection records to the operators.

MLS does not have any template or checklist for proactive inspections. The only record of a proactive inspection (when no issue is noted) is an officers' self-reported statistical entries in MLS's system and the notes in the officer's memo books.

Without any formal documentation of inspection results on a template/checklist, other than officers' memo books, it is difficult to assess whether the officers conduct the inspections in a consistent manner. There is also no means to ensure officers have inspected all of the relevant By-law requirements during the inspection. Management does not have an efficient means of identifying inconsistencies in officers' self-reported records in their memo books.

MLS procedures require enforcement supervisors to routinely review system reports and compare information to officers' memo books for accuracy. Licensing Enforcement Procedure #8 states that:

"... statistics are automatically reported to Supervisors and MSO's [Municipal Standards Officers] on Tuesday mornings of each week via an auto report from the Licensing System. Supervisors will routinely review these reports and compare information to a MSO's memo note books for accuracy..."

Required supervisory review process is not carried out

We inquired about the process to implement this procedure. None of the three District Offices actually compared or maintained records of statistical entry reviews. The memo books were not routinely reviewed by supervisors to verify the statistical entries.

Recommendation:

- 2. City Council request the Executive Director, Municipal Licensing and Standards Division, to review and improve the effectiveness and efficiency of the existing proactive inspection process. Steps to be considered should include:**
 - a. Develop and implement proactive inspection frequency by the type of business licences based on risks and enforcement history.**
 - b. Ensure adequate supporting documentation on proactive inspections is retained to ensure the inspections are conducted in a consistent and equitable manner to all licensees and for quality assurance monitoring purposes.**

C. INVESTIGATION REQUESTS AND COMPLAINTS

Investigation requests include public complaints and requests for investigations from other sources

When a public complaint is received, it is assigned to an enforcement officer in the form of an investigation request.² Investigation requests can also be made by MLS internal staff, MLS officers who request follow-up action after their proactive inspections, councillors' requests, or requests by Toronto Public Health and other agencies.

An enforcement officer is required to record all relevant information such as date and time the request was received on an investigation information sheet.

Table 3 provides a breakdown of investigations by source for the years 2015 and 2016.

70% of all investigations were in response to complaints from the public

- Approximately 70 per cent of investigation requests were in response to public complaints.
- 16 per cent of all investigations are generated by MLS staff through referrals from the licence issuing office, proactive inspections and other MLS staff.

² The term 'investigation request' by MLS includes complaints and requests for an investigation. We use these two terms, investigation request and complaint, interchangeably.

Table 3: MLS Investigation Requests by Source, 2015 and 2016

Source	Number of Investigation Requests			
	2015	Percentage	2016	Percentage
Complaints from the Public	2,806	68%	2,751	72%
MLS Staff	631	15%	617	16%
External Enforcement Agencies	196	5%	171	4%
Toronto Public Health	180	4%	132	3%
Councillors	107	3%	92	2%
Others	213	5%	70	2%
Total	4,133	100%	3,833	100%

Complaints Relating to Stationary Businesses

There are many different types of complaints received by MLS. To analyze the types of complaints, we focused on stationary business licences (excluding the mobile and trade licences). Table 4 outlines the three most common types of complaints for licensed stationary businesses such as eating establishments, food stores, and Personal Services Settings.

Table 4: The Most Common Complaints and Investigations, Licensed Stationary Businesses, 2015 and 2016

Type of Complaint	Number of Investigations		
	2015	2016	Total
Noise Complaints	659	601	1,260
Eating Establishments Operating without Licence	247	266	513
Non-compliance with Licence Requirements	64	187	251

Noise complaints were the most common

Noise complaints are the most common type of complaint received by MLS's Licensing Enforcement. Of the 3,576 complaints against stationary businesses in 2015 and 2016, 35 per cent (1,260 out of 3,576) were noise-related. Furthermore, approximately 77 per cent (or 969) of the noise complaints were against eating establishments.

Table 5 lists the types of stationary businesses with the most common complaints. Over 60 per cent of all the complaints or Investigation Requests were for five types of stationary business licences.

