

Administrative Monetary Penalty System Leading Practices Summary

Across Canada, many municipalities have had great success with using administrative penalty systems to manage bylaw contraventions. Legislators in Ontario and British Columbia (BC) determined that APS programs were effective, efficient and quick mechanisms for citizens to access justice.

Information gathered from the following Ontario and British Columbia jurisdictions about their leading practices has informed this business recommendation:

Ontario

- Oshawa
- Markham
- Brampton
- Mississauga
- Hamilton
- Toronto (parking only)
- Metrolinx (Go Train)

British Columbia

- North Vancouver & region
- Burnaby
- Richmond
- Translink (SkyTrain, B-Line & Seabus Network)

All Ontario and BC jurisdictions listed above have an early resolution process which citizens access prior to undertaking an appeal of administrative penalties. These jurisdictions have proven that for an APS to be efficient and effective, there needs to be an early resolution process in place. Numerous disputes concerning penalty notices are resolved prior to an appeal hearing, which promotes timely, efficient and cost-effective outcomes.

Most Ontario jurisdictions attributed their success in implementing APS systems with keeping implementation as simple as possible. The majority of Ontario municipalities, with the exception of Toronto, leveraged existing space, infrastructure and IT solutions. They found that simplicity delivered results.

Several jurisdictions convey that it is beneficial to start with a minimal number of bylaw contraventions, then gradually expand. Representatives from one Ontario municipality stated that its APS started with too many bylaw contraventions, and that it struggled to manage demand as a result. Conversely, Oshawa is an effective example of a phased approach: it started with licensing contraventions in 2008, then added parking violations in 2011, to a total of 34 bylaw contravention matters in 2018.

In leading practice jurisdictions, both pre-appeal screenings/reviews and appeal hearings are conducted in person with the individual challenging the penalty. Enforcement staff do not attend appeal hearings and, in about half of those jurisdictions, municipal prosecutors do not attend.

None of the leading practice jurisdictions conduct online/digital hearings. Some jurisdictions have online intake or scheduling, and all of those who don't are moving in the direction of enhancing IT solutions to include more online services. The Metrolinx (Go Train) early resolution process is the only system that allows for discretion to reduce penalties in cases which meet specific business rules.

Ontario jurisdictions successfully forecast their tribunal caseload volumes based on the volume of trials that had been set by the Courts prior to APS implementation. For example, for every

trial set on a matter before the Court prior to establishment of an APS, they forecast one appeal against an administrative penalty for that matter before their tribunal.

Most jurisdictions in Ontario and BC rely on restriction of provincial registry services (e.g. plate denial) as a means of ensuring that administrative penalties are paid. A few municipalities suspended other municipal licensing services, or used the tax roll, to enforce collection of penalties. The other common process that other jurisdictions used to enforce collection was using third-party collection agencies to collect what they viewed as a debt to the municipality.