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Our Reference #: M-2022-697

February 11, 2022

His Worship John Creelman
Mayor
Town of Mono

Email: john.creelman@townofmono.com

His Worship Allan Thompson
Mayor
Town of Caledon

Email: allan.thompson@caledon.ca

Dear Mayor Creelman and Mayor Thompson:

Thank you for taking the time to write and share your municipal perspectives, challenges and proposed solutions on the current issues facing *Provincial Offences Act* (POA) courts.

Since the onset of the COVID-19 pandemic, my ministry has and continues to work closely with the Ontario Court of Justice (OCJ) and Municipal Partners to keep Ontarians safe and maintain access to justice.

Part of these efforts include amendments to the POA, made under Bill 197, the *COVID-19 Economic Recovery Act, 2020*, to allow municipally administered courts to make greater use of technology to deliver justice services remotely and reduce in-person court appearances. These amendments broaden the options available to the POA Court for the delivery of remote justice services during the pandemic, as well as increase efficiencies in POA proceedings in the longer-term.

My ministry has also worked with Municipal Partners to implement a number of POA amendments made under Bill 177, the *Stronger, Fairer Ontario Act (Budget Measures), 2017*, which support POA court efforts to address backlogs caused by the pandemic, by granting the clerk of the court the authority, rather than justices of the peace, to review POA tickets for regularity and, if appropriate, enter convictions where the defendant fails to respond to a ticket. Clerks of the court were also given the authority to review and grant applications for extensions of time to pay a fine. Both reforms serve to reduce pressures on judicial resources.

Ministry staff are also prioritizing the implementation of the remaining clerk of the court review reforms under s. 11, reopening proceedings, which would permit the clerk of the court, rather than a justice of the peace, to grant applications to reopen a conviction. We look forward to continuing our collaboration with the Bill 177 Municipal Working Group to implement these and other remaining Bill 177 reforms.

Our work also continues with the Municipal Court Managers' Association (MCMA) and local POA court managers to support court recovery efforts. All Municipal Partners have received materials and guidance to help POA courthouses to safely reopen with health and safety measures in place that are consistent with those in provincial courts. POA courts across the province are hearing proceedings virtually and locations will continue to reopen to in-person proceedings once their health and safety measures are in place.

As the assignment and allocation of judicial resources falls under the responsibility of the judiciary, I am not able to comment on your suggestions around these matters.

Additionally, my ministry will continue to engage with Municipal Partners and the OCJ on advancing technology initiatives for POA courts.

Lastly, I am also pleased to share that meetings of the POA Table are continuing regularly after a COVID-19 related pause. This Table, which is chaired by my ministry, includes representation from the OCJ, MCMA, the Prosecutors' Association of Ontario, defence legal professionals, and the Ontario Municipal Tax and Revenue Association. The Table also maintains linkages with a variety of other justice sector stakeholders such as the Association of Municipalities of Ontario. We look forward to continuing our engagement on POA through this forum.

We hope this information is helpful. Thank you again for taking the time to write.

Sincerely,

A handwritten signature in black ink that reads "Doug Downey". The signature is fluid and cursive, with the first name "Doug" and last name "Downey" clearly distinguishable.

Doug Downey
Attorney General

c: Mike Schreiner, MPP
Guelph

January 7, 2022

The Honourable Doug Downey, Attorney General
Ministry of the Attorney General
11th Floor, 720 Bay St.
Toronto, ON M7A 2S9

Dear Minister,

We, the Mayors of the Town of Caledon and the Town of Mono, respectfully submit this joint letter to provide you with our municipal perspectives, outline our unique challenges and frustrations, and also to propose solutions that would mitigate the serious issues facing our provincial offence courts in Dufferin and Caledon.

Municipal resources are being exhausted and pushed beyond capacity and the implications are profound. The information we share below clearly indicates that the Caledon/Dufferin POA Courts are in a crisis. We are not alone in the Province nor are the problems described here solely attributable to COVID 19.

The critical challenges are:

Last minute cancellations due to a lack of judicial resources

This is resulting in a negative and compounding administrative impact to case management. As example, between September 10th and December 15th there were 3,038 docket lines cancelled and rescheduled. This one example equates to 26 closed court days.

A related frustration is that early resolution dockets are often cancelled, with the next available return date being in June pushing some matter 12 months before they are able to have an early resolution. Matters requesting trials are being scheduled up to 24+ months out.

Another troubling result of this issue is the capital and operating costs to run a court are essentially wasted when we are forced to reschedule due to lack of, or cancellation of, judicial resources. We have provided the courtroom and technology, the court clerks and prosecutors, and notified all the defendants, only to repeatedly cancel.

Reduction of Judicial availability for administrative functions such as swearing of informations, issuing of summons and review of applications

This is creating an enormous backlog and, in some cases, has resulted in the swearing of informations occurring *after* an appearance date causing inconvenience to defendants and the need to re-issue summonses with attendant multiple, unproductive court attendances.

Outlined below are some possible solutions that from our perspective would mitigate these issues.

- Assign Justices of the Peace to POA courts either in person or virtually. This should entail total mobility for all justices of the peace regardless of region.
- There are currently over 80 per diem justices of the peace and they should be utilized to the fullest. Exemption from their presiding 'cap', something allowed for, should be considered to address backlog. Per diem justices of the peace willing to accept POA assignments would go a long way to addressing backlog.
- Allow e-Hub access for POA court matters immediately, for the swearing of informations and issuing of summons to start addressing the timeliness of judicial administrative functions and paperwork.
- Launch early resolution, trial and paperwork blitzes to address backlog. Make judicial dependant paperwork a mandatory part of court assignments.
- Use your legislative authority as Attorney General to fast track section 11 of the POA to proclaim the re-opening amendments and, amend the early resolution process in section 5 of the PA to permit the clerk of the court to enter convictions.
- Together with the Ontario Court of Justice, commit to convening a 'Justice Summit' on POA where all stakeholders can address the considerable issues facing our courts.

Minister, it is not inconceivable that hundreds if not thousands of serious charges are at risk of being withdrawn either by prosecutors or as the result of a court ruling on 11b of the Charter as it applies to old POA cases.

We are very willing to be part of the solution and welcome a further conversation with you or your staff on how we can work together. We look forward to your response.

Sincerely,



Mayor John Creelman
Town of Mong



Mayor Allan Thompson
Town of Caledon

Copy to:

The Honourable Sylvia Jones, MPP Dufferin Caledon

The Honourable Lise Maisonneuve, Chief Justice, Ontario Court of Justice

The Honourable Paul R. Currie, Regional Senior Justice, Central West Judicial District

Her Worship Marsha Farnand, Regional Senior Justice of the Peace
