



INFORMATION REPORT

Corporate Services Commission, Financial Services

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May 31, 2016

CORPORATE SERVICES INFORMATION REPORT – FINANCIAL SERVICES 2016-26

TO: Mayor Tony Van Bynen and Members of Council

SUBJECT: Pilot Project – Collection of Unpaid *Provincial Offences Act* Fines

ORIGIN: Supervisor, Property Tax and Assessment

In accordance with the Procedure By-law, any Member of Council may make a request to the Town Clerk that this Information Report be placed on an upcoming Committee of the Whole agenda for discussion.

COMMENTS

This report is being prepared to advise Council of the details of a pilot project that Financial Services has undertaken, in partnership with the Regional Municipality of York, Court Services.

Background:

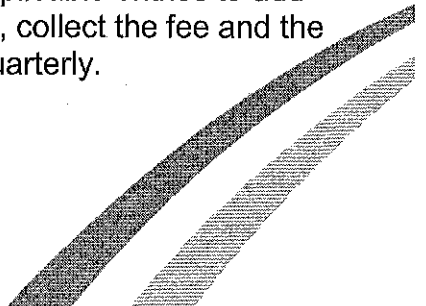
Please refer to the attached Region of York Committee of the Whole Report of the Regional Solicitor dated May 12, 2016. This report provides all of the background regarding the Region's efforts to collect outstanding fines of \$46 million Region-wide.

Page 4 of this report details the partnership between the Region and the local municipalities, including the Town of Newmarket.

There is clear legislated authority to add these unpaid fines to the property tax roll, however only in the case of where the debtor is the sole owner of the property. This will drastically reduce the number of fines that the Town will be able to collect to approximately 1% of the total unpaid fines; however, our partnership will assist the Region with this 1%.

Fees and Charges Applicable:

In accordance with the Town of Newmarket By-law Number 2015-57, the Town is permitted to add an administrative fee to the amount being collected of 15%, plus HST for our efforts. The Town will be required to verify the sole ownership of the property, process the applicable entries to add the amounts to the roll, send a letter to notify the property owner of the lien, collect the fee and the administrative charge and remit the amount of the offense to the Region quarterly.



Conclusion:

Staff are currently undertaking this partnership on a pilot basis only, in order to determine its effectiveness and will report back to Council within the next 12 months.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

This report aligns with Council's Strategic Priorities of being fiscally responsible as well as being well-respected by establishing effective working relationships with other stakeholders.

CONSULTATION

Regional Municipality of York, Court Services.

HUMAN RESOURCE CONSIDERATIONS

Staffing levels remain the same.

BUDGET IMPACT

Operating Budget - for 2016, there may be a small positive impact on the Financial Services fee revenues. This will be completely analyzed upon review of this pilot project.

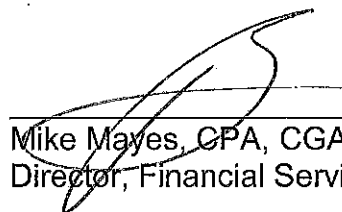
There is no impact on the capital budget.

CONTACT

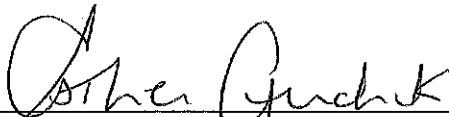
For more information on this report, contact: Grace Marsh at 905-953-5300, ext. 2143 or via e-mail at gmarsh@newmarket.ca



Grace Marsh, CMMIII, CMTF
Supervisor, Property Tax & Assessment



Mike Mayes, CPA, CGA, DPA
Director, Financial Services/Treasurer



Esther Armchuk B.A. (Hons.), LL.B., DPA
Commissioner, Corporate Services

GM/ne

Attachment: Region of York Committee of the Whole Report of the Regional Solicitor, May 12, 2016 (24 pages)

The Regional Municipality of York

Committee of the Whole
Finance and Administration
May 12, 2016

Report of the
Regional Solicitor

Provincial Offences Act Collections

1. Recommendations

It is recommended that:

1. Council approve the updated *Provincial Offences Act* Collection Policy.

2. Purpose

This report recommends amendments to the Region's *Provincial Offences Act* Collection Policy to implement an updated collections strategy.

3. Background

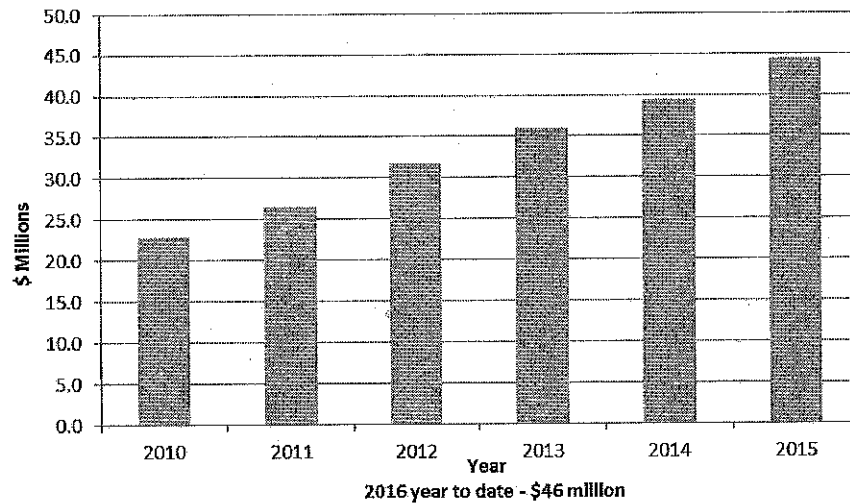
The *Provincial Offences Act* (the "POA") gives defendants charged with offences three options; to pay the fine, dispute the charge through early resolution, or request a trial. If a defendant fails to choose one of these options or fails to pay the fine imposed by the court following early resolution or trial, the fine goes into default. On average, 20,000 of all court ordered fines (20 per cent of all fines registered annually) default and require collection efforts by Court Services.

