



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

Uncollectible Water Arrears Greater than \$10,000

Date:	March 27, 2007
To:	Government Management Committee
From:	Deputy City Manager and Chief Financial Officer
Wards:	Wards 16, 21, 23, 32 and 44
Reason for Confidential Information:	A portion of this report deals with personal and financial information that relates to identifiable person(s). Limitations on the release of personal information under the <i>Municipal Freedom of Information and Protection of Privacy Act</i> prevent the public disclosure of this information.
Reference Number:	P:\2007\Internal Services\Rev\gm07012Rev (AFS#3325)

SUMMARY

This report recommends the write-off of five (5) water accounts, in relation to water consumed prior to January 1, 2004, each with outstanding receivables of greater than \$10,000 that in the Chief Financial Officer’s opinion are uncollectible.

Staff have taken all necessary steps in attempting to collect the outstanding water arrears, including issuing the account to an external collection agency for “skip trace” and revenue recovery, mailing of “Demand Letters” by Legal Services and filing a claim with the Trustee in the case of a bankruptcy. The outstanding water charges for these five (5) accounts relates to water consumed prior to 2004 by someone other than the current property owner and, as such, the water arrears cannot be added to the property’s tax account.

Given that all collection efforts have been exhausted, and the City has no further recourse or means of collecting these water arrears, it is recommended that Council authorize the write-off of these uncollectible water receivables.

Attachment 1 is confidential, and lists a property with water arrears greater than \$10,000 that is owned by an individual. The *Municipal Freedom of Information and Protection of Privacy Act* prevents the public disclosure of the information contain in Attachment 1.

RECOMMENDATIONS

The Deputy City Manager and Chief Financial Officer recommends that:

1. the following five (5) water accounts, representing a total value of \$150,472.24, be written off:
 - a) Water Account Number 419462-368842, \$10,422.12;
 - b) Water Account Number 161699-133423, \$52,630.86;
 - c) Water Account Number 161421-126546, \$38,161.94;
 - d) Water Account Number 556540-601771, \$36,081.93;
 - e) Water Account Number 345821-281224, \$13,175.39; and,
2. the confidential information contained in Attachment 1 remain confidential, as it relates to personal information about an identifiable individual, and as such may not be disclosed under the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*;
3. the appropriate City staff be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

The recommended water write-off of \$150,472.24 is provided for in the water account titled "Allowance for Doubtful Water Accounts". As such, the write-off of these five (5) water accounts will not have a financial impact on current year expenditures.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting held on July 22, 23 and 24, 2003 Council approved a water collection policy (re: Clause 6 of Report No. 7 of the Administration Committee titled "Administration and Collection of Water Accounts") holding property owners financially responsible for all water-related charges effective January 1, 2004.

To view the report online please follow the link:

<http://www.toronto.ca/legdocs/2003/agendas/council/cc030722/adm7rpt/cl006.pdf>

ISSUE BACKGROUND

Prior to amalgamation, all of the former municipalities were consistent with respect to holding the owner of a property ultimately responsible for any water arrears. While the majority of the former municipalities' by-laws obligated the consumer (either an owner-occupant or a tenant) to pay for water used, when default occurred and collection initiatives failed, all of the former municipalities exercised their option under the *Public Utilities Act* to transfer the amount owing to the property's tax account. This practice continued into 1998 until a decision from the Courts forced all Ontario municipalities to change their practice. On September 8, 1998 a court ruling (*710357 Ontario Ltd. v. Penetanguishene [Town]*) was issued clarifying that municipalities were in fact not permitted to transfer water arrears to a property's tax account when the water was consumed by a tenant of the property. It was the Court's position that only the principal consumer could be made to pay for the utility's use. As a result of this Court decision, payment of water charges associated with tenanted properties effectively became the sole responsibility of the tenant.

Effective January 1, 2003, the *Public Utilities Act* was repealed and replaced by the *Municipal Act, 2001, S.O. 2001, c. 25*. The enactment of the *Municipal Act, 2001* in January 2003 (now continued under the new *City of Toronto Act, 2006*) restored a municipality's ability to hold the property owner ultimately responsible for water charges incurred after January 1, 2003 provided that the Council of a municipality enacts a by-law establishing that property owners are responsible for all water-related charges and/or fees. At its meeting held on July 22, 23 and 24, 2003, Council approved a harmonized water collection policy/strategy holding property owners financially responsible for all water related charges incurred on their property regardless of the consumer, effective January 1, 2004, and authorizing the adding of unpaid water balances to the corresponding property tax account.

By holding property owners financially responsible for all water-related charges effective January 1, 2004, it is expected that once the older outstanding water arrears (i.e. arrears related to water consumed prior to January 1, 2004) have been dealt with, the new collection policy will minimize the need for water write-offs and will reduce collection costs incurred by the City.

For water consumed prior to January 1, 2004, only the principal consumer of the water can be made to pay for the utility's use. As such, payment of water charges associated with tenanted properties effectively becomes the sole responsibility of the tenant. In situations where internal collectors are unsuccessful at recovering tenant-incurred water arrears (for water consumed prior to January 1, 2004), the account is issued to an external collection agency for "skip trace" investigation, the goal of which is to locate the consumer and to secure payment of the outstanding amount. Furthermore, "Demand Letters" may be mailed by Legal Services and in the case of a bankruptcy, a "Proof of Claim" form is mailed to the Trustee in Bankruptcy. Only after all collection efforts have been exhausted is an account recommended for write-off.

