

9

GO TRANSIT - FINE REVENUE

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report, March 3, 2006, from the Commissioner of Corporate Services:

1. RECOMMENDATION

It is recommended that:

1. An agreement be entered into with GO Transit for the distribution of fine revenue and the recovery of the Region's costs associated with court proceedings.

2. PURPOSE

To clarify the current arrangements for processing charges laid by GO Transit at the Region's Court facilities and project the impact of a proposed change in fine distribution and cost recovery.

3. BACKGROUND

Pursuant to the *Provincial Offences Act*, charges issued by GO Transit are filed at the Region's Court facilities in respect of various matters including non-payment of fares and unlawful parking at GO Transit parking lots.

Since 1999, under the terms of the local revenue sharing agreement that exists in York Region, all fines collected in respect of GO Transit charges have been shared between the nine Area Municipalities along with the other "shareable" revenue of the Courts program. These amounts have been distributed on a "gross" basis by the Region and no deduction has been made for the running costs of the Court Services program.

As a result of changes to the *Greater Toronto Transit Authority Act* and the *GO Transit Act, 2001*, fines paid in respect of charges filed by GO Transit now belong to the transit authority and not to municipalities.

4. ANALYSIS AND OPTIONS

4.1 Basis of GO Transit Claim on Fine Revenue

In December 2002, staff of GO Transit informed Municipalities that administer POA charges (issued by GO Transit under of the *Greater Toronto Transit Authority Act*, and

subsequently the *GO Transit Act, 2001*), that fines collected in respect of these charges belong to GO Transit and not to municipalities.

GO Transit staff indicated that although the entitlement to this revenue dates back to January 1998, no retroactivity was being sought. Instead, municipally-managed Courts were being asked to begin forwarding fines paid on charges issued on or following April 1, 2003. Due to technical and logistical problems (including difficulties in obtaining necessary data from the provincial ICON computer system) GO Transit has now indicated that no claim will be made on revenues prior to January 1, 2004.

4.2 Consultation Between the Parties

In view of the partnership arrangement that exists between the Region and the Ministry of the Attorney General (MAG) for the delivery of the Provincial Offences Court program, the Region's Director of Court Services raised the issue with MAG and also consulted with professional colleagues at all other affected Courts.

After reviewing the issue, MAG determined that GO Transit is a "special purpose body" within the meaning of the *Financial Administration Act*, and therefore entitled to the fine revenue. Accordingly, MAG has directed municipalities to submit fine revenue to GO Transit in the same way that other "dedicated fines" are submitted to various Ministries.

Although legally entitled to all fine revenue on a gross basis, GO Transit staff indicates that the GO Transit Board is prepared to enter into agreements which will allow affected municipalities to recover some of their costs related to the processing of charges. This direction was given at a GO Transit Board meeting on May 13, 2005.

4.3 Analysis of Costs

The Region incurs costs relating to processing charges, scheduling trials, conducting trials and providing a variety of notices. These costs can vary widely on a case-by-case basis, depending on how the defendant responds to the charge.

Every charge must be processed through a rigorous and detailed administrative process in accordance with the *Provincial Offences Act*. This entails entering the case details into the Provincial computer system (ICON) and carrying out various transactions to move the case toward final disposition. Even in the simplest of cases, where the defendant does not dispute the charge, there is no ability to accept a payment without processing the case through the full legal process, culminating in a formal conviction being recorded in the ICON computer system.

In cases where the defendant disputes the charge and wishes to proceed to trial, the cost of processing the case escalates considerably. Judicial time is currently billed to the Region by MAG at the rate of \$200.00 per hour, but there are also costs for Court administration staff, Court reporting staff, facility maintenance expenses, any witness expenses, any interpreter expenses, etc. In GO Transit cases, the prosecution is conducted by GO Transit Prosecutors and not by Regional staff.

4.4 Tracking of Financial Data

It is not possible to calculate and track the various costs and expenses of processing court cases (mentioned at 4.3 above) on an individual case-by-case basis. However, the typical costs of processing GO Transit cases have been analysed in some detail by a committee of Court management staff from the affected municipalities in the GTA. GO Transit staff were kept apprised of these discussions and have had the opportunity to obtain clarifications on the estimates and provide comments.

GO Transit is now agreeable to permitting municipalities to deduct and retain 30% of all fine revenue that is collected in respect of GO Transit charges. This deduction is intended to cover the costs of processing the cases through the Courts. It also provides an incentive for Courts to process cases in a timely manner and collect fines promptly. According to the analysis undertaken by the Committee, this offer is fair and reasonable in the circumstances.

To further reduce the expenses of municipalities, GO Transit has undertaken that it will conduct customer service initiatives to assist defendants in understanding their options and navigating the Court process.

5. FINANCIAL IMPLICATIONS

There is no ability for the Region to constrain the levels of enforcement activity for any agency that files charges at the Region's Provincial Offences Offices. However, from discussions with GO Transit, it appears that enforcement levels in 2006 are likely to remain reasonably consistent with 2005 levels. No projections for 2007 onwards have been made available to Court Services staff at this point in time.

By entering into a formal agreement with GO Transit, the Region would be in a position to defray its costs for future GO Transit cases, even if the levels of enforcement activity increase significantly in future years. The actual amount recoverable from GO Transit in the two year period from January 2004 to December 2005 was \$11,256.60.

6. LOCAL MUNICIPAL IMPACT

There will be no further payments to Area Municipalities in respect of this particular revenue stream. In the two year period from January 2004 to December 2005, this equates to a loss of \$39,590.00 (shared between the nine area municipalities in proportion to their respective Regional levy).

7. CONCLUSION

In accordance with the direction received from MAG, the fine revenue arising from GO Transit charges is now being paid to GO Transit and not to Area Municipalities.

If the Region enters into an agreement with GO Transit, it will be possible to defray the costs of processing current and future GO Transit charges (by deducting and retaining 30% of fine revenue collected).

The Senior Management Group has reviewed this report.