Unpaid fines are subject to a variety of enforcement tools. Licence suspension and plate denial are the most effective tools for collection but not all POA fines are subject to these enforcement mechanisms. Approximately 59 per cent of all fines currently in default are not eligible for licence suspension or plate denial and require the use of other collection tools. The Region currently has a total of \$46 million in unpaid fines.

Provincial Offences Act Collections

Figure 1

Total Unpaid Fines



The *Limitations Act* does not apply to unpaid POA fines

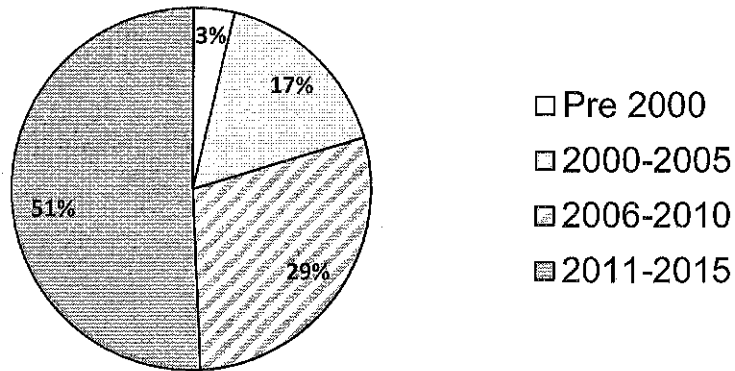
POA fines are debts to the Crown and therefore remain in default until paid. At any point in the collection process, Court Services can apply various enforcement tools for the purpose of fine collection regardless of when the fine was imposed.

When the POA court program was transferred to the Region in 1999, the Province also transferred \$13 million in unpaid fines. Approximately \$4.4 million has been written off since that time as the fines were deemed uncollectable. Currently, \$1.7 million remains of the pre-1999 fines. Older fines can be more difficult to collect but collection tools can be applied to all fines regardless of age in POA accounts receivable.

Provincial Offences Act Collections

Figure 2

Percentage of Fines in Default by Enforcement Year



4. Analysis and Options

Proposed amendments to the Region's *Provincial Offences Act* Collection Policy will strengthen the collection of defaulted fines

The POA Collections Policy was approved by Council in 2008. The purpose was to increase the collection rate and provide a forecast of collectable fines. Given that the rate and amount of unpaid fines continue to increase, Court Services proposes to implement a revised collections strategy through amendments to the Policy to enhance the collection tools available. The strategy will include improved use of collection agencies; collection of fines through property tax rolls; use of civil enforcement tools and cost recovery for collection activities.

Increasing collection agency fees and the number of collection agencies will increase the collections of older fines

Court Services currently uses four collection agencies to assist in the collection of unpaid fines. A recent Request for Proposal was issued to increase the total number from four to ten collection agencies, resulting in additional resources for the collection of older fines.

Provincial Offences Act Collections

Collection agency fees are added to the POA fine and are fully recoverable from the defendants. Fees are not paid to the collection agency unless the fines are successfully collected so there is no direct cost to the Region. The commission rates and collection targets for collection agencies will be increased when new agencies are retained to encourage more aggressive collection efforts and maximize recovery of default fines.

Staff will also implement enhanced monitoring controls and conduct regular meetings with the collection agencies to ensure targets are achieved. The intent is to create a more competitive environment among the collection agencies to drive increased collection rates.

The Region is partnering with local municipalities to collect default fines through property tax roll

Section 441.1 of the *Municipal Act, 2001* allows for the collection of POA fines through property tax rolls where the debtor is the sole owner of the property. Under the *Municipal Act* unpaid fines must be added to the local tax roll by the Treasurer of the local municipality and may be collected on behalf of the Region in the same manner as other tax arrears. Local municipalities have the ability to add administrative fees under their local bylaw to recover any additional costs and retain this fee when the fine is collected.

POA courts in other jurisdictions have had success with the collection of fines through local property tax rolls and have further expanded efforts through agreements with partnering municipalities. The City of Markham is currently using property tax roll to collect defaulted municipal bylaw fines. Court Services continues to work with the City of Markham to explore the opportunity of expanding property tax roll to all eligible POA fines.

It is estimated that less than one per cent of all unpaid fines will be eligible for collection through the property tax roll due to the requirement under the *Municipal Act* that the debtor must be the sole owner of the property. It is, however, an additional collection tool that may enhance the collection of default fines. Court Services staff have met with all local municipalities and are currently finalizing agreements with the City of Vaughan, Town of Newmarket, Town of Aurora, Town of East Gwillimbury and Town of Georgina.

Civil enforcement methods can also be used to assist in the collection of POA fines

The POA allows for enforcement of unpaid fines through the civil justice enforcement process. A writ of seizure and sale (lien) can be issued and filed against the debtor. Where a debtor owns property, the writ binds the property regardless of joint or sole ownership. Fine revenue will generally be realized

Provincial Offences Act Collections

within five years if the mortgage is renewed or the property is sold. In addition an unpaid fine can also be collected through the garnishment of wages or bank accounts. Court Services staff are exploring opportunities to move forward with this collection sanction but the use of such tools may be limited as it requires access to employment and banking information which must be obtained through a court order.

Civil enforcement carries some financial risk to the Region as it requires payment of court imposed fees at the time proceedings are commenced, with no guarantee of full cost recovery. As a result of this financial risk, civil enforcement would only be used in limited circumstances when the amount of the fine merits the expenditure and risk.