Table 5: Stationary Businesses with the Most Complaints or Investigations

Businesses with Most Complaints / Investigations	Number of Complaints/ Investigations		
	2015	2016	Total
Eating Establishment	894	831	1,725
Public Garage	160	163	323
Retail Store (Food)	145	161	306
Personal Services Settings	124	128	252
Entertainment Establishment/ Nightclubs	99	91	190

C.1. Lack of Systematic Tracking of Performance Standards for Complaint Response

Compliant response KPIs are stated in MLS procedures

MLS procedures and performance standards require that:

- All public complaints be followed up within two days of an investigation being assigned to an officer
- Inform the complainant of the outcome of the investigation within five business days of the closing of the investigation
- Submit the complaint paperwork to supervisor for review within seven business days of the closing of the investigation

Staff are not required to enter the data

Despite the above Key Performance Indicators (KPIs), staff are not required to enter the key dates (date of assignment, date of contact regarding outcome, date of paperwork submission) into the licensing database.

KPIs cannot be measured

It is difficult for MLS to systematically track or analyze whether KPI targets are met, nor can MLS ensure timely complaint response and investigation.

In addition, none of the current KPIs measure the response time from the time a complaint is received. A KPI measuring from complaint receipt to completion would be a useful performance measure for customer service.

C.2. Complaint Disposition Time

The following analysis is based on stationary licences.

Responded to about 1,800 IRs per year

In 2015 and 2016, Licensing Enforcement investigated and closed 3,576 Investigation Requests (IRs) pertaining to stationary licences, averaging approximately 1,788 per year.

During our audit, supervisory Enforcement staff informed us that MLS has a target of 30 days to close an IR. However, we could not find any documented target in MLS policies or procedures.

MLS management staff informed us that Licensing Enforcement is currently reviewing all standard operating procedures including case resolution target periods.

Average 53 days to close an IR

Our analysis of the IR/complaint data found that it took, on average, 53.6 days to close an IR, ranging from 0 days to as long as 627 days.

52% of IRs took longer than 30 days to close

Approximately 48 per cent (1,731 out of 3,576) of IRs were closed within 30 days; 52 per cent took longer than 30 days.

35% closed for lack of evidence/no By-law infraction

Nearly 35 per cent of the complaints were closed for lack of evidence or no By-law infraction. Table 6 below provides a breakdown of the complaints by outcomes (dispositions).

Table 6: Number of Investigations Against Stationary Businesses by Dispositions, 2015-2016

Disposition/Outcome	Number of Investigations			
	2015	Percentage	2016	Percentage
Resolved through Notice of Violation or By-law Advisory	717	40%	674	38%
No By-Law Infraction or insufficient evidence	616	34%	649	36%
Charges Issued	301	17%	296	17%
Referred To Appropriate Authority or the Tribunal	92	5%	119	7%
Investigation Request Withdrawn / Delays	57	3%	34	2%
Other Dispositions	14	1%	7	0%
Total	1,797	100%	1,779	100%

C.3. Investigation Hours Varied Significantly

We understand each investigation request is different and may take varying hours to complete depending on many factors including the nature and the complexity of the case.

In our analysis of investigation hours, we noted certain unusual patterns. We provide our analysis results in the hope that they will assist management in monitoring investigation time spent by officers.

According to management, the unusual patterns we observed could be due to inaccurate time entries as a result of the limitations with the existing IT system. Management also indicated that they are in the process of acquiring a new case management system that will significantly improve efficiency and monitoring. MLS is in the process of finalizing an RFP with an approved capital budget of approximately \$13 million to replace MLS systems.

\$13 million capital budget approved for new MLS systems

Our analysis results are provided below:

53% of IRs took less than 2 hours to investigate

Approximately 53 per cent of IRs were closed after less than two hours of work by officers. Each investigation on average took 2.3 hours of officer time.

Councillors' complaints appeared to take more hours to investigate

Investigation requests initiated by City Councillors appear to take a longer time to investigate, taking an average of 3.2 hours of officer time to complete, whereas IRs from other sources were completed within the average 2.3 hours.

According to management, complaints from Councillors are more likely in response to escalated community issues, which are frequently more complex and take more time to resolve.

We observed that in some cases, investigation hours varied significantly among individual complaints, even if they were for the same type of complaint and resulted in the same action/outcome.

Some officers recorded 0.5 hours, some recorded 6 hours for the same type of complaint and same disposition: "no By-law infraction"

For example, we compared the investigation hours recorded by officers for an investigation of a nightclub operating without a licence, and disposed of the complaint as "no By-law infraction". We found that some MLS officers recorded less than half an hour while others recorded up to six hours to investigate this type of complaint with the same outcome.

