



**STAFF REPORT  
ACTION REQUIRED  
with Confidential Attachment**

**Sale of Land for Tax Arrears: Process for Certain Tax Sale Properties**

<b>Date:</b>	March 23, 2015
<b>To:</b>	Government Management Committee
<b>From:</b>	Treasurer
<b>Wards:</b>	Ward 2 – Etobicoke North Ward 7 – York West Ward 17 – Davenport Ward 20 – Trinity Spadina
<b>Reason for Confidential Information:</b>	This report contains information respecting a proposed or pending acquisition or sale of land for municipal or local board purposes, and security of the property of the City or local board.
<b>Reference Number:</b>	P:\2015\Internal Services\rev\gm15004rev (AFS20064)

**SUMMARY**

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This report provides information respecting the municipal tax sale process and recommends an additional process for certain properties which have been the subject of one or more unsuccessful tax sales.

**RECOMMENDATIONS**

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**The Treasurer recommends that:**

1. City Council write off the real property tax arrears in accordance with the Confidential Attachment.
2. City Council adopt the confidential instructions to staff in Attachment 1.
3. City Council direct that Confidential Attachment 1 remain confidential as it relates to a proposed or pending acquisition or sale of land for municipal or local board purposes, and security of the property of the City or local board.

## **Financial Impact**

The financial impacts resulting from the recommendations made in this report are disclosed in the Confidential Attachment.

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 October 3 – 5, 2000 and its Special Meetings held on October 6, 10, 11, and 12, 2000, City Council adopted a policy and related processes with respect to the collection of outstanding property taxes for non-residential properties (re: Clause 2 of Report 19 of the Administration Committee "Public Disclosure of Tax Arrears Information and Strategy for Aggressive Collection Procedures"). The following is the link to the Council decision:

<http://www.toronto.ca/legdocs/2000/agendas/council/cc/cc001003/adm19rpt/cl002.pdf>

At its meeting held on June 24 – 26, 2003, City Council adopted a policy with respect to the collection of outstanding property taxes for residential properties (re: Clause 7 of Report 5 of the Administration Committee "Collection Procedures on Property Tax Arrears for Owner-Occupied Residential Properties"). The following is the link to the Council decision:

<http://www.toronto.ca/legdocs/2003/agendas/council/cc030624/adm5rpt/cl007.pdf>

At its meeting held on March 29 – 30, 2006, City Council adopted procedures in cases where properties with unpaid taxes are known or suspected to be affected by environmental contamination, including the registration of a Tax Arrears Certificate against title to the property (re: Clause 1 of Policy and Finance Committee Report 2 "City of Toronto 2006 Budget Advisory Committee Recommended Tax Supported Operating Budget", Item 151). The following is the link to the Council decision and staff report:

<http://www.toronto.ca/legdocs/2006/agendas/committees/adm/adm060105/it007.pdf>

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060329/cl001.pdf> (page 64)

## **ISSUE BACKGROUND**

The collection of outstanding property taxes follows Council-approved policies and procedures, and involves a series of progressive steps designed to secure and collect amounts that are owed to the City. The City's current collection processes have proven very effective, with the result that approximately 97% to 98% of the total taxes levied in any year are fully collected within the year the taxes are billed.

In a small percentage of cases, however, and due to any number of circumstances, property tax accounts remain unpaid. Where all efforts to collect the taxes have proven unsuccessful, and the City has been unable to secure payment of arrears or a firm, suitable repayment plan, and where three or more years of property tax arrears have

accumulated, as a final last resort to recover outstanding taxes, the City will commence tax sale proceedings.

The minimum tender that may be submitted in a tax sale is the Cancellation Price calculated for the property. The Cancellation Price is the amount of tax arrears owing in respect of the land together with interest, penalties and all reasonable costs incurred by the City after the Treasurer becomes entitled to register a tax arrears certificate.

When a tax sale property is not sold in a municipal tax sale, property taxes continue to accrue. Such accrual can result in arrears of property taxes which exceed the current assessed value (market value) of the property.

Within the two-year period following an unsuccessful tax sale, the City may undertake any of the following actions:

- (a) commence one further tax sale of the property;
- (b) enter on the property for the purposes of conducting environmental investigations to determine whether it is in the City's interests to acquire the land;
- (c) vest ownership of the property in the City's name;
- (d) register a Tax Arrears Cancellation Certificate to end the tax sale process and register a new Tax Arrears Certificate to recommence the tax sale process; and,
- (e) on the recommendation of the Treasurer, write off the tax arrears then accumulated on the property (or a portion thereof) as uncollectible.

The steps in the City's collection processes for unpaid property taxes, including the Sale of Land for Tax Arrears (the tax sale process), are summarized in Schedules A and B to the public portion of this report.

