

# Administrative Penalties and Systems of Fines

Presentation to Municipal Licensing  
and Enforcement Forum

May 29, 2008

Burlington



# Background

## Administrative Penalties

- Section 102.1 relative to administrative penalties for parking offences
- Section 151 relative to administrative penalties for licensing offences



# Administrative Penalties

- Although focus was on parking, several of the key points apply to licensing as well.



# Administrative Penalties

- Besides the Act, you must refer to Ontario Regulations
- O. Reg. 611/06 (Toronto)
- O. Reg. 333/07 (all others)



# Administrative Penalties

- Maximum fine cannot exceed \$100 and cannot be more than what is reasonably required to promote compliance
- (Mun. Act already establishes minimum of \$300 for disabled parking spaces)



# Administrative Penalties (Parking offences)

- Must look at your existing system
- Is it meeting your expectations?
- Relative to the scale of your operation



# Administrative Penalties

- Kitchener perspective: Viewed as a large undertaking that would significantly (if not completely) change how you do business
- Therefore, is such a change warranted?



# Administrative Penalties

- Must create 2 new positions:
- Screening Officer and Hearing Officer
- May or may not be able to use existing staff positions to assume these roles



# Administrative Penalties

- In essence, we did a form of cost/benefit analysis
- We were not able to use existing staff positions to absorb the new roles/responsibilities



# Administrative Penalties

- Did not foresee a noticeable increase in revenue over what we are currently experiencing (such that additional costs would be offset)



# Administrative Penalties

- Other (non-monetary) factors:
- Issues such a conflict of interest and political factors



# Administrative Penalties

- Necessary to hire and train staff to the same level of competency and impartiality that the courts represent
- (Courts do not receive the revenue)



# Administrative Penalties

- What about the public perception of impartiality (or lack thereof)?
- A system adjudicated by staff would not eliminate the calls to politicians (could, in fact increase)



# Administrative Penalties

- Bottom Line (Kitchener's view)
- A significant undertaking with little return on investment
- (financial or otherwise)



# Administrative Penalties

- This issue must be viewed through the lens of your municipality
- Will make sense for some
- What will work for some, may or may not work for others



# Administrative Penalties

- Richmond Hill currently reviewing the issue and developing a by-law



# Background

## Systems of Fines

- Section 429 permits the establishment of a system of minimum and maximum fines
- Not bound by previous POA provisions (max. \$5,000)
- Except where a specific Act already establishes fines



# Systems of Fines

- Section 429 permits system to:
- Designate an offence as a continuing offence
- Designate an offence as a multiple offence
- Establish escalating fines
- Establish special fines (eliminate or reduce economic advantage of violating by-law)



# Systems of Fines

- Limitations:
- Minimum cannot exceed \$500
- Maximum cannot exceed \$100,000
- “Special fines” not capped at \$100,000



# Systems of Fines

- Example:
- City of Kitchener Massage Parlour By-law
- 1<sup>st</sup> Offence – Max of \$25,000
- 2<sup>nd</sup> Offence – Max of \$50,000
- 3<sup>rd</sup> or more – Max of \$100,000



# Systems of Fines

- Example:
- Richmond Hill Graffiti By-law
- Minimum fine is \$400
- Continuing and multiple offences – Minimum is \$400 and maximum is \$10,000 (per day or per count)
- Total of all offences may exceed \$100,000



# Systems of Fines

- Richmond Hill Graffiti By-law:
- Special Fine, with no maximum, which factors in the economic advantage or gain that a person has or can obtain from violating the By-law



# Systems of Fines

- “Special fines”
- Difficult to prescribe a dollar amount relative to all potential circumstances
- By-law should outline the method of calculating the special fine



# Systems of Fines

- Escalating “set fines”
- Certain provisions of Act seem to be consistent with “set fine” scheme
- Minimum fine cannot exceed \$500



# Systems of Fines

- Initiated a discussion with the AG's office
- Initial interest related to the City's Noise By-law



# Systems of Fines

- One position offered is that set fines cannot apply to a by-law with special system of fines (must reference the POA not the Mun Act in order for set fines to apply?)



# Systems of Fines

- Will advise AMCTO and Project Team of any significant input received



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