0.5 hours vs. 7.5 hours for same type of complaint with same conclusion: "insufficient evidence"

In another example, to investigate complaints of "building renovators with no licence" and to dispose of the complaint due to "insufficient evidence", some officers took less than half an hour while others took 7.5 hours.

We understand each investigation is different and the amount of time to resolve a complaint will vary from case to case.

Nonetheless, to ensure efficient complaint response, MLS should consider developing internal processes to periodically assess staff time spent by type of investigation. This is not to say that any time a case exceeds a certain timeframe is problematic, but where repeated and significant exceptions are noted, management can follow-up on these cases and assess the particular reasons.

Recommendation:

- 3. City Council request the Executive Director, Municipal Licensing and Standards Division, to review and enhance the timeliness and efficiency of the complaint investigation process. Steps to be considered should include but not be limited to:**
 - a. Capture the necessary milestone dates in the licensing database to enable monitoring of performance measures.**
 - b. Establish performance measures to track and monitor the efficiency of complaints handling and investigation processes.**
 - c. Develop internal processes to periodically review staff time spent by type of investigation to ensure efficient use of staff resources.**

D. SIGNIFICANT DIFFERENCES IN WORK DISTRIBUTION BETWEEN OFFICERS

Number of investigations by officers

The Licensing Enforcement Unit comprises of three District Offices: Centre, East, and West. The 43-person Unit (40 front-line and three supervisors) investigated 7,966 complaints in 2015 and 2016, averaging about 4,000 per year.

Central District received many more complaints than the other two Districts

In 2016, the Central District received significantly more complaints and investigation requests than the other two Districts – 2,167 (Central), 613 (East), and 1,053 (West).

Table 7 provides a breakdown of investigations by District Office and by source for 2016 data.

Of the 1,761 public complaints to the Central District, 482 (27 per cent) were noise-related.

Table 7: Breakdown of Investigations by Districts and Source 2016

Source	Number of Investigation Requests			
	Central	East	West	Total
Complaints from the Public	1,761	362	685	2,808
MLS Staff	260	170	187	617
External Enforcement Agencies	63	28	80	171
Toronto Public Health	41	23	68	132
Councillors	42	24	26	92
Others	0	6	7	13
Total	2,167 (56%)	613 (16%)	1053 (27%)	3,833 (100%)

Average number of investigations by each Central officer doubled the other two Districts

The average number of investigations per front-line officer per year varied significantly among the three Districts, with the Central district conducting on average 168 investigations per year, which is more than double the average of the other two Districts. The number of enforcement staff in the Central and West districts was almost identical, with Central having 13 active full-time front-line Enforcement Officers and 14 for the West at the time.

Table 8 below outlines the number of officers and average number of investigations per front-line enforcement officer by District Office.

Table 8 Number of Officers and Average Number of Investigations per Front-line Enforcement Officer by District Office

District Office	2015	2016	Total	Number of Licensing Enforcement Officers*	Average Number of Investigations per Officer per Year
Central	2,200	2,167	4,367	13	168
East	801	613	1,414	11	64
West	1,132	1,053	2,185	14	78
Total	4,133	3,833	7,966	38	105

**Includes active full-time equivalent of frontline enforcement staff as of April 2017*

The number of investigations conducted by officers varied significantly. While the average number of investigations per officer is 105 per year, five officers each investigated about 400 cases per year.

According to management, more staff have recently been deployed to the Central district office.

Number of charges issued by officers

MLS By-law enforcement officers can issue Provincial Offence notices (or charges) for various Municipal By-law violations under the Provincial Offences Act.

Municipal bylaw offences are non-criminal offences such as those relating to noise, animal care, business licensing and permitting.

There are three different types of Provincial Offence notices:

Part I – a ticket that is issued to an individual/company

Part II – a parking infraction

Part III – a summons (including court date)

In general, Part III are typically issued for more serious offences and a fine may only be decided by the court. Officers can issue the Part I offence notice that has a set fine amount that can be paid voluntarily in lieu of attending court. The fine amount is set by the Regional Justice of Peace.

We reviewed the 2015-2016 offence notices for Licensing Enforcement. Over the two years, officers issued 2,633 Part I tickets with fines totalling \$348,967 and 4,837 Part III summons with fines totalling \$648,805.