## **COMMENTS**

In Toronto, the municipal tax sale process is governed by the provisions of the *City of Toronto Act, 2006*, and *Ontario Regulation 579/06* (Toronto Tax Sales Rules). Tax sale proceedings have proven an effective tool in the collection of unpaid property taxes. However, in certain situations the current tax sale process is not effective (e.g. where there is an adverse environmental condition to the property, or there is simply no market for the property).

Following an unsuccessful tax sale, the City has traditionally been averse to taking ownership of certain types of properties which present the potential for unknown liability associated with ownership. Two examples of properties falling into this category are: land known or suspected to be environmentally contaminated (which could result in

remediation costs or third party liability), and condominium units (which could result in special assessments or increased common expenses for which the City becomes liable).

At its meeting of March 29 and 30, 2006, City Council adopted recommendations of the Deputy City Manager and Chief Financial Officer, entitled "Revisions to Tax Sale Process Resulting from Brownfields Legislation (All Wards)" which included the recommendation that authority be delegated to the Deputy City Manager and Chief Financial Officer or his designate to vest property in the City in circumstances where a tax sale has been unsuccessful, *excepting* condominiums and properties with adverse environmental conditions.

In circumstances involving properties which have been the subject of one or more unsuccessful tax sales and which have an adverse condition which makes them difficult to sell, staff are proposing the confidential instructions to staff in Attachment 1.

## **CONTACT**

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## **SIGNATURE**

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Giuliana Carbone  
Treasurer

## **ATTACHMENTS**

Schedule A: Collection Processes for Overdue Property Taxes (Prior to Tax Sale)

Schedule B: Steps in the Tax Sale Process

Confidential Attachment 1: Sale of Land for Tax Arrears: Process for Certain Tax Sale Properties

## Schedule A

### Collection Processes for Overdue Property Taxes (Prior to Tax Sale)

Step	Description	Applicable 2014 Rates/Fees
1	<p><b>Penalty / Interest Charges</b> A late payment penalty charge is added on the first day following an instalment due date, at a rate of 1.25% on the <i>unpaid amount</i> of the property tax instalment. Additional interest charges are added on the first day of each month thereafter, at a rate of 1.25% on the outstanding amount, as long as taxes remain unpaid.</p>	1.25% of overdue amount
2	<p><b>Overdue Notices</b> An Overdue Tax Notice (Property Tax Account Statement) is mailed to property owners where the tax account is in arrears advising that their property taxes are overdue. First statement of the calendar year is issued free of charge (in early January). Where arrears remain on the account, additional statements are issued in March, May, July and September, at a fee of \$16.70 for each statement.</p>	\$16.70 / Notice*  (*No charge for January statement)
3	<p><b>Collection Letters and Telephone Contact</b> Revenue Services Collections staff contact owners of accounts with outstanding current year taxes, by way of phone calls or letters, seeking to arrange either full payment or a firm, suitable payment arrangement.</p>	
4	<p><b>Final Notices (Prior to Issuance to Bailiff)</b> Final Notices are issued as one last notification to the property owner advising of the outstanding balance prior to the issuance of tax arrears to a bailiff. Final Notices advise owners that they have 21 days to pay their taxes or enter into a firm, suitable payment arrangement with the City, or their account will be issued to a bailiff for collection.  For residential properties, Final Notices are issued in April to any property with an outstanding balance from a previous year. For non-residential properties, Final Notices are mailed in November of each year to any property with a current year's outstanding balance.</p>	\$21.90 per notice
5	<p><b>Issuance to Bailiff</b> Where a property owner fails to respond to the "Final Notice" and taxes remain outstanding, the account is issued to a bailiff for collection. A bailiff is a duly appointed agent under contract with the City of Toronto to recover outstanding property taxes.  Once issued to a bailiff, the City sends a notification to the property owner advising that the account has been issued to a bailiff for collection, and a fee of \$58.30 is charged to the property tax account. The notice advises that further payments on the outstanding amount must be made directly to the bailiff, and that applicable bailiff fees are payable directly to the bailiff.</p>	Notice of Issuance to Bailiff: \$58.30 per notice  Bailiff fees: 4% of outstanding amount (payable to bailiff)
6	<p><b>Sale of Land for Tax Arrears (Tax Sale Process)</b> Once all collection efforts have been exhausted and the City has been unable to secure payment of arrears or a firm, suitable repayment plan, and where three or more years of property tax arrears have accumulated, the City will commence Tax Sale Proceedings as prescribed by the <i>City of Toronto Act, 2006</i>.</p>	Various fees/charges may apply

