

Ombudsman Toronto Enquiry Report

Enquiry into the City's process for out-of-province licence plate owners to challenge parking tickets

September 19, 2017

Complaint Summary

1. Mr. T, a Quebec resident, complained to us that City staff weren't letting him fight three Toronto parking tickets. He said that staff at Parking Tag Operations had told him there was no way to challenge the tickets in court because his car was registered in Quebec, not in Ontario.
2. Ombudsman Toronto is generally an office of last resort, so before beginning our Enquiry we referred the complaint to the manager of Water and Parking Tags, Revenue Services Division, who oversees the parking ticket dispute process.
3. The next day, the manager informed Mr. T that he could, in fact, request a trial for one of the tickets. According to the manager, the two other tickets were too old.
4. The manager said that to request a trial for the one ticket, Mr. T needed to provide a "registration Certificate from the Province of Quebec." In a later email the manager told Mr. T he needed to submit a "certificate of ownership... from the Province of Quebec."
5. After another email exchange in which Mr. T and the manager attempted to clarify which document was required, Mr. T stated that he had already submitted a copy of his registration certificate. The matter remained unresolved.
6. The same day, Mr. T emailed the complaints account for Revenue Services. He submitted a copy of his Quebec vehicle ownership information along with his complaint.
7. Revenue Services customer service staff replied to Mr. T, telling him that he could not file a Notice of Intention to Appear (a request for a trial) because his car was registered in Quebec.

8. Mr. T complained to Ombudsman Toronto that the City's response to his request for a trial was unfair.

Steps Taken

9. In conducting our Enquiry, we gathered information from the complainant, from staff at the Ministry of Transportation, and from staff at the following City divisions: Revenue Services (Water and Parking Tags and Customer Service Counters and First Appearance Facilities departments), Legal Services and Court Services.
10. We also reviewed the relevant legislation, including the *Provincial Offences Act*, as well as past Council decisions regarding parking tickets and the prosecution of out-of-province plate owners.

Analysis and Issues Identified

The City's Approach to Vehicles Registered Outside Ontario

11. The City handled Mr. T's case through the court-based system, which deals with parking ticket disputes by way of a trial in court. The City will continue to process parking tickets issued before August 28, 2017 through the court-based system, while tickets issued after this date will be addressed through the new Administrative Penalty System, described below.
12. City staff told us that they need vehicle ownership information in order to start court proceedings. They obtain this information for vehicles registered in Ontario directly from the provincial Ministry of Transportation. They do not obtain this information for out-of-province vehicles because the City does not have information sharing agreements with other jurisdictions. As a result, they do not pursue out-of-province plate owners through the courts, and they do not process requests for trials from out-of-province plate owners.
13. Since the City does not pursue conviction, out-of-province plate owners are not subject to enforcement action the province takes against in-province plate owners after conviction, including the denial of licence plate renewal.
14. Owners of vehicles registered outside Ontario are however subject to the City's Habitual Offender Program, under which "Toronto Police Services will tow any illegally parked vehicles where the vehicle owner has 3 or more unpaid and or outstanding parking ticket fines where 120 days has elapsed from the offence date."¹

¹ 311 Knowledge Base, "Bylaws - parking bylaws - regulations – fines"
<<http://www.toronto.ca/311/knowledgebase/69/101000049369.html>>.

No Authority to Deny a Trial to Out-of-Province Plate Owners, But Unable to Schedule One

15. We suggested that staff determine whether, and how, out-of-province plate owners could access a trial to dispute a parking ticket.
16. Staff at Revenue Services did an initial review, and as a result told us that out-of-province plate owners could request a trial if they provide a valid address so that the City can send them a trial notification.
17. Our Enquiry revealed that the City is not legally authorized under the *Provincial Offences Act* to prevent someone from accessing a trial simply because their vehicle is registered outside Ontario.
18. However staff cannot as a practical matter schedule a case for trial without obtaining proper vehicle ownership information, and they do not have a mechanism in place to obtain this information for out-of-province vehicles.

