



STAFF REPORT

Meeting Date: February 14, 2022

Title: Vesting of Properties – February 2022

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Department: Finance

Report Number: Finance-2022-002

Recommendation:

THAT Council authorize staff to register on title a Notice of Vesting on the properties with Roll # 60 26 260 001 16600 0000 (149 Third St.) and Roll # 60 26 260 001 16700 0000 (186 Grand Trunk Ave.)

AND FURTHER THAT Council authorize Staff to write off taxes in the amount of \$326,448.36 on the lands vested by the municipality in accordance with Section 354 (2) and (3) of the Municipal Act, 2001

Background:

These two properties make up what was once the Trans Canada Motel & Restaurant and are owned by 1854993 Ontario Ltd.

If municipal property taxes are unpaid for a period of time, the Municipal Tax Sales Act provides for the sale of the property through a tax sale. Before the tax sale occurs, the property owner is given notice and a period of time to pay their property taxes. If they do not pay within the specified time, then the City of Dryden initiates a tax sale on the property. This applies to all classes of property within the City of Dryden limits.

In 2018 the tax arrears on these properties made them eligible for Tax Sale and the City registered on title the Tax Arrears Certificate. The property owner then had one year to pay the cancellation price, or the property would be subject to Tax Sale.

In April of 2019, prior to the Tax Sale date, the structures on the 149 Third St. property were razed by fire.

In September of 2019, the City held Tax Sales on these two properties but did not receive any bids through the tax sale process. This was to be expected for the following reasons:

1. The cancellation price of ~\$228,400 (minimum bid), for the 149 Third St. property was greater than the value of the property.
2. The Canada Revenue Agency (CRA) has liens registered on title for both properties totaling more than \$470,000.

Discussion:

As no tenders were received through the Tax Sale, our options are:

- Write Off and Charge Back
 - Council, on the treasurer's recommendation, can write off the taxes pursuant to section 354(2) and (3) of the Municipal Act, 2001 and charge back to the school boards their proportionate share of the unpaid taxes that are written off.
 - Council can write off the taxes regardless of whether they decide to Vest the property in the municipality's name or not.
 - Please note that the "Cancellation Price" required to discharge the tax arrears certificate registered on title is equal to the taxes on the roll at any given time (see section 371(1) of the Municipal Act). If the taxes are written off *without vesting*, the "delinquent" owner could come along and pay the lower cancellation price and have the tax arrears certificate cancelled.
 - This option is generally only used if the property is being vested in the municipality or, *if not vested*, when the property is abandoned or being re-advertised as below.
- Register Notice of Vesting
 - The municipality may register on title a Notice of Vesting within two years of the tax sale date pursuant to section 379(5b)(7.1). The legislative deadline for the above noted properties to vest in the name of the municipality was September 26, 2021. However, due to the freezing effect of O.Reg. 73/20, the legislative deadline is now **March 24, 2022**.

- The property will then be owned by the municipality and be tax exempt as is any other municipally owned property.
 - Vested properties may be offered for sale as Surplus Lands.
 - If the municipality decides to charge back, then vest and subsequently sell the lands within seven years of the registration of the Notice of Vesting, it must pay a proportionate share of the proceeds to the school board as the cancellation price was greater than \$10,000.00 (ss. 353(4)).
 - If the municipality sells seven or more years after the registration of a Notice of Vesting, it does not have to share (ss.353 (6)).
 - Interests of the Federal Crown continue to encumber title after a Notice of Vesting is registered and there may be some sharing of proceeds required if a Provincial Crown interest is on title. For these properties, there are crown interests registered on title so sharing with the crown will be required.
- Re-advertise for Tax Sale
 - The municipality may advertise the property for sale a second time within two years of the tax sale date pursuant to section 380.1.
 - If the taxes have been written off pursuant to section 354, the property can presumably be offered for sale at a Minimum Tender Amount that might be more attractive to purchasers.
 - If there are extenuating circumstances such as large crown interests, low assessed value, land use unsuitability or contamination even a lower Minimum Tender Amount may not result in a successful tax sale.
 - If the municipality considers this option, there are additional notice requirements and fees involved.
- Do Nothing
 - If the municipality has not registered a Notice of Vesting or re-advertised as above within 2 years of the tax sale date, the whole process is deemed to be cancelled.
 - If the municipality wants to continue with the tax sale process as a collection tool, the process will need to be started all over again with the registration of a new Tax Arrears Certificate (subsection. 379(15)).
 - Taxes and penalties would continue to incur on the property, increasing the receivable that would not likely be received.

Recommendation

Since November 2019, City Staff has been working with the CRA on having the liens removed from title. With the liens removed, it opens the door for the properties to change hands. In December of 2021, the fruits of that labour paid off and the City received a letter from the CRA in which they agreed to remove their registrations on title with the condition that the City vest the properties and share the net proceeds of any sale, with the CRA getting 60% of the net proceeds.

It is recommended that the City register on title a Notice of Vesting on these two properties, thus taking ownership of them. This will allow us to deem these properties surplus lands and sell the properties, recouping some of the tax arrears written off and start receiving property taxes on these properties moving forward. Currently, the tax arrears continue to grow, with no possibility of collection.

Financial Implications:

- Write off taxes of ~\$326,448.

Attachments (Reference Material):

- Letter from CRA dated December 16, 2021