Table 9 provides further details on the charges in 2015 and 2016.

Table 9: Summary of Tickets, Summons and Fines - 2015 & 2016

	2015	2016	Total
Tickets (Part I)	1,522	1,111	2,633
Summons (Part III)	2,507	2,330	4,837
Fines (Part I & III)	\$541,902	\$455,870	\$997,772

Significant variations in number of charges by officers

Each officer on average issued 64 summons and 35 tickets per year. The number of tickets issued by officers varied significantly ranging from 1 to 252 per front-line officer over the two years. The number of summons issued per front-line officer ranged from 1 to 829, over the two years.

A breakdown of charges issued by District Office is provided in Table 10.

Table 10: Number of Summons and Tickets Issued by District Offices

District Office	2015	2016	Total two years	Number of Licensing Enforcement Officers*	Average Number of Summons and Tickets per Officer per year
Central	1,589	1,420	3,009	13	116
East	1,519	918	2,437	11	111
West	921	1,103	2,024	14	72
Total	4,029	3,441	7,470	38	98

**Includes active full-time equivalent of frontline enforcement staff as of April 2017*

One third of all charges were laid by five enforcement officers

The West District issued the least number of summons and tickets per officer when compared with the Central and East offices.

Across all three districts, five officers issued one third of all tickets and summons in 2015 and 2016, ranging from 300 to 900 tickets and summons each. And almost half of all tickets issued in the entire West District were issued by a single officer.

There could be valid reasons for the marked differences in the number of charges issued among staff. However, management should review the work distribution and charges issued by staff to improve work efficiency and to ensure fair and equitable administration of the By-law.

Recommendation:

- 4. City Council request the Executive Director, Municipal Licensing and Standards Division, to review the number of business licence investigations and charges among the three District Offices and among officers to identify ways to improve efficiency.**

E. INEFFICIENT INFORMATION SYSTEM

MLS uses an antiquated information system to track its enforcement activities including complaints information, investigation records, proactive inspections, and the disposition of court cases and tribunal hearings.

Limited functionalities of the information system

The information system was originally designed for licence issuance and not for tracking enforcement activities. It has numerous shortcomings with limited functionalities.

During the audit, we made extensive use of the information system and encountered difficulties in analyzing the data as the information was often incomplete or difficult to understand.

Incomplete information in the system

The notes and memos entered by enforcement officers often lacked sufficient details about their enforcement activities. When enforcement officers recorded their enforcement activities such as proactive inspections, investigations, and issuing notice of violations, there was often no corresponding notes to explain these actions. The more detailed notes were recorded in their memo books or investigation files but were not always transferred to the system. As a result, in many cases, we were not able to determine what actions were taken by the enforcement officers during their investigation or inspection visits.

Recognizing the need to have an efficient and modern system, MLS management has requested and received capital budget approval for a new system. Staff are currently in the process of procuring a new case management system.

Repeated manual data entry process

During the audit, we observed that officers needed to manually record their inspection results in their memo books in the field, and then enter the date, locations of the businesses visited, and activity code into the MLS system.

For investigations, officers need to complete investigation logs when back in the office, in addition to the above process. The investigation disposition information is also entered into the MLS system.

Management has taken steps to improve the efficiency of the process by providing officers with a mobile application on their work phones.

A mobile application was introduced to improve work efficiency

The purpose of the mobile application is to allow officers to look up licence status while on site. This is expected to improve work efficiency by allowing officers to easily obtain real-time information on licence status and enforcement history while on site.

Use rate has been low

This mobile application has not been widely used by officers. MLS has started tracking the usage of the mobile application since February 2017.

The average number of log-ins is 38 times per officer for nearly 10 weeks (the period which data is available from February 23, 2017, through to May 3, 2017). According to staff, the application itself is not user-friendly and is limited in what information it can provide.

The Auditor General's 2012 report entitled 'Investigation Services Unit – Efficiencies Through Enhanced Oversight' highlighted the importance of the use of technology to support MLS's operations. This is equally important today for the Licensing Enforcement Unit.

Recommendation:

5. City Council request the Executive Director, Municipal Licensing and Standards Division, in developing system requirements for a new case management system for business licences, to consider and incorporate the need for providing efficient and user-friendly mobile devices to officers to improve the efficiency of recording inspection and investigation results while on site.