The implementation of Bill 31 will strengthen collections for fines that have been enforced to licence suspension

On June 2, 2015, the Ontario Legislature passed Bill 31-*Making Ontario Roads Safer Act*. The Bill includes various amendments to the *Highway Traffic Act* in relation to public road safety and fine collection. Under Bill 31, all POA fines that enter into default and are processed to licence suspension will also be processed to plate denial by the Ministry of Transportation. Plate denial will take effect January 1, 2017. Changes to technology required for this enforcement are not expected to be completed until the spring of 2017, so the timing and financial impact of these changes on the Region's collection efforts is difficult to forecast at this time.

A collection fee can be introduced to recover the Region's collection costs

Under the POA, a late fee is automatically applied to all fines that enter into default. When payment for a defaulted fine is received, this fee is retained by the POA court program to help offset the cost of collections. In November 2015, the Province increased the default fee from \$20 to \$40. The increase applies to all fines that default after January 1, 2016. Despite the increase, this fee does not provide full cost recovery for collections. Prior to the increase, municipal court managers had advocated for an increase to \$60 in order to achieve full cost recovery.

In addition to the default fee imposed under the POA, section 391 of the *Municipal Act, 2001* allows a municipality to enact a bylaw to recover costs relating to the enforcement activities involved in the collection of default POA fines. Staff are exploring options to add a fee to unpaid fines to fully recover the costs of fine collection administered directly by the Region. The fee would be added to the \$40 default fee imposed under the POA. Such a fee has been imposed in several other provincial offences courts.

Provincial Offences Act Collections

Link to key Council-approved plans

Enhancing the collection of default fines supports the Strategic Plan initiative of managing the Region's finances prudently, ensuring a fiscally prudent and efficient Region.

5. Financial Implications

Enhanced collection of unpaid fines through the proposed collection strategy will increase fine revenue, but not all fine revenue is retained within the provincial offences program. The \$46 million in defaulted fines includes approximately \$7 million in victim fine surcharge which is collected by the court program but payable to the Province.

When the Bill 31 amendments come into effect in January 2017, approximately \$10 million in defaulted fines will be eligible for the expanded enforcement through licence plate denials.

Once the collection strategy is implemented, Court Services will have better tools to forecast fine revenue. Despite these enhanced collection efforts, some portion of default fines will be deemed uncollectable and ultimately recommended for write-off.

6. Local Municipal Impact

The POA collection strategy will strengthen the collection of municipal bylaw and parking default fines; thus, potentially increasing revenue for local municipalities.

7. Conclusion

The amended *Provincial Offences Act* Collections Policy will maximize the collection of unpaid POA fines and maintain the integrity of the justice system by utilizing all legislative tools available. Court Services will continue to work with the local municipalities to finalize agreements and implement the collection of fines through property tax roll.

For more information on this report, please contact Harry Fok, Director Court Operations at ext. 73302

Provincial Offences Act Collections

The Senior Management Group has reviewed this report.

Recommended by:

Approved for Submission:

Joy Hulton
Regional Solicitor

Bruce Macgregor
Chief Administrative Officer

April 28, 2016

eDocs 6690658

Accessible formats or communication supports are available upon request



Provincial Offences Act Collection Strategy

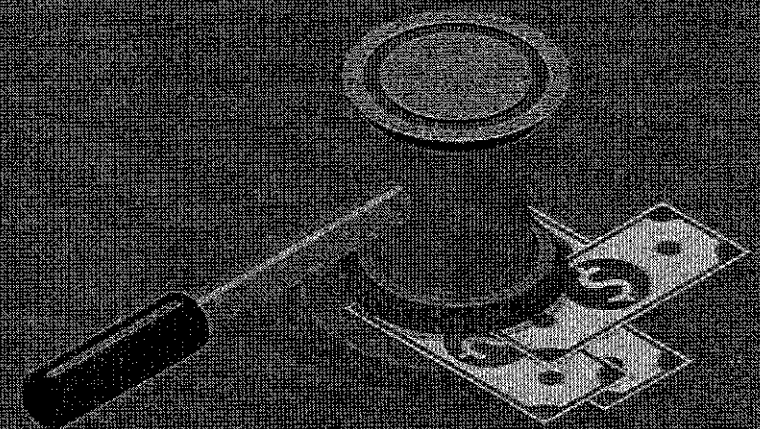
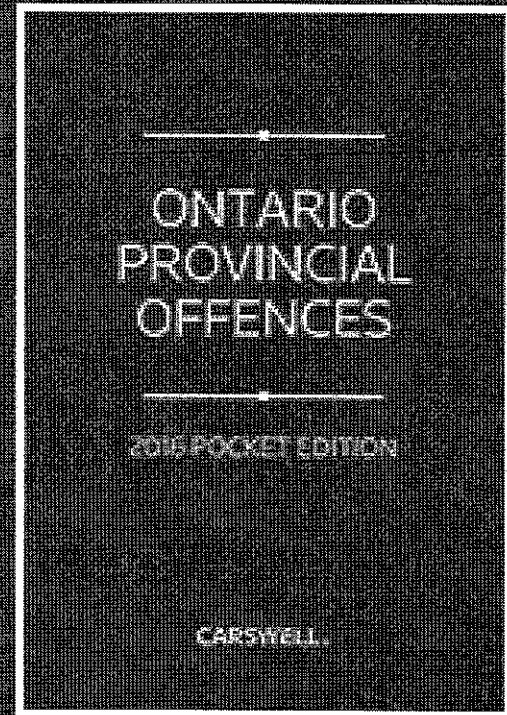
**Presentation to
Committee of the Whole**

