

# **A Review of the Municipal Licensing and Standards Division's Management of Business Licences - Part One: Licence Issuance, Inspection and Complaint Investigation Functions**

**Date:** October 24, 2017

**To:** Audit Committee

**From:** Auditor General

**Wards:** All

## **SUMMARY**

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The City of Toronto, through the Municipal Licensing & Standards Division (MLS), is responsible for regulating a myriad of businesses operating within its jurisdiction. The objective of this audit was to assess the effectiveness and efficiency of business licensing and By-law enforcement operations.

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

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.

In this audit report, we have made 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 more effectively and efficiently manage business licences and ensure compliance with the By-law requirements.

## RECOMMENDATIONS

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The Auditor General recommends that:

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.
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.
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.
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.
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.
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.

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.

## **FINANCIAL IMPACT**

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Recommendation 6 requests the Division to expedite the licence fee review process to ensure compliance with the City's User Fee Policy. The implementation of this recommendation may result in additional annual licence fee revenue but the exact amount is not determinable at this time.

The implementation of other recommendations in this report will help strengthen the licensing and enforcement efforts, and improve efficiency through better use of modern technologies. Better collaboration with other City divisions and agencies, and business transformation may also improve efficiency and result in cost savings. The extent of cost savings is not determinable at this time.

## **DECISION HISTORY**

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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. The work plan is available at:

<http://www.toronto.ca/legdocs/mmis/2015/au/bgrd/backgroundfile-84582.pdf>

## **COMMENTS**

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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.

In a simple search, we found 18 businesses operating without a valid licence. The majority of them (13) never applied for licences, and five premises were previously licensed but their licences had become delinquent or cancelled. 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. Despite these actions, some of the businesses continued to operate without a licence as of September 2017.

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

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.

There is a lack of tracking key dates to ensure that performance standards are met, such as timelines to respond to complaints to the public and the outcome of an investigation.

MLS officers decide which businesses to inspect and there is no schedule or protocol to help them make these decisions. There is no alert system to inform officers when a business has not been inspected for some time. Officers are required to document their inspections in their memo books. MLS procedures require enforcement supervisors to routinely review system reports and compare information to officers' memo books for accuracy. The memo books were not routinely reviewed by supervisors to assess the accuracy of proactive inspection records.

Investigation time varies greatly among officers. Some investigations took less than half an hour, while other investigations for the same type of complaint took six hours with the same investigation outcome "no By-law infraction". The number of investigations conducted by officers varied significantly. While the average number of investigations per officer is 105 cases each per year, five officers each investigated about 400 cases per year.

The number of tickets and summons that officers issued also varied significantly; five officers (out of a total of 38 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.

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.

There are some technological challenges that MLS faces. 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.

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.

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. MLS can leverage the vast experience and expertise of the City's new CTO in business transformation.

The audit report, entitled "A Review of Municipal Licensing and Standards Division's Management of Business Licences - Part One: Licence Issuance, Inspection and Complaint Investigation Functions" is attached as Attachment 1. Management responses to recommendations contained in the audit report are also included in the same attachment.

## **CONTACT**

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Jane Ying, Assistant Auditor General, Auditor General's Office

Tel: 416-392-8480, Fax: 416-392-3754, E-mail: [jane.ying@toronto.ca](mailto:jane.ying@toronto.ca)

Ruchir Patel, Senior Audit Manager, Auditor General's Office

Tel: 416-392-8478, Fax: 416-392-3754, E-mail: [ruchir.patel@toronto.ca](mailto:ruchir.patel@toronto.ca)

## **SIGNATURE**

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Beverly Romeo-Beehler  
Auditor General

## **ATTACHMENTS**

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Attachment 1: A Review of the Municipal Licensing and Standards Division's Management of Business Licences - Part One: Licence Issuance, Inspection and Complaint Investigation Functions