

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: August 19, 2014

SUBJECT: Board Enquiry Regarding Individuals and Businesses that Defraud the TTC: Legal Opinion Following Convictions

INFORMATION ITEM

RECOMMENDATION

It is recommended that the Board receive this report as information.

FUNDING

There is no funding impact directly related to this report.

BACKGROUND

At the June 24, 2014 TTC Board Meeting, the Board adopted the following motion arising from the Chief Executive Officer's Report – June 2014 Update:

That staff be requested to report back on legal action that can be taken against individuals or businesses convicted of defrauding the TTC.

DISCUSSION

From a legal perspective there are two major actions that can be taken against individuals or businesses convicted of defrauding the TTC: restitution orders and commencement of a civil action (lawsuit).

Upon conviction and as part of the sentencing process, the TTC can work with the Crown to ensure that a proper restitution order is in place. The restitution order requires the individual or business convicted of the crime to pay a certain amount of money (as determined by the Court) to the victim, i.e. TTC, based on the loss suffered by the victim. The restitution order helps to ensure that a portion of the losses suffered by the TTC, arising from the fraudulent act, are reimbursed to the TTC. In the past, the TTC has successfully used restitution orders to recover a portion of the losses sustained.

The TTC may also commence its own civil action in order to recover its damages and losses arising from the activities that led to the TTC being defrauded. For example, a few years ago the TTC successfully commenced a civil action in the United States against a former mint manufacturer that illegally manufactured TTC fare media. The TTC's action against both named

individuals and the manufacturer eventually led to the mint going out of business and the subsequent sale of the property in order to settle the action.

Court issued restitution orders and the commencement of a civil action can also be used in combination with one another. In many instances, the restitution order does not allow the TTC to recover all of its losses or damages and therefore a civil action may also be commenced to recover any additional losses sustained by the TTC. This combined process has also successfully been used by the TTC to recover losses from individuals and businesses convicted of defrauding the TTC.

Restitution orders and civil lawsuits are legal remedies available to ensure that any losses suffered by the TTC arising from illegal activity are recovered. In addition to the legal remedies, the TTC may also supplement those remedies with campaigns to ensure that the information relating to any convictions are publicized.

In an effort to help reduce operator assaults, TTC issues news releases upon an individual being convicted of assaulting a TTC employee. The release highlights the name of the convicted individual, the convictions and sentencing. The same process of issuing news releases could also be used for individuals or businesses found guilty of defrauding the TTC.

JUSTIFICATION

This report responds to the June 24, 2014 motion as adopted by the Board.

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