COMMENTS

The five (5) water accounts recommended for write-off as uncollectible in this report represent water consumed prior to January 1, 2004. Table 1, below, lists the five (5) water accounts representing a total dollar value of \$150,472.24. All accounts are water arrears in excess of \$10,000. All collection efforts have been exhausted and therefore the accounts are recommended for write-off.

Table 1: Water Accounts Recommended For Write-off

Ward	Water Account #	Water Service Address	Account Balance	Reason For Recommending Write-off
21	419462-368842	744 St. Clair Avenue W	\$ 10,422.12	Water consumer filed for Bankruptcy and Revenue Services filed a Statement of Claim with the Trustee in Bankruptcy in 2001. No dividends have been received from the Trustee.
23	161699-133423	23 Loraine Drive	\$ 52,630.86	Revenue Services has attempted to collect the water arrears by means of mailing notices, assigning account to an external collection agency. In addition, Legal Services has mailed a Demand Letter in a final attempt to collect the outstanding debt. All collection efforts have failed. Given that the water was consumed prior to January 2004 by someone other than the current property owner, the water arrears cannot be added to the property's tax account.
16	161421-126546	3459 Bathurst Street	\$ 38,161.94	
44	556540-601771	See Attachment 1 (Confidential)	\$ 36,081.93	
32	345821-281224	2656 Coxwell Avenue	\$ 13,175.39	
		TOTAL	\$ 150,472.24	

Confidential Attachment 1 provides the assessed address of a property owned by an individual property owner. The Director of Corporate Access & Privacy has advised that the name of an individual property owner, together with their mailing address and the amount of water arrears, constitutes personal and financial information of the affected individual, as defined by the *Municipal Freedom of Information & Protection of Privacy Act*. Personal information is subject to the privacy provisions of that Act and, accordingly, the name of individual property owners and their mailing addresses may not be disclosed.

Revenue Services Division staff have taken all possible steps in attempting to collect the outstanding water arrears identified in Table 1, including internal collection procedures, and subsequent issuance of the accounts to an external collection agency for “skip trace” and revenue recovery. In addition, of the five (5) water accounts, four (4) were mailed a “Demand Letter” by Legal Services, and the remaining one (1) that filed for bankruptcy, was mailed a “Proof of Claim” form to the Trustee in Bankruptcy.

The reasons for recommending an account for write-off may be that the previous tenant cannot be found, or in the case where the consumer is not an individual, the corporation is either bankrupt, insolvent, dissolved or has no assets. In these cases, Revenue Services Division has requested corporate searches in order to determine the corporations' principal(s) and mailing addresses. The City Solicitor's office has mailed "demand letters" to the corporations' principals appearing on the corporate searches in a last and final attempt to recover the outstanding water arrears. The City has no further recourse or means of collecting the water arrears identified in Table 1. As such, this report recommends that the outstanding balances be stricken from the water receivables.

Uncollectible Water Arrears Under \$10,000

In addition to the write-off of the amounts identified above, The City's Financial Control By-law (Section S71-17 of Chapter 71, Financial Control, of the City of Toronto Municipal Code), authorizes the Chief Financial Officer to write off outstanding water amounts that do not exceed \$10,000, provided that such amounts are not taxes or deemed to be taxes. The write-off of any amounts in excess of \$10,000 requires Council approval. Accordingly, the Chief Financial Officer will be writing off 29,889 water accounts with a balance owing of less than \$10,000 each, representing a total combined value of approximately \$6.6 million, for water consumed from 1997 to 2003 inclusive. This represents a write-off of under \$1 million per year for each of the seven years. When compared to annual water revenues billed of approximately \$400 to \$475 million per year, this represent a write-off of less than 0.25% per year.

All of these arrears are in relation to water consumed prior to January 1, 2004 by someone other than the current property owner. As such, the water arrears cannot be added to the property's tax account. For these accounts, Revenue Services staff have exhausted all methods of collections including internal collections and external collection agencies. Given the relatively small balance of these individual accounts, it is not cost effective to pursue litigation against the former tenants, especially as in most cases the water consumer cannot be found by means of "skip tracing" collection techniques. Once these older water arrears related to water consumed prior to January 1, 2004 have been dealt with, the need for water write-offs will be significantly reduced given the municipality's ability to add water charges for 2004 onward to the property's tax account for collection purposes.

Since amalgamation in 1998, the Chief Financial Officer has only written off uncollectible water arrears with a balance of less than \$10,000 on one other occasion that included 3,338 water accounts, representing a total combined value of \$673,925.04.

There have been two (2) water write-off reports authorized by Council since amalgamation for water accounts with a balance greater than \$10,000. In 2002, three (3) water accounts representing a total value of \$40,644.90 were written off, and in 2005, there were a further six (6) water accounts representing a total value of \$269,001.22 that were written off.

In order to provide a perspective as to the ratio of dollar value billed in comparison to the dollar value written off, it should be noted that since amalgamation in 1998 up until December 31, 2004, the City has billed approximately \$2.4 billion in water charges, and has only written off a total of: i) \$983,571.16 to date, or approximately 0.04 per cent of the billed amount, not including the water accounts being recommended for write-off in this report; ii) \$7.7 million or 0.32%, including the accounts recommended for write off in this report and being written off by the Chief Financial Officer this year.

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SIGNATURE

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Attachment 1: Confidential Information