F. LICENSING FEES

Fees for most licences have not been revised since 2005

By-law 545 prescribes the initial issuance and annual renewal of licence fees to be charged for each type of licence.

For the majority of licences, MLS has not revised its application and renewal fees since 2005, except for annual inflation adjustments. It is possible that the current fees for some licences are not recovering the full costs of the licensing and enforcement program.

City introduced User Fee Policy in 2011

The City introduced the User Fee Policy in 2011 requiring divisions to undertake a comprehensive user fee review. The policy requires a periodic review and updates of user fees based on factors such as inflation, other cost increases, service level changes and delivery methods, and the need to ensure that user fee revenue does not exceed the cost of providing the respective services.

MLS staff advised that it had retained a consultant to conduct an in-depth review of the current licensing fees framework.

Recommendation:

6. City Council request the Executive Director, Municipal Licensing and Standards Division, to expedite the licence fee review process to ensure compliance with the City's User Fee Policy.

G. A Comprehensive Review of MLS's Management of Business Licences

City appointed its new Chief Transformation Officer in 2017

In May 2017, the City appointed its first-ever Chief Transformation Officer (CTO). This newly created position is intended to assist the City in finding new, more effective and efficient ways of delivering services and implementing streamlined processes.

168 directives outstanding

Throughout our audit, we recognize that MLS is faced with a large array of complex issues. In its Committee Work Plan for 2017 and 2018, MLS reported that it has received 235 directives from the Licensing and Standards Committee and City Council since 2011, and 168 directives remain outstanding.

Legal and operational challenges

In addition to the legal and operational challenges it faces in day-to-day operations and enforcement activities, the Division needs to coordinate with other City divisions such as City Planning, Toronto Building, Fire Services, and Public Health in many aspects of its operations.

Emerging issues from new technologies

Recent technology advances also present new challenges to the Division including the need to develop new sets of regulatory bylaws for Vehicles-For-Hire and short-term rentals.

Aging technology platforms

MLS's core technology platforms have reached end of life and require significant investment in order to maintain current processes and levels of service. Opportunities may exist to leverage alternative technologies to accelerate a transformation.

City-wide collaboration opportunities

MLS is already working with the CTO to identify areas where MLS can collaborate with other City Divisions in delivering inspections and enforcement activities.

Leveraging the experience and expertise of the City's new CTO

MLS can leverage the vast experience and expertise of the City's new CTO in business transformation. We have consulted the CTO and the City Manager on the involvement of the CTO in a comprehensive review of MLS's existing business model, service delivery processes, risk management model, potential collaborations with other divisions and information technology support for its business licensing program. Both believe that this will be beneficial to the City as it will help to break up the silos between City services as well as ensure the program is risk-based, and makes good use of modern technologies.

Recommendation:

- 7. City Council request the Chief Transformation Officer to consider including in his 2018 work plan a comprehensive review of Municipal Licensing and Standards Division's business license program, in the context of the City's overall inspections and enforcement activities.**

CONCLUSION

MLS is responsible for licensing and inspecting a variety of businesses and trades in the City. The purpose of licensing is to ensure public health and safety, consumer protection and nuisance control.

This is the Auditor General's first audit of MLS's licensing functions. This Part One report contains our findings pertaining to the overall licensing and enforcement program.

7 recommendations to help improve management of licensing and enforcement functions

In this audit report, we make seven recommendations pertaining to the key licensing functions – licence issuance, inspections of licensed businesses, complaint investigations, and licence fees. The implementation of these recommendations will help the Division to better manage business licences and ensure compliance with the By-law requirements.

AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

The Auditor General's 2016 Audit Work Plan included a review of the City's licensing and enforcement operations administered by the Municipal Licensing & Standards Division (MLS).

The objective of this audit was to assess the effectiveness and efficiency of business licensing as well as By-law enforcement operations.

This audit covered the period from January 1, 2015, to December 31, 2016.

