

Committee of the Whole (2) Report

DATE: Tuesday, June 21, 2022

WARD(S): ALL

TITLE: DESIGNATION OF PROPERTY STANDARDS BY-LAW UNDER
ADMINISTRATIVE MONETARY PENALTIES BY-LAW

FROM:

Gus Michaels, Deputy City Manager, Community Services

ACTION: DECISION

Purpose

This report seeks authorization from Council to designate the Property Standards By-law under the Administrative Monetary Penalties By-law, thus giving Enforcement Services a tool to more effectively and efficiently dispose of matters under adjudication.

Report Highlights

- Starting with parking and business licensing in 2009, the City has increasingly been working under the administrative monetary penalties program to promote compliance and expedite matters requiring adjudication. Today, over one dozen by-laws, passed under the Municipal Act, are designated under the administrative monetary penalties program.
- In 2017, the Building Code Act was also amended to authorize municipalities to designate property standards by-laws under an administrative monetary penalties program in order to promote compliance with the by-law and orders issued by officers and confirmed. At the same time, the regional courts have continued to encourage migration to the program to reduce the courts' backlog and provide defendants more expeditious disposition of their matters.
- To promote more effective and expeditious compliance with the Property Standards By-law, staff are recommending that the By-law be designated under the City's Administrative Monetary Penalties By-law, and that penalties of \$500 for failing to comply with an order, and \$750 for obstructing an inspection be established.

Recommendations

1. THAT Property Standards By-law 231-2011, as amended, be further amended to allow for the issuance of administrative monetary penalties instead of laying a charge under the Building Code Act and subject to the Provincial Offences Act;
2. THAT the administrative penalty for failing to comply with an order issued by an officer and that has been confirmed or an order that has been confirmed or modified by the Property Standards Committee or a judge be set at \$500.00;
3. THAT a provision be added to the Property Standards By-law making it an offence to obstruct access under section 4.3(1), which gives an officer authority to enter lands to inspect, and that such offence be liable to an administrative monetary penalty of \$750.00;
4. THAT Schedule 1 of Administrative Monetary Penalties By-law 063-2019, as amended be further amended by adding Property Standards By-law 231-2011, as amended, as a designated by-law.

Background

Administrative monetary penalties (“AMPs”) were introduced as part of the last major reiteration of the Municipal Act. AMPs were intended to redirect minor by-law matters from the courts to a less formal, more efficient, municipally-run adjudication program, thus lessening the increasing backlog of matters before the courts.

The City of Vaughan first adopted AMPs in June of 2009, designating both Parking By-law 1-96, as amended, and Licensing by-law 315-2005, as amended, under the program. The program in Vaughan was one of the first established in Ontario and has paved the way for many other municipalities. Today, most municipal parking by-laws in Ontario operate under AMPs. Starting in 2017, the City of Vaughan began to designate more of its by-laws under AMPs and today has over one dozen by-laws in the program today. That same year, the Building Code Act was also amended to allow for property standards by-laws to come under AMPs.

In accordance with the Building Code Act, the purpose of a system of administrative penalties established by a municipality is to assist the municipality in promoting compliance with a by-law under section 15.1 of the Act (e.g., a property standards by-law) or an order under subsection 15.2(2) of the Act (e.g., a property standards order).

Under current provisions of the Building Code Act, a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a property standards by-law, a property standards order of an officer deemed confirmed, or as confirmed or modified by an appeal committee or judge.

In March of 2020, the effective shutdown of the court system in Ontario due to the COVID-19 pandemic added to the backlog of matters to be decided by the courts.

Coming out of the pandemic two years later, with significant lag times for matters to be heard through the court system, there is an urgent need to designate key by-laws, such as the Property Standards By-law, under AMPs.

Previous Reports/Authority

[Administrative Monetary Penalties By-law](#)

[Property Standards By-law](#)

Analysis and Options

Since 2017, one hundred and two (102) charges have been laid under the Property Standards By-law. These charges have been as a result of property owners failing to comply with a confirmed order. These charges are laid under the Provincial Offences Act and are administered through the regional court system. Prior to the pandemic, it would take several months for the charges to come before the court. Coming out of the pandemic, with an overload of cases, it could be a couple of years for matters to be heard, if at all. Such delays hamper the ability of Enforcement Services to effectively achieve compliance.

By designating the Property Standards By-law under the Administrative Monetary Penalties By-law, matters can be brought to adjudication and disposed of much more quickly. This in effect will allow Enforcement Services to more effectively achieve compliance, be it by getting voluntary compliance or by escalating the matter (e.g., through remedial action or other legal actions). Even with an expected upsurge in the use of AMPs, staff do not expect the annual volume of property standards matters going to adjudication to exceed fifty (50). As such, no additional resources are being requested as part of the recommendations. However, since other by-laws are also coming on board under AMPs, such as the Animal Control By-law and the Short-Term rental By-law, staff will be monitoring the overall impact on resources of the designation of new by-laws under AMPs. Staff will assess this impact vis-à-vis the additional revenue generated through administrative monetary penalty revenue. It is anticipated that any additional resources will be adequately offset by the new revenues.

Financial Impact

There is no immediate financial impact to the 2022 budget as a result of this report's recommendations, as the volume of additional screening and hearings is not expected to be substantive; however, should the need arise, staff are prepared to absorb any work surge requirements, which given the magnitude of such need, can likely be more than offset by the revenue generated from administrative monetary penalties.

Over the course of the next twelve (12) months, staff intend to monitor the additional volume created by the designation under AMPs of the Property Standards By-law and all other by-laws recently designated. If additional resources are required, staff will bring forward a full business case as part of the 2024 budget cycle.

Broader Regional Impacts/Considerations

Beyond lessening the judicial burden on the regional court system, there are no other broader regional anticipated impacts or considerations as a result of the recommendations of this report.

Conclusion

Over the past five years, the City has increasingly been moving towards the administrative monetary penalties system for its regulatory by-laws. The Property Standards By-law is one of the City's key by-laws and by designating it under AMPs, Enforcement Services will be better able to expeditiously process charges and thus gain greater leverage to promote compliance.

For more information, please contact: Susan Kelly, Director and Chief Licensing Officer, By-law and Compliance, Licensing and Permit Services, ext. 8952.

Prepared by

Rudi Czekalla-Martinez, Manager, Policy & Business Planning, ext. 8782

Approved by

A handwritten signature in blue ink, appearing to read 'Gus Michaels'.

Gus Michaels, Deputy City Manager,
Community Services

Reviewed by

A handwritten signature in black ink, appearing to read 'Nick Spensieri'.

Nick Spensieri, City Manager