Lisa Brooks

May 12, 2016

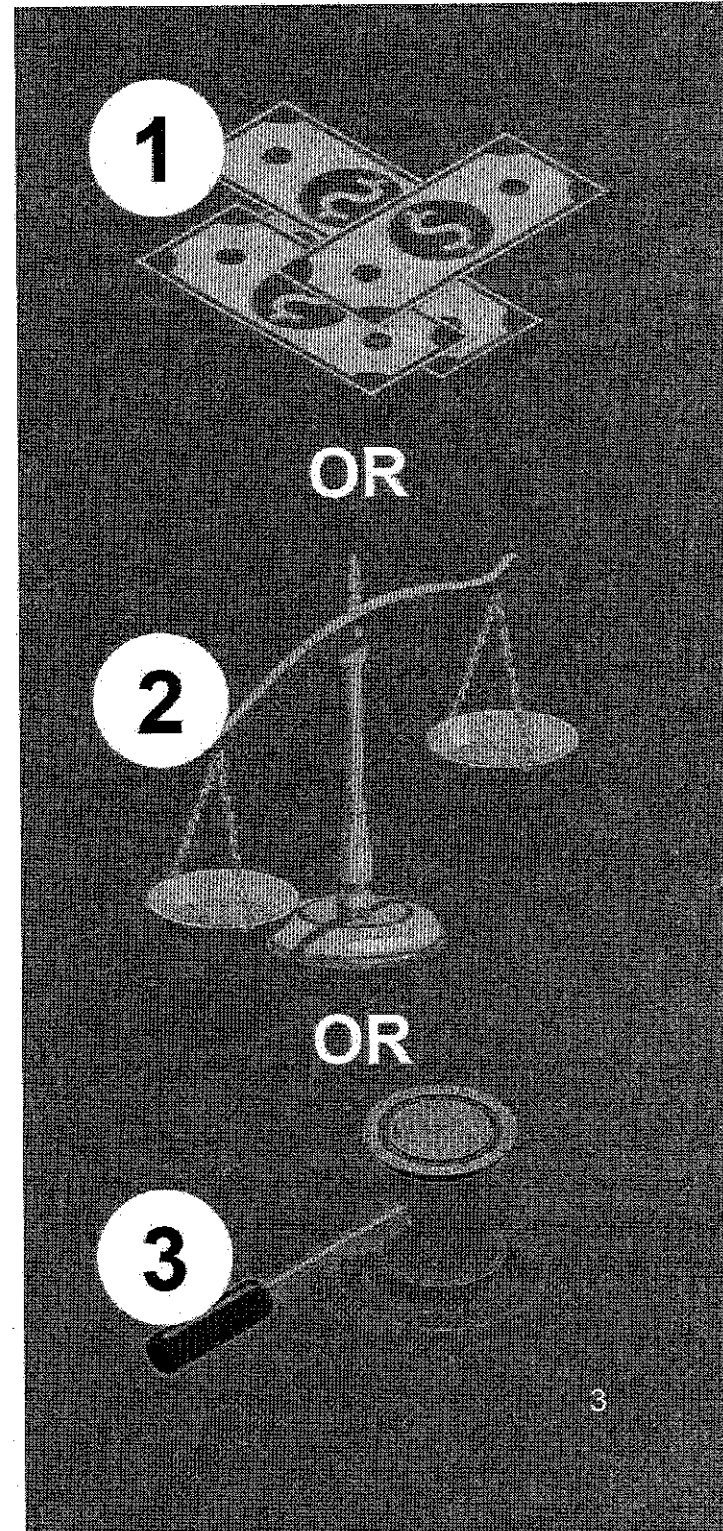
Purpose

- Provide an overview of the *Provincial Offences Act* collections strategy
- Recommend amendments to the existing *Provincial Offences Act* collection policy



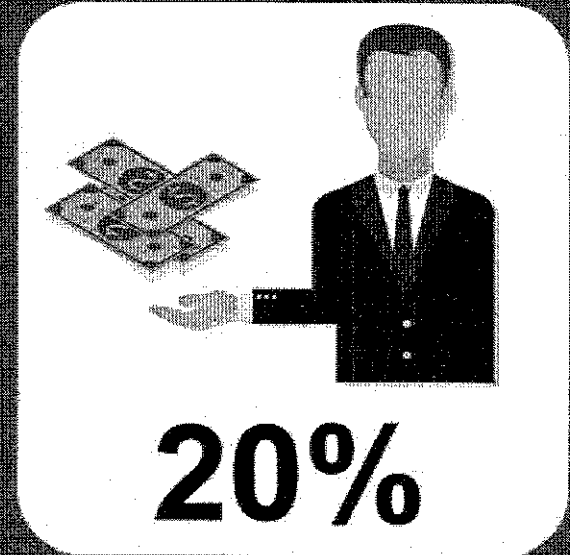
Background

- The *Provincial Offences Act* provides defendants three options:
 - pay the fine
 - dispute the charge through early resolution
 - request a trial
- Failing to choose an option or pay the fine imposed by the court will result in the fine entering into default

