

Date: January 11, 2022

To: Chair and Members of General Committee

From: Shari Lichterman, CPA, CMA, Commissioner of
Corporate Services and Chief Financial Officer

Originator's files:

Meeting date:
February 9, 2022

Subject

Shortage of Judicial Resources for the Provincial Offences Court

Recommendation

1. That the report entitled "Shortage of Judicial Resources for Provincial Offences Court" from the Commissioner of Corporate Services and Chief Financial Officer, dated January 11, 2022, be received.
2. That a letter be sent to the Premier of Ontario and the Minister of Attorney General requesting support for sufficient judicial appointments to adequately resource the City of Mississauga POA courts to fully resume court operations to pre-COVID capacity.

Background

Since 2019, the City has raised concerns to the Premier and Attorney General related to the need for additional judicial resources for Central West Region, specifically Peel Region and the City of Mississauga.

Due to the pandemic, the Chief Justice of Ontario and the Province of Ontario issued orders adjourning all court matters, suspending all POA timelines and later extending these timelines into 2022. These orders affected court service operations throughout the pandemic resulting in significantly reduced revenues from POA and increased backlogs in scheduling resulting in untenable trial delays.

There are multiple levels of courts operating in Ontario and the Provincial Offences courts are not given priority status. As such, the Provincial Offences courts are directly and disproportionately impacted by the shortage of judicial resources.

Comments

Pre-pandemic, five Justices of the Peace were assigned daily to the City of Mississauga POA court to deal with a high volume of matters. Since resumption of POA court trials in August 2021, the City has been assigned only two Justices of the Peace daily to conduct virtual hearings. The Regional Senior Justice of the Peace office has indicated that for the first half of the 2022 the judicial resources allocated to the City will remain the same.

In the period between September to December 2021, 62 courtrooms were closed due to the shortage of judicial resources which meant that a high number matters were adjourned to a future date taking up capacity for the scheduling of new matters.

To date, the vast majority of hearings in Mississauga Provincial Offences Court have been scheduled as remote matters. Due to the format and increased time requirements of the virtual courts, the number of matters assigned to each court docket has been significantly reduced (10 matters per tier for virtual courts versus 30 matters per tier for in person courts).

In-person hearings including trials will only be conducted upon direction and approval of the Senior Regional Justice. All decisions related to the number of matters scheduled and the number and nature of court rooms operating required judicial approval. Even once in-person hearings resume, we will be only be able to operate 2 out of 5 courtrooms unless additional Justices of the Peace are assigned to Mississauga. With scheduling limited to only two court rooms and the backlog created as a result of the court closures continue to grow and the time required to clear the backlog lengthens. This is resulting in excessive trial delays, which is contrary to a defendant's rights under the Charter. Charges that are the subject of unreasonable delay are no longer viable and will either be withdrawn or stayed by the courts. The loss of these charges in combination with the decreased case volume leads to reduced POA revenues.

At the direction of the Province, the City has retrofitted all the POA courtrooms at 950 Burnhamthorpe Road West with plexiglas and Zoom technology to accommodate in person and virtual non-trial and trial matters.

As the Criminal and family courts have moved through advanced stages of reopening, the POA courts have lagged in the full resumption of services. In addition to pre-existing concerns about judicial resource availability, Justices of the Peace have been reassigned to support criminal and family court recovery plans. In most cases across the province, POA courts are operating remotely and at reduced court capacity. There has not been a measured and consistent approach to POA court recovery, which has led to much disparity and inconsistency in case volumes & backlog in POA Courts.

The Ministry of Attorney General has recently advertised for 41 Justice of the Peace vacancies across the Province of Ontario with six appointments proposed for Peel Region, which is comprised of three POA court locations: Mississauga, Brampton and Caledon. While these appointments are a step in the right direction to address the shortage of Justices of the Peace in

Peel Region, the training of a new Justice of the Peace can take up to eighteen months with priority on training in criminal bail and intake court first followed by POA court. To adequately address the pressures the Mississauga POA court is facing more Justices of the Peace need to be appointed with priority given to POA training.

Financial Impact

The ongoing shortage of judicial resources and POA court closure is limiting POA court's ability to recover the costs of operating the POA program through fine revenue. POA revenue collected decreased significantly in years 2020 and 2021. Without an immediate focus on appointing Justices of the Peace and the full resumption of POA courts, the backlog will continue to grow and have a negative impact on revenue.

	2022 Forecast	2021 Actual	2020 Actual	2019 Actual
POA Revenue	\$6,000,000	\$4,879,909	\$5,319,754	\$9,112,050

Conclusion

Additional judicial resources are critical to address outstanding and incoming matters before the courts. Without additional judicial resources, POA courts will not be able to increase court capacity and move cases through the system, trial delays will lengthen and charges will no longer be viable. Given the current allocation of judicial resources, we are unable to support timely access to justice and inequity will continue to be a reality across the province of Ontario. It is critical that the Attorney General appoint more Justices of the Peace to adequately resource POA courts to fully resume court operations to pre-COVID capacity.



Shari Lichterman, CPA, CMA, Commissioner of Corporate Services and Chief Financial Officer

Prepared by: Carmela Radice, Manager of Court Administration