

THE REGIONAL MUNICIPALITY OF YORK  
POLICE SERVICES BOARD

REPORT OF THE CHIEF OF POLICE

22 APRIL 2009

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**License of Occupation Agreements  
Communication Towers**

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**RECOMMENDATIONS**

1. That the Board replace its interim Installation of Communications Towers policy with the revised Installations on Radio Communication Towers policy attached to this report; and
2. That the Chief of Police be authorized to execute Licence Agreements with each of the commercial users of the Board's Communication Tower Site located in the Township of King, subject to prior review by York Region Legal Services, such Agreements to be based upon the Region's fee structure and each to commence May 1, 2009; and
3. That the current commercial users having equipment on this site be responsible for payment of fees up to May 1, 2009, in accordance with the interim policy adopted by the Board in February 2008.

**SYNOPSIS**

This is a follow up to a report submitted in February 2008, at which time the Board adopted an interim policy for installations on communications towers. The Board adopted the interim policy pending the Region's review of a new Policy for Communications Installations on Regional Property.

The new Board policy was developed in consultation with York Region Legal Services and the Executive Director of the Board.

On January 22, 2009, the Region adopted its new policy thereby replacing its previous 2001 policy. The Region's policy pertains primarily to the installation of telecommunications equipment on elevated water storage tanks.

The Board owns four guyed communications towers and it is necessary for the Board to adopt a policy which provides a framework for the approval and execution of license agreements for the installation of third party communications equipment on its towers.

### FINANCIAL IMPLICATIONS

In 1997, the Board adopted a Policy for the use of York Regional Police communications towers by parties other than the police. The Policy stipulated that ‘the licence fee shall be \$8,000 annually for the year 1997, with a two percent annual increment thereafter. York Region area municipalities and hydro-electric commissions shall be exempt from the payment of the license fee.’

At the February 2008 meeting, the Board adopted an interim fee schedule, pending the Region’s report on fee structuring. York Regional Police had commissioned KVA Communications Inc., a communications industry consultant, to assess market value license fees with respect to the Board’s Communication Tower located in the Township of King. Consultants with KVA Communications factored into the formula the specific service provided, tower loading, ground space required by the licensee and mounting height on the structure. The following interim recommendations were made and adopted by the Board:

<u>Service Type</u>	<u>Proposed Annual Fee</u>
Cellular Communications	\$16,800 - \$19,200
Mobile Radio Network	\$ 6,000 - \$ 8,400
Wireless Broadband Data Network	\$ 4,800 - \$ 7,200

In 2001, the Region adopted a new fee structure based upon a set fee of \$10,000.00 with annual increment of five percent. In 2008, the Region contracted the services of View Communications Inc. to conduct a market analysis of pricing for telecommunications tower rentals within the Greater Toronto Area. The Policy was adopted by the Region on January 22, 2009, and reflects a new fee structure based upon a fixed annual payment of \$10,000 with additional fees of \$640 per antenna and annual increments of five percent over the term of the agreement. The amended Policy also provides that the five year licence will renew automatically unless either party notifies the other of termination. Adoption of the Region’s fee structure by the Police would ensure consistency with Regional telecommunications installations on water towers and buildings.

If existing commercial entities on the Board’s Communication Tower located in King Township chose to enter into a licensing agreement with the Board, the annual fee schedule exclusive of GST would be as follows:

<u>Annual Fee Structure</u>	<u>Annual Potential Revenue</u>	<u>Five Year Term</u>
York Regional Police – Consultant 2008	\$ 60,000	\$331,536
The Regional Municipality of York – 2009	\$ 66,640	\$385,906

## **BACKGROUND**

York Regional Police currently operates a Motorola Smartnet II Trunking Radio System and a Dataradio data radio system. The trunking radio system is also the primary voice radio communication system used by all municipal fire services within York Region. In addition, the system provides voice radio interoperability between the Region's Emergency Medical Services Department, Emergency Management Department, the fire services and York Regional Police. It consists of eight remote tower sites located throughout the Region which are linked back to the master site at York Regional Police Headquarters through a network of redundant microwave links and landlines. The systems are controlled from the Primary Public Safety Answering Point (PPSAP) operated by York Regional Police which answers all 911 calls within the Region. It also affords a level of interoperability between York Regional Police, Halton, Hamilton, South Simcoe, Durham, Peel and Toronto Police Services.

The voice radio system is a mission critical link between our frontline officers and the Communications Bureau. Further, this system provides a redundant back-up to the data radio system, which today, is the primary medium through which calls for service are dispatched. Radio system integrity is a key element contributing to the safety of the public, police officers and fire-fighters during the provision of emergency services to the citizens of York Region.