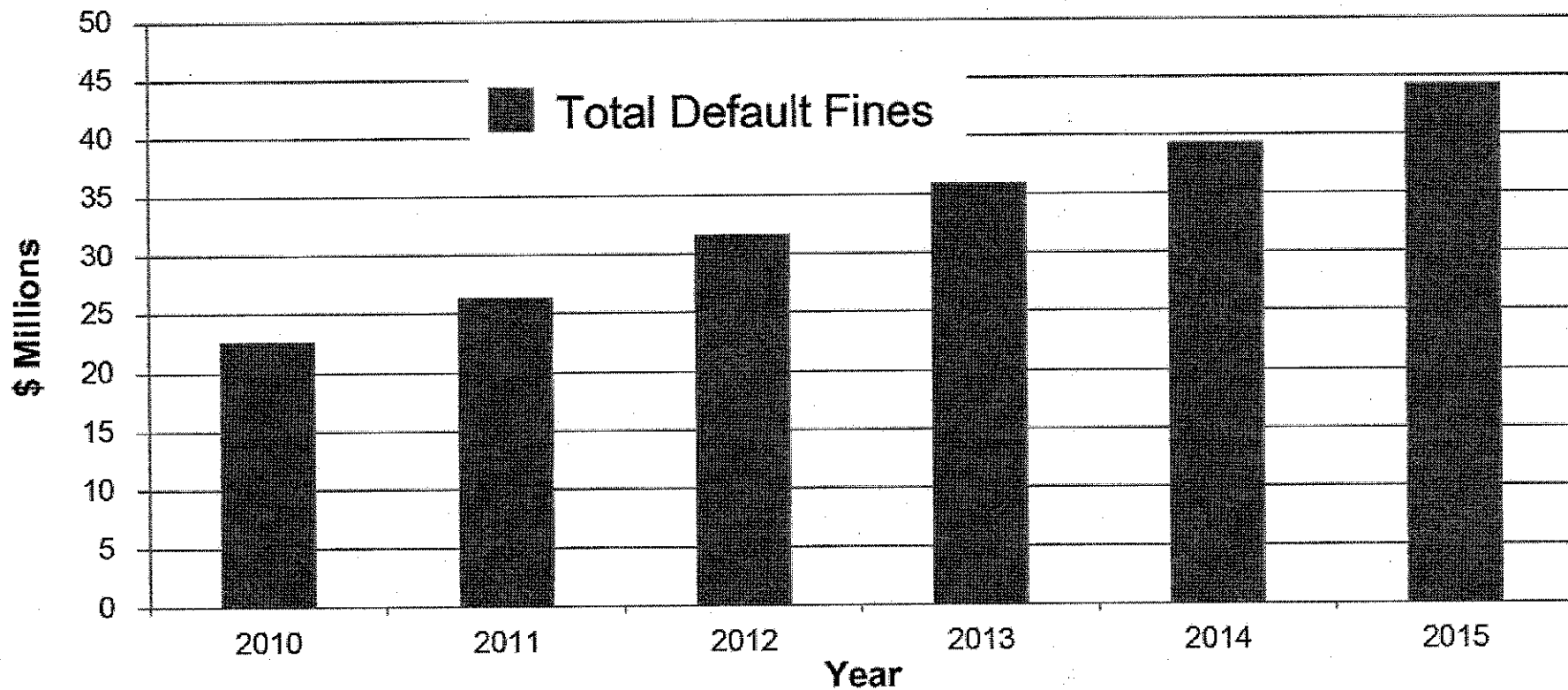


Background

- 20 % of all court ordered fines default and require collection effort
- Only 41% of fines currently in default are eligible for licence suspension



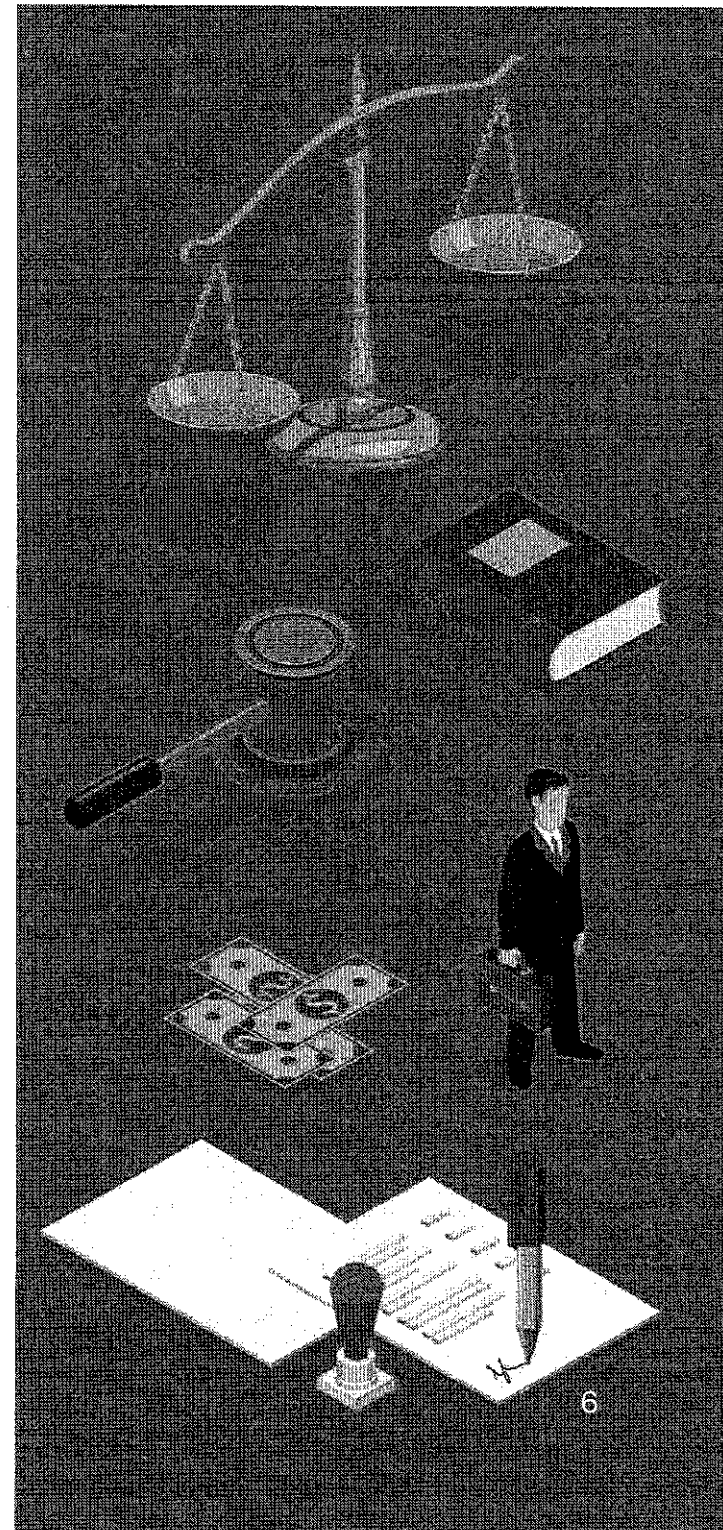
Defaulted Fines Continue to Increase in York Region