Our audit methodology included the following:

- A review of relevant legislation and bylaws
- Interviews with key personnel to obtain their perspectives
- A review of available written policies and procedures
- A review of prior audit reports
- Testing of administering controls to determine if they are in accordance with the division's policies and procedures
- A review of relevant Committee and Council minutes and reports
- Site visits
- An examination of documents and records
- An evaluation of management controls and practices

Compliance with generally accepted government auditing standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX 1: Management’s Response to the Auditor General’s Report Entitled: “A Review of Municipal Licensing and Standards Division’s Management of Business Licences – Part One: Licence Issuance, Inspection and Complaint Investigation Functions”

Recommendation 1: City Council request the Executive Director, Municipal Licensing and Standards Division, in consultation with the City Solicitor, to review the By-law provisions, related enforcement framework, and the Division's Standard Operating Procedures, pertaining to unlicensed businesses with a view to strengthen the City's efforts to ensure compliance with licensing requirements.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

ML&S has identified a phased review of TMC Chapter 545, Licensing, in addition to the ongoing Article specific bylaw reviews that form the Policy work plan. Each of these reviews is focused on relevance and enforceability of the bylaw, including ensuring that all authorized enforcement mechanisms are utilized. ML&S will continue to advance matters to seek injunctive relief related to unlicensed or unlawful businesses through the Ontario Superior Court of Justice, utilizing the authority of the City of Toronto Act provisions, as is appropriate.

In respect to the Divisions' operating procedures, ML&S agrees with the importance of ensuring updated and relevant procedures are provided to staff.

Actions:

- 1) ML&S ensure that all bylaw reviews, including that of Chapter 545, include provisions which assist with compliance and enforceability.
- 2) ML&S is undertaking reviews of all applicable standard operating procedures and performance metrics.

Timeline: Underway and ongoing

Recommendation 2: City Council request the Executive Director, Municipal Licensing and Standards Division, to review and improve the effectiveness and efficiency of the existing proactive inspection process. Steps to be considered should include:

- a. Develop and implement proactive inspection frequency by the type of business licences based on risks and enforcement history.
- b. Ensure adequate supporting documentation on proactive inspections is retained to ensure the inspections are conducted in a consistent and equitable manner to all licensees and for quality assurance monitoring purpose.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

ML&S is resourced to primarily focus on responding to community generated service requests. The vast majority of what is being referenced as proactive inspections are actually undertaken in relation to properties or business types where there have either been issues identified, where more frequent and

repeated monitoring is necessary or where the nature of the business itself requires it. The proactive enforcement may be on an address specific basis, such as repeated noise complaints at a premises, or where the nature of the business, such as the enforcement of the vehicle-for-hire bylaw, lends itself to be predominantly proactive.

The Division does use a risk lens in setting out its inspections planning, and has identified that developing data-analysis capabilities within the division will support an enhanced risk based approach. The higher volume of proactive inspections in some licensing categories is evidence of this.

ML&S has identified that notetaking and other documenting processes can be improved. This is also in line with the development of a quality assurance program and enhancing our data systems to develop more robust metrics for use by all levels of management. ML&S has recently hired a position to assist in the development of a QA program, and is working in partnership with Legal Services to review our case preparation and management processes.

Actions:

1) ML&S has recently resourced itself with Data/Scheduling Analysts to drive intelligence based response and currently have in-flight a capital funded DataMart (Business Intelligence) project, which will enable data analytics to assist in developing risk-based analytics.

Timeline: Datamart is underway with targeted completion in Q4/2018

2) ML&S has hired a Manager, Customer Service and Issues Management, tasked with developing a Quality Assurance Program.

Timeline: Quality Assurance Program development – targeted completion in Q2/2018

Recommendation 3: City Council request the Executive Director, Municipal Licensing and Standards Division, to review and enhance the timeliness and efficiency of the complaint investigation process. Steps to be considered should include but not be limited to:

- a. Capture the necessary milestone dates in the licensing database to enable monitoring of performance measures.
- b. Establish performance measures to track and monitor the efficiency of complaints handling and investigation process.
- c. Develop internal processes to periodically review staff time spent by type of investigation to ensure efficiency use of staff resources.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

ML&S agrees with the recommendations, and currently have underway a number of projects to enhance efficiencies within the division.

As referenced in Recommendation #2, ML&S currently has a Data Mart (Business Intelligence) project underway. Through Phase 1 of this project, our existing systems (including Progress) have been mapped to the DataMart system and the project is currently entering Phase 2.

As a result of the work that ML&S has undertaken in developing our DataMart capabilities, utilizing the Corporate SAP HANA Platform, ML&S is one of only 6 City business divisions that are leading in the

automation of FPARS-EPM, which is intended to deliver higher performing business intelligence analytics and reporting.