The Board's communication tower located in the Township of King is sited upon lands owned by the Township of King and is a very important component of these systems, not only as a primary transmission site but also as a link between Headquarters and the Board's tower located in the City of Vaughan. It is unique within the York Regional Police communications system in that until 2007, it was managed by private tower management companies rather than by the police.

During the construction of the voice radio system in 1993, a tripartite license agreement was entered into between the Board, the Township of King and Motorola Canada Incorporated which was given the right to manage the tower, including the ability to licence the tower's use to commercial interests. Motorola eventually sold its interest to Pinnacle Towers which subsequently sold its interest to Global Signal Incorporated of Florida, U.S.A. In January 2007, Global Signal Incorporated sold its interest to Crown Castle International Inc. of Pennsylvania, U.S.A. These sales resulted in poor management of the tower and were not advantageous to York Regional Police. In November 2007, the Board fully discharged its financial obligation under the original agreement and did not exercise its right of renewal with Crown Castle International Inc., thereby reclaiming management of the site and effectively terminating the licence agreements entered into between the various tower management companies and the commercial entities occupying space on the tower. The commercial users were comprised of Rogers Wireless Inc., Bell Mobility Inc., Zing Networks Inc., Paging Network of Canada Inc. (PageNet), Point to Point Communications (Barrie) Ltd and Today's Taxi Ltd.

In 2006, while the tower was still being managed by Global Signal, York Regional Police commissioned an independent structural inspection of the tower. This was as a result of concerns that the tower was being poorly managed and that the engineering reports provided might not be reliable. Morrison Hershfield Ltd. conducted the inspection and in March 2007, reported a number of deficiencies including significant overloading in certain sections of the structure. York Regional Police, with the assistance of the Region's Legal Department, attempted to have Crown Castle rectify the deficiencies. In addition, York Regional Police refused further requests for the addition of equipment, and also took immediate action to unilaterally rectify many of the deficiencies. Despite these actions, the tower remained in an overloaded state which required that it be either reinforced or that equipment be removed.

Discussions between the commercial users, York Regional Police and the Region's Legal Department ensued to resolve the overload condition as a precondition to the Police Services Board entering into new licence agreements with the commercial users. An estimate provided by Morrison Hershfield indicated that the approximate cost of bringing the tower back into conformity, without removal of equipment, was \$75,000.

All but one of the six commercial users opted to bear a proportionate cost towards reinforcing the structure in order to qualify for occupancy. The apportioned share of each is based upon the amount of equipment that they have at the site. Payment for the reinforcement costs totalling \$63,000 are currently held in trust pending a new License of Occupation Agreement with the Board. In addition, License fees, retroactive to November 1, 2007, have been paid by all of the commercial users. These fees are based upon the Board's interim fee structure. Except for the one commercial user which declined to contribute to the cost of reinforcing the Tower and has since removed its equipment, the others continue to pay monthly licence fees based upon the interim fee structure.

In September 2008, Skyward Inc. completed the structural reinforcement work to the tower. The actual cost of the reinforcement was \$62,706.00 and this charge will be fully covered by the funds currently held in trust.

On January 22, 2009, Regional Council adopted a report entitled "Communications Installations on Regional Property Policy Update". The purpose of this report was to update the Regional Policy entitled "Communications Installations on Regional Property" dated March 8, 2001, which pertained to the installation of telecommunications equipment by third parties on Regional property. In particular, the report pertained primarily to elevated water storage tanks, buildings and facilities, excluding underground fibre installations and installations on Regional roads and road allowances. The Region's adopted Policy assigns a new fee structure for telecommunications licenses granted on or after January 1, 2009.

At its February 2008 meeting, the Board adopted an interim fee schedule, pending consideration of the Region's consultants' report on fee structure. The Board's fee structure contained in its interim policy would generate less revenue than the fee structure adopted by the Region and therefore it is recommended that the Board incorporate a similar structure into its policy. It is also recommended that the Board's policy and the licence agreement essentially mirror that of the Region's save that the Board's policy includes the requirement that the intermodulation analysis includes a study of intermodulation products up to and including the 7th order and the licensee must obtain, at its own expense, a certified tower loading analysis.

By harmonizing the Board's fee schedule for the use of radio communication towers by third parties with that of the Region, the Board will realize on average a 16.4 percent increase in remuneration over the Board's Interim Policy fee structure. There will also be consistency between Regional entities.

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