

**2. GRANTING OF AUTHORITY TO OPERATE SIGHTSEEING SERVICES -
APPLICABLE FEES**

COMMITTEE RECOMMENDATION AS AMENDED

That the Transit Commission charge those persons operating sightseeing services within the Regional Area an annual fee of \$2,000 per vehicle to a maximum of \$10,000 per operator of a sightseeing service, and that instalment payments, with interest, be permitted.

DOCUMENTATION

1. General Manager's report dated 7 Feb 00 is immediately attached.
2. Extract of Draft Minute, Transit Services Committee meeting of 23 Feb 00, follows the report and contains a record of all votes.
3. Map showing Option 2, Sightseeing Bus Tours 2000 Operation Locations, appears at Appendix 1.

Our File/N/Réf.
Your File/V/Réf.

DATE: 7 February 2000

TO/DEST: Co-ordinator, Transit Services Committee

FROM/EXP: General Manager

SUBJECT/OBJET: **GRANTING OF AUTHORITY TO OPERATE
SIGHTSEEING SERVICES - APPLICABLE FEES**

DEPARTMENTAL RECOMMENDATION

That the Transit Services Committee recommend the Commission charge those persons operating sightseeing services within the Regional Area an annual fee of \$2,000 per vehicle to a maximum of \$10,000 per operator of a sightseeing service.

BACKGROUND

The Commission has the exclusive franchise to operate a passenger transit service within the Urban Transit Area. This includes the exclusive right to operate transit services which provide sightseeing opportunities within the area. The exclusive franchise does not apply to sightseeing services which commence in Ottawa-Carleton but leave the area immediately by a direct route to provide sightseeing outside of the Regional Area.

In January 1995 the Commission decided to terminate operating a regular sightseeing service for budgetary reasons. On 15 February 1995, the Commission decided to give operators of sightseeing services the right to operate from 1 May to 31 October with minimum of two tours per week. The Commission established an annual fee of \$10,000 per operator in return for receiving this authorization.

There are a number of sightseeing tours being operated in Ottawa-Carleton. Capital Double Decker & Trolley Tours operates a fleet of 13 buses, with not all vehicles operating every day. Gray Line Ottawa has indicated that it operates an average of five to six buses per day providing sightseeing tours in Ottawa-Carleton.

Last year, John & Dan Enterprises Inc. began operating a sightseeing service using an amphibious bus travelling on a loop route through the downtown area, to the Governor General's residence and eventually accessing the Ottawa River at the Hull docks. Oakroads operates a small bus for sightseeing. Those tours travel directly outside the Regional Area and do not require Commission approval. Finally, a number of tour buses arrive from out of town on organized tours and offer tours of the area either as separate optional tours or as part of the overall tour package.

Many of the sightseeing tour operators have purchase the right to operate kiosks in the downtown area near the point of commencement of their tours. For this year, the Region has decided to establish two designated pick up points for sightseeing services. One point of pick up will be Wellington Street in the vicinity of the old embassy of the United States. The other point of pick up will be Elgin Street near the intersection of Sparks Street. Buses will be permitted to wait on Queen Street between Metcalfe and Elgin Streets. No fee for use of these areas is being charged by the Region.

DISCUSSION

The fee of \$10,000 per sightseeing tour operator may not be a fair means of charging fees to operate sightseeing tours. Some tour operators have a number of vehicles in operation and operate extensively through Ottawa-Carleton. Others have a relatively small number of vehicles and only a small portion of the overall tour operates in the Regional Area. Presumably, those operators who have a number of vehicles and operate a number of tours generate greater revenues to defray any fees.

Short of undertaking a formal request for proposals process, it is difficult to assess what fees should be charged for an authorization to operate a sightseeing service. The only other known sightseeing tour service operating within Ottawa-Carleton is the boat tour service on the Rideau Canal. The canal boat tour service operates under an authorization granted by the National Capital Commission (N.C.C.). The tour operator receives the exclusive right to operate a boat tour on the canal and the right to erect a kiosk on Confederation Boulevard in order to sell tickets. Under a request for proposals process, the N.C.C. established a minimum annual fee of \$50,000 for the right to operate this service.