The System Results in Unfairness

19. It is a matter of concern to us that drivers with vehicles registered in Ontario can challenge their Toronto parking tickets (issued up to August 28, 2017) through the court system, but out-of-province plate owners cannot.
20. There is no authority in the provincial legislation for this discrepancy. It presents a clear issue of administrative fairness.
21. While out-of-province plate owners might have the advantage of not being subject to prosecution for parking tickets, thereby escaping conviction, Toronto parking tickets are not without consequences for them. As noted above, they are subject to the Habitual Offender Program.
22. If an out-of-province plate owner disputes a parking ticket issued up to August 28, 2017 but is unsuccessful in having staff cancel it under the City's parking ticket cancellation guidelines, they have no option but to pay it to avoid the consequences of the Habitual Offender Program.² This is in contrast to Ontario drivers, who have recourse to the courts. This is unfair.

² Staff told us that out-of-province plate owners can access the City's parking ticket dispute process (ticket cancellation), which is separate from the court process. According to the City's "Parking Ticket Disputes" website, the dispute process "allows motorists to dispute their parking tickets for parking meter/pay-and-display machine offences or permit related offences via fax and/or email."

<<http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=8632fc2beecb1410VgnVCM10000071d60f89RCRD>>.

The New Administrative Penalty System

23. As of August 28, 2017, the City has implemented a new Administrative Penalty System that will do away with the court-based system for challenging tickets. This new system was in part the response to an Investigation conducted by Ombudsman Toronto in 2012.
24. Under the new system, parking tickets are no longer dealt with through the courts, but rather through an administrative review model which includes an Administrative Penalty Tribunal established by the City.³
25. This new system provides a unique opportunity for the City to ensure that out-of-province plate owners are able to contest their tickets in the same manner as Ontario residents.
26. Staff assured us that out-of-province plate owners would be able to access this new system.
27. Nonetheless, given the confusion in the court-based system over whether and how out-of-province plate owners could access a trial, Ombudsman Toronto felt it necessary to make recommendations relating to the new system.
28. Revenue Services must ensure that the new system is fair for out-of-province plate owners, and that staff are fully aware of the rules.

Ombudsman Recommendations

29. In consideration of the information gathered through this Enquiry, we made the following recommendations:
 1. The City should confirm that out-of-province plate owners will have access to the new Administrative Penalty System, and that they will have the same options to dispute parking tickets as Ontario plate owners.
 2. The City should document the process by which out-of-province plate owners can access the Administrative Penalty System, and how staff will administer this process.
 3. The City should train staff so that they are fully aware that out-of-province plate owners will now be able to access the new Administrative Penalty System, and ensure that staff know how this process works.
 4. The City should post information online about out-of-province plate owners and how they can access the new Administrative Penalty System.

³ Staff reports: "Administrative Penalty System for Parking Violations - Revised Implementation Date" (February 10, 2017): <<http://www.toronto.ca/legdocs/mmis/2017/gm/bgrd/backgroundfile-101065.pdf>> and "Administrative Penalty System for Parking Violations" (May 24, 2016): <<http://www.toronto.ca/legdocs/mmis/2016/gm/bgrd/backgroundfile-93829.pdf>>

30. By the time our Enquiry was complete, the City had cancelled Mr. T's tickets, so no recommendation concerning that was necessary.

31. Revenue Services also assured us that in light of what this Enquiry revealed, it will cancel the parking ticket of any out-of-province licence plate owner who requests a trial to dispute a parking ticket issued before August 28, 2017, as long as the request is made on time.

Division Response

32. Revenue Services reviewed a draft copy of this report, accepted our findings, and agreed to implement our recommendations. Work on this is underway.

Follow-Up

33. Ombudsman Toronto will continue to follow up to ensure that Revenue Services implements all the recommendations within a reasonable time.

(Original signed)

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Ombudsman