## Schedule B

### Steps in the Tax Sale Process

Step	Description	Timing
1	<p><b>Registration of Tax Arrears Certificate</b> Once a property has accumulated property tax arrears of three (3) years or more, a Tax Arrears Certificate is registered by the municipality against the title to the property. The Tax Arrears Certificate identifies the "Cancellation Price" representing the total of all property tax arrears, interest, fees and other charges or costs incurred by the municipality that must be paid in order to redeem the property (i.e., to cancel the tax sale process).</p>	After 3 years of tax arrears
2	<p><b>Notification of Registration</b> Within 60 days of registration of the Tax Arrears Certificate, Notice of the Registration is given by the municipality to all interested parties appearing on title informing them that if the full Cancellation Price is not paid within one year of the registration of the Tax Arrears Certificate (the redemption period), the property will be sold by the municipality at a public tax sale.</p>	Within 60 days of registration of Tax Arrears Certificate
3	<p><b>Issuance of Final Notice</b> If, 280 days following the registration of a Tax Arrears Certificate, the Cancellation Price remains unpaid, a Final Notice is sent by the municipality within the following thirty days, advising that if the taxes remain unpaid, the property will be made available for sale through a public auction or public tender process after the expiry of the redemption period.</p>	280 days after registration of Tax Arrears Certificate
4a	<p><b>Where Tax Arrears are Paid</b> If the Cancellation Price is paid in full to the municipality prior to the end of the redemption period, a Tax Arrears Cancellation Certificate is prepared and registered, which terminates the tax sale process.</p>	Within 1 year of registration of Tax Arrears Certificate (within redemption period)
4b	<p><b>Where Tax Arrears Remain Unpaid</b> If, within the one year redemption period (one (1) year from the date of registering the Tax Arrears Certificate), the Cancellation Price has not been paid and an extension agreement has not been entered into between the property owner and the municipality, the land shall be offered for public sale to recover the property tax arrears.</p>	If taxes remain unpaid beyond end of redemption period
5	<p><b>Notice of Tax Sale published</b> Notice of the public sale by the municipality of a property to recover property tax arrears is advertised once in the Ontario Gazette and once a week for four weeks in a paper of general circulation within the municipality.</p>	4 weeks in advance of tax sale
6	<p><b>Tax Sale held</b> On the advertised public sale date, in compliance with the requirements of the Tax Sale Rules, tender(s) are opened. In order to be considered valid, bids must meet or exceed the full Cancellation Price, and meet all other requirements for eligibility. If no valid bids are received, the tax sale is deemed to have been unsuccessful.</p>	

Step	Description	Timing
7a	<p><b>Where Tax Sale is Successful</b>  Where there has been a successful tax sale (i.e., a tender bid has been received that meets or exceeds the full Cancellation Price, and all other eligibility requirements are met):</p> <ul style="list-style-type: none"> <li>(a) Notice is sent to highest and second highest tenderer;</li> <li>(b) Provided full payment of the bid price is received within 14 days of the tax sale from the highest tenderer (called the "successful purchaser"), along with the land transfer tax, a tax deed of the property is prepared and registered to transfer title of the property to the successful purchaser.</li> <li>(c) Following registration of the tax deed, the municipality retains the Cancellation Price out of the purchase money received and the balance of the purchase price is paid into the Court. Notice advising of Payment into Court is given to all parties that received a Final Notice referred to above, within 60 days.</li> </ul>	<p>Within 60 days of tax sale</p>
7b	<p><b>Where Tax Sale is Unsuccessful</b>  The tax sale is deemed to have been unsuccessful where, on the advertised public sale date, no tenders are received, or no tenders are received that comply with the Tax Sale Rules, such that there is no successful purchaser.</p> <p>Where a tax sale is unsuccessful, a municipality may, within the two (2) year period following the date of the unsuccessful tax sale, take any or none of the following steps:</p> <ul style="list-style-type: none"> <li>(a) commence a further tax sale of the property;</li> <li>(b) enter on the property for the purposes of conducting environmental investigations to determine whether it is in the City's interests to acquire the land;</li> <li>(c) vest ownership of the property in the City's name;</li> <li>(d) register a Tax Arrears Cancellation Certificate to end the tax sale process and register a new Tax Arrears Certificate to recommence the tax sale process;</li> <li>(e) on the recommendation of the Treasurer, deem the tax arrears then accumulated on the property (or a portion thereof) as uncollectible, and write off the taxes.</li> </ul> <p>If a notice of vesting is not registered within two years after an unsuccessful tax sale, the tax arrears certificate is deemed to be cancelled, and the tax sale process is at an end.</p>	<p>Within 2 years following an unsuccessful tax sale</p>