STAFF COMMENT

The right to operate a sightseeing service certainly has some value to potential operators. OC Transpo has required that operators enter into agreements with sightseeing operators. These agreements include conditions defining the routes to be followed, the types of vehicles to be used, provision of annual Safety Standards Certificates demonstrating the fitness of the vehicles used for the service, as well as provision of proof of a minimum level of third party liability insurance.

OC Transpo does incur some administrative costs in granting these authorizations and ensuring that vehicle safety and insurance requirements are being met. Any charge should also take into account the fact that any right being granted is not exclusive.

As indicated above, current fees charged to operators are not necessarily fair as between different operators. This is particularly the case where tours only operate partly within Ottawa-Carleton and operators are required to obtain authorizations from other authorities.

There are a number of methods by which fees could be established for these authorizations. Fees could be charged on the bases of revenues or passenger volumes; however, this would require an on-going reporting to the Commission and staff time to review and analyze or audit the results. Charges could also be imposed on the basis of the number of seats available in a vehicle, requiring a potential review of the seating capacity of vehicles and the number of seats in the vehicle. Charges could also be imposed on the basis of the number of vehicles being operated. Any such charge should account for the fact that some operators will not operate their vehicles at all times and will keep some buses for use during peak periods in the tourist season.

Staff recommends that charges for sightseeing tour operations be set at a rate of \$2,000 per vehicle operating during the period of 1 May to 31 October, to a maximum of \$10,000 per operator. Staff further recommends that these fees not be charged to operate a sightseeing tour as part of a tour visiting Ottawa-Carleton from outside the Regional Area. The imposition of fees for these tours could dissuade tour operators from including Ottawa as a destination in future tours. Furthermore, the collection of these fees upon tour operators located out of town or possibly out of the country would be very difficult. These bus operations from out of town are subject to provincial or federal regulatory requirements through the Ontario Highway Transport Board.

PUBLIC CONSULTATION

A copy of this report is being provided to sightseeing tour operators referred to in the report along with an indication of the date, time and location of the meeting of the Transit Services Committee when this matter will be considered. The report is also being provided to the Ottawa Tourism & Convention Authority, the National Capital Commission and the Regional Municipality.

FINANCIAL IMPLICATIONS

Based upon known current sightseeing operations, the imposition of this fee schedule will result in a reduction of \$8,000 annually in potential revenues to the Commission.

*Approved by
Gordon Diamond*

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Transit Services Committee
23 February 2000

**GRANTING OF AUTHORITY TO OPERATE
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- General Manager's report dated 7 Feb 00

The Committee heard from Paul Hughes, Manager, Civil Litigation, who outlined the report. He explained staff felt it was not fair that every sightseeing tour operator should bear the same financial burden, regardless of the size of his operation, and this is the rationale for the recommendation to impose a fee of \$2,000 per vehicle to a maximum of \$10,000 per operator. Mr. Hughes drew Committee's attention to new information provided in Sightseeing Bus Tours 2000 Operation Locations - Option 2, a map which shows where the tours will commence. The map is the result of discussions between the operators, the Region, the City of Ottawa, the National Capital Commission (NCC) and OC Transpo in an effort to relieve clogging at Metcalfe and Wellington Streets and the area adjacent to the NCC's Information Centre. Mr. Hughes introduced Mr. Doug Brousseau, Director, Mobility Services, Environment and Transportation Department and Mr. Greg Kent, ETD, who are available to answer questions from Committee.

Commissioner L. Davis inquired about the Oakroads operation, specifically with respect to the Commission's exclusive franchise. Mr. Hughes explained there has been a decision from the Ontario Court of Appeals on the issue of issue, specifically, an operator picking up within the regional area and immediately and directly going outside the regional area is not within the scope of the franchise. If that operator provides sightseeing opportunities through an indirect route, this is considered to be within the scope of the Commission's exclusive franchise. Commissioner Davis asked how the location of the pick-up points was decided. Mr. Kent replied that the options have been brought forward by the operators who are pleased with the result. In response to a further question from the Councillor, Mr. Kent indicated the solution is for this year only; a working committee will be formed and charged with coming up with a long-term solution.