ML&S is also nearing completion of an RFP to procure a new integrated business system to replace our 3 existing systems, and will include the platform necessary for inspections and enforcement, including case management capabilities.

ML&S staff are actively working on the development/enhancement of performance measures, including monitoring staff workloads and investigation timelines, etc., utilizing the existing business system architecture and the newly created Data/Scheduling Analyst positions.

Given these technology-based transformation initiatives, and the work that ML&S is doing in respect to its' overall performance measures, programming changes to the existing system are not prudent at this time. Beyond these initiatives, the Licensing Enforcement teams are under new direction, and have instituted a resource redeployment initiative which includes shift realignments and appropriate span of control to ensure adequate supervision.

Timeline:

- 1) Business System RFP is being finalized with target release in November 2017, award and implementation 2018-2020.
- 2) ML&S has recently resourced itself with Data/Scheduling Analysts to drive intelligence based responses and currently has in-flight a capital funded DataMart (Business Intelligence) project, which will enable data analytics to assist in developing more robust risk-based analytics.
- 3) Datamart is underway with a phased release of automated performance measure reporting, commencing Q1-2018 and targeted completion in 2019.

Recommendation 4: City Council request the Executive Director, Municipal Licensing and Standards Division, to review the number of business licence investigations and charges among the three District Offices and among officers to identify ways to improve efficiency.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

ML&S has already commenced workload reviews and have recently implemented a resource redeployment based upon this analysis, which has resulted in the allocation of 50 percent of the licensing enforcement staff to the Central District. Workloads will continue to be monitored and staff redeployed as necessary. In addition, we are cross-training staff in our Public Spaces Enforcement team to add flexibility in our deployment to respond to licensing enforcement related work.

As previously indicated, the Division has recently created positions to assist in the analysis of workloads necessary to undertake more robust individualized performance reporting.

Actions:

- 1) ML&S will continue to review district and officer case load and rebalance resourcing as is required.
- 2) ML&S is currently reviewing and updating our performance measures and reporting systems for use by management to monitor performance.

Timeline: Ongoing

Recommendation 5: City Council request the Executive Director, Municipal Licensing and Standards Division, in developing system requirements for a new case management system for business licences, to consider and incorporate the need for providing efficient and user-friendly mobile devices to officers to improve the efficiency of recording inspection and investigation results while onsite.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

The RFP for new business systems, including case management, does include the requirement for a fully mobile deployment for staff.

Timeline: Business System RFP is being finalized with target release in November 2017, award and implementation 2018-2020.

Recommendation 6: City Council request the Executive Director, Municipal Licensing and Standards Division, to expedite the licence fee review process to ensure compliance with the City's User Fee Policy.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

ML&S is currently engaged with Watson and Associates to complete the user fee review. In addition, as bylaw reviews applicable to fees are undertaken, the review of the applicable fees is included. Example was the recent regulatory bylaw for the Apartment Building Standards Program.

Timeline: Completion by Q1 2018

Recommendation 7: City Council request the Chief Transformation Officer to consider including in his 2018 work plan a comprehensive review of Municipal Licensing and Standards Division's business license program, in the context of the City's overall inspections and enforcement activities.

Management Response: Agree Disagree

Comments/Action Plan/Time Frame:

From the Chief Transformation Officer:

A comprehensive review of Municipal Licensing and Standards Division's business licence program will be included in the 2018 Work Plan. This review will focus on risk management, customer experience and operational efficiency across all City Divisions that conduct inspections and enforcement activities.

From the Executive Director, MLS:

ML&S Senior management staff are already engaged with the CTO, including discussions with the other City Divisions that have enforcement functions (Toronto Fire, Toronto Building, Transportation, Toronto Public Health, Toronto Water) to determine opportunities for improved efficiencies, including training, information sharing, joint inspections, and system integration.

As previously indicated, ML&S has an active capital project underway and is nearing the point of completion to position us to issue the RFP. In this project, ML&S has partnered with Toronto Fire Services

to procure a new integrated business system for inspections and enforcement, including case management capabilities, that will be appropriate for both divisions and advance our efforts at integration. The system design is intended such that the balance of our enforcement teams within other City divisions will be able to utilize this platform.

Timeline: Underway and ongoing