*As of December 31, 2015 there was approximately \$45 Million of court fines unpaid

The *Limitations Act* does not apply to POA fines

- POA fines remain in default until paid
- Court Services can apply various enforcement tools for the purpose of collection regardless of when the fine was imposed



Provincial Offences Act Collection Strategy

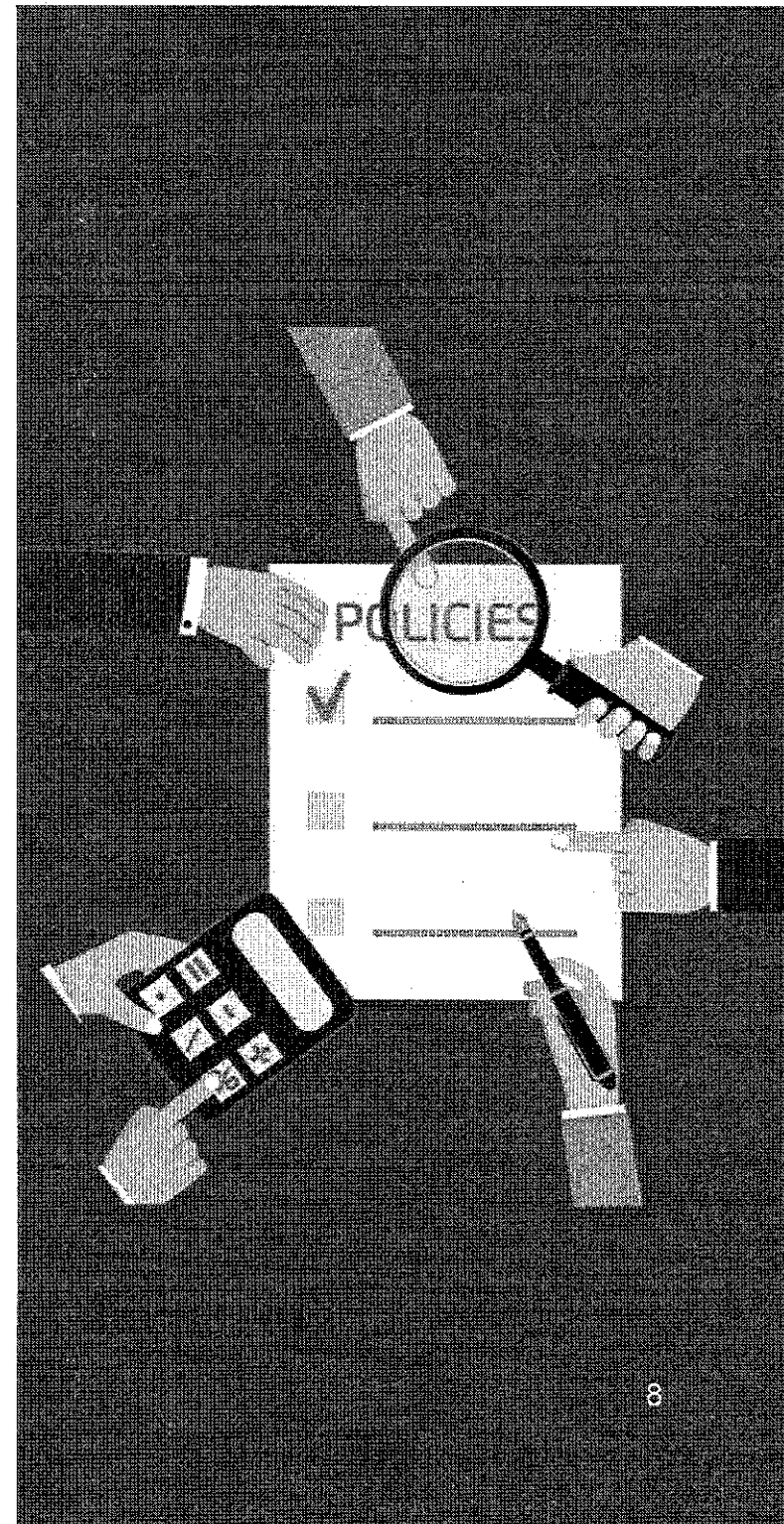
A collection strategy has been put in place to maximize default collection efforts and increase fine revenue. The strategy addresses two key areas:

- Increase defaulted fine collection rate
- Increase collection rate for defaulted aged receivables

Provincial Offences Act Collection Policy

An update to the current policy would:

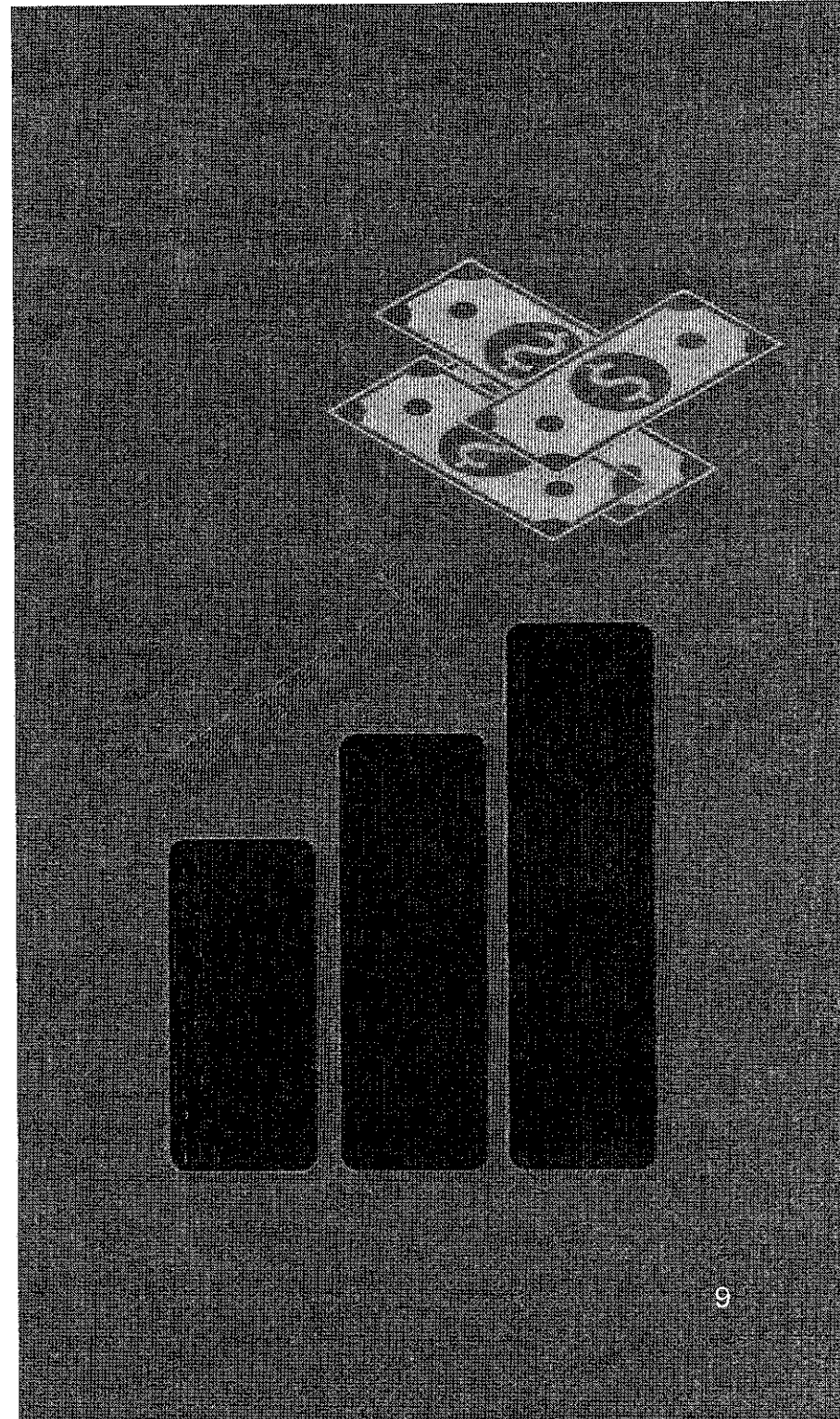
- Improve strategic use of collection agencies
- Permit use of property tax roll collection
- Include civil enforcement



Collection Agencies

A more competitive and aggressive approach with collection agencies will maximize recovery of default fines

- Increase from 4 to 10 collection agencies
- Increase commission rates for agencies
- Stronger monitoring of collection results