Commissioner D. Holmes asked whether staff intend to charge an encroachment fee for this use of the road allowance. Mr. Brousseau replied in the negative. He expressed his belief that the cost of doing business should be an encroachment fee, but since the pick-up locations have not yet been finalized for next year, the matter will need to be reviewed. Mr. Hughes added that one of the issues discussed at a recent meeting between staff and the operators was the fact that, with the establishment of the new City of Ottawa, jurisdictional issues such as enforcement, exclusivity of franchise and operations on regional roads will be taken into account as a whole.

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Commissioner Holmes said she was very much in favour of tourism and of finding some agreeable arrangement whereby operators can pick up passengers, however these companies should be treated in the same manner as restaurants and other businesses in the downtown area who use the road allowance.

The Committee Chair, A. Loney, asked whether staff are convinced there will be suitable accommodation for all tour buses on Parliament Hill this summer. Mr. Brousseau replied that staff continue to lobby to allow tour buses to park on the Parliament Hill precinct. It has been suggested that all tour buses be parked on the regional road, in direct conflict with transit from the Outaouais. Mr. Brousseau said the issue has not been resolved satisfactorily and staff will continue to apply pressure to prevent tour buses from parking on the primary transit route for the Société de transport de l'Outaouais (STO). Chair Loney spoke of attending the recent Rideau Street "Charette", and being informed there are approximately 100 STO buses during peak hours on Rideau and Wellington Streets. He suggested that the General Manager and his staff review this matter, and report back to Committee in a timely manner.

Mr. Doug Wotherspoon, General Manager, Capital Double Decker and Trolley Tours

Mr. Wotherspoon spoke in support of the recommendation, regardless of the fact that the new fee will have no impact his operation and that it offers his competitors or potential competitors an opportunity to enter the market at a lower rate. He spoke about the change in attitude at OC Transpo and he thanked the Chair, the Commissioners, the General Manager and his staff, for leading the way and for taking the interest of the people actually doing the work at heart. Commenting on fees, Mr. Wotherspoon asked that operators be allowed to pay the fee by installment, with interest, noting that this has been done in past years. On the issue of kiosk location, Mr. Wotherspoon emphasized the importance of arriving at a decision in a timely manner. He expressed the hope that the Commission will allow the consultation process to continue, and that the issue will be resolved by June or July, not just for next year but for years to come. Responding to a question from Commissioner Davis, Mr. Wotherspoon agreed there are concerns about trying to move a service once it is established at a specific location. He added the problem is that tour books and publications are produced at the end of the year, and all his company's literature directs clients to Sparks and Metcalfe Street; it is difficult to change tour books and guides in a few weeks, and to change location because of the advertising.

Chair Loney asked whether the agreement extends beyond the year 2001 and whether there is the possibility of doing this and leaving room for modifications to be made in 2002. Mr. Hughes responded by saying that the Committee has before it a policy report relating to fees to be charged on an annual basis. He posited there is nothing to prevent

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the Commission from having an agreement only covering this year, then, based on existing policy, having another agreement for next year and not requiring Transition Board approval. Chair Loney questioned the practicality of dealing with this matter in the latter part of 2000. He suggested the approach be that the fees set for this year apply for next year, unless the Commission changes them. Mr. Hughes said this could be done, however he reiterated that, from a legal standpoint, different agreements for different years would eliminate the need to go to the Transition Board for approval. He confirmed for Chair Loney that, based on policy, staff could be delegated authority to proceed.

Moved by D. Holmes

That installment payments, with interest, be permitted

CARRIED, as amended

That the Transit Services Committee recommend the Commission charge those persons operating sightseeing services within the Regional Area an annual fee of \$2,000 per vehicle to a maximum of \$10,000 per operator of a sightseeing service.

CARRIED, as amended