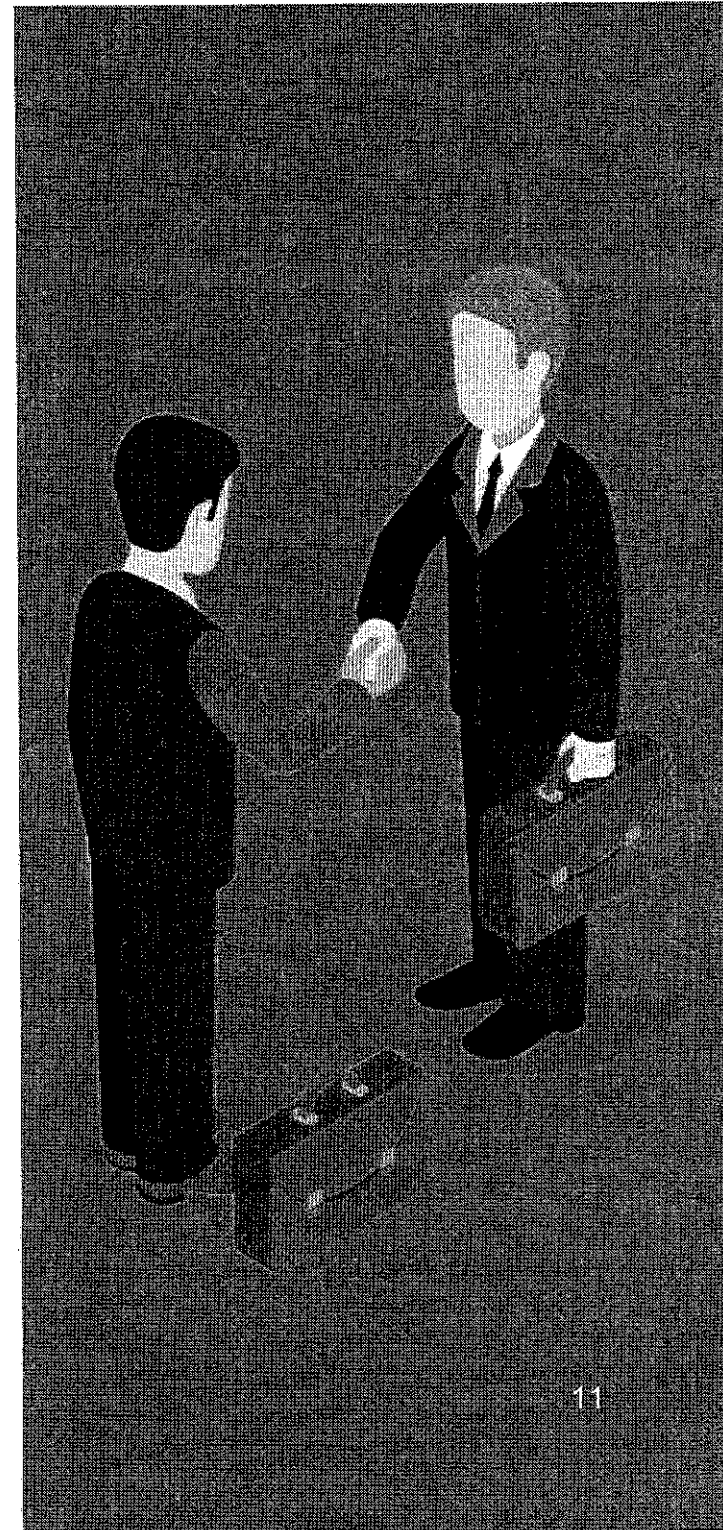
Property Tax Roll Collection

- The *Municipal Act, 2001* (s. 441.1) allows *Provincial Offences Act* fines to be collected through local Property Tax Roll where there is sole ownership
- Local municipalities can add an additional user fee under their local bylaw
- Court Services staff are working with local municipalities to partner in this initiative and finalize agreements



Civil Enforcement

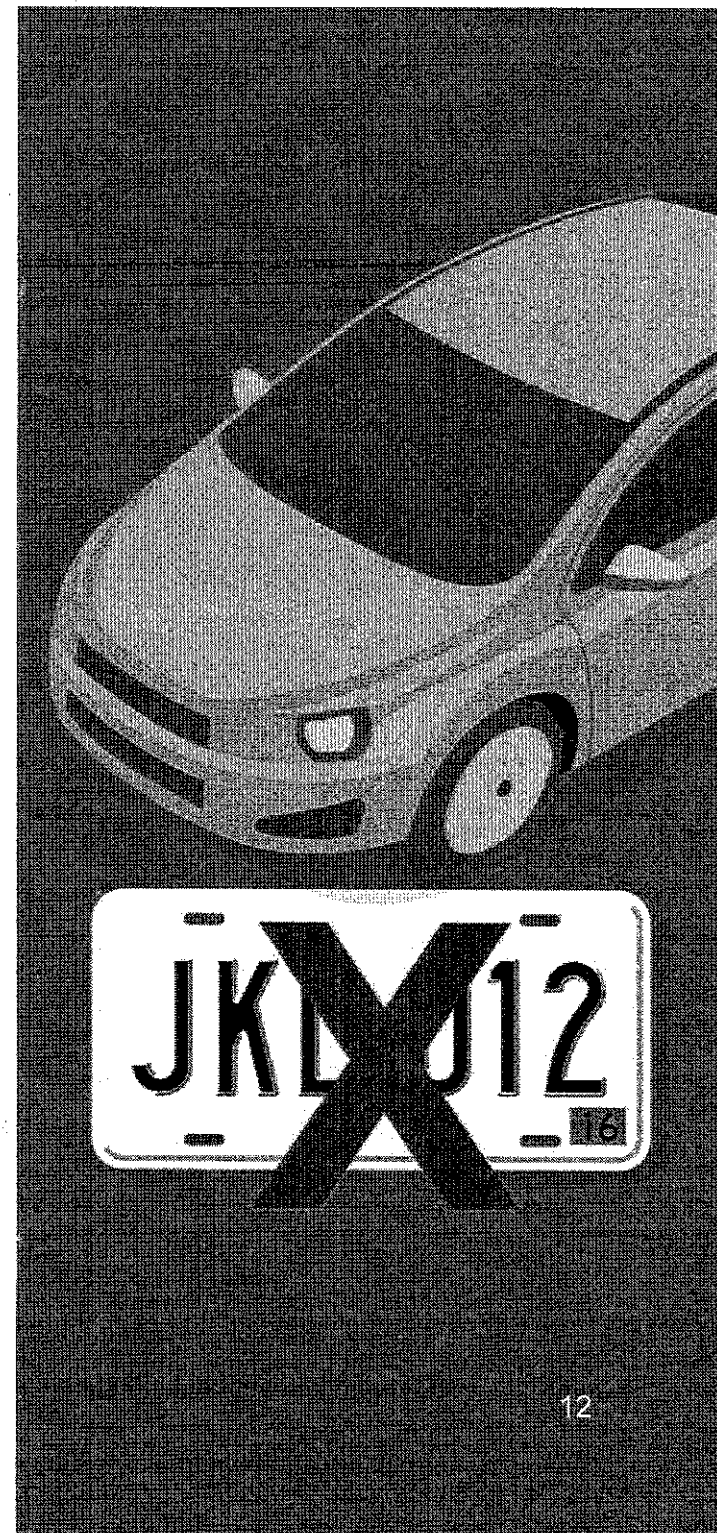
- Civil enforcement will be utilized in limited circumstances and may include:
 - Property Liens – Writ of Seizure and Sale
 - Garnishment of Wages
- Court staff are committed to working with debtors through various payment plan options



Bill 31

Transportation Statute Law Amendment Act

- The Act will strengthen POA fine collections by expanding all licence suspensions to include plate denial
- Plate denial is anticipated to be implemented by Spring 2017



Provincial Offences Act Collection Fees

- A collection fee can be added to POA fines under the *Municipal Act* (s. 391) to recover the Region's collection costs
- A similar fee has been imposed in several provincial offences courts

Court Services staff are exploring the potential for an additional collection fee as part of the 2017 budget process

Recommendation

Court Services is seeking approval to update the *Provincial Offences Act* Collection Policy in order to maximize revenue and maintain the integrity of the justice system.

Next Steps

- Staff will continue to work with local municipalities to finalize agreements for collection of fines through property tax roll
- Staff will explore the opportunity to add an additional collection fee for full cost recovery

Next Steps

- A communication strategy is being developed to inform our residents
- The POA collection strategy will be implemented by year end
- Continue to monitor implementation of Bill 31- *Transportation Statute Law Amendment Act*

Discussion

Lisa Brooks

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Court Services

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