

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 

Jacques Dubé, Chief Administrative Office

DATE: August 10, 2020

SUBJECT: Tendering Properties for Tax Sale

ORIGIN

The social distancing restrictions in effect due to the COVID-19 pandemic necessitated the cancellation of several of the Municipality's regularly scheduled tax sales, which are held via a public auction. Social distancing measures are expected to remain in place for the foreseeable future. The Municipality can, with the consent of Council, advance properties to tax sale via a tendering process. This report is requesting that consent.

LEGISLATIVE AUTHORITY

Section 148 of the Halifax Regional Municipality Charter (the "Charter") states that:

- (1) Property may be sold for taxes if the taxes with respect to the property are not paid in full for the taxation year immediately preceding the year in which the tax sale proceedings are commenced, but the proceedings must not commence before June 30th in the year immediately following the taxation year.
- (2) Property must be put up for tax sale if taxes are in arrears for the preceding three fiscal years.
- (3) The Council may defer tax sale proceedings for a property for up to two years.

Section 156 of the Charter states that:

- (1) Unless the arrears of taxes, interest and expenses are paid, the Treasurer shall proceed to sell land liable to be sold for taxes at public auction.
- (2) The Treasurer may, with the consent of the Council, call tenders for property rather than put the property up for sale at public auction.

Section 164(1) of the Charter states that:

Where the Municipality calls tenders for land to be sold for taxes, the Municipality may reject all tenders if

- (a) the price tendered is less than the taxes, interest and expenses; and
- (b) the Council considers that the best price offered is inadequate,

and may again put the land up for sale, by tender or by public auction.

Administrative Order 18, The Revenue and Collections Policy section 4.2.3(h)(3) states:

Where the property has been put up for tax sale three times in the past with no satisfactory offer staff will then proceed, as per section 158 (4) of the HRM Charter, and without further notice to the owner and encumbrances, to again advertise the property and sell it at either public auction or tender starting with the minimum reserve bid as set by Council resolution.

Any remaining arrears after the tax sale will be adjusted to the allowance for tax account (G/L 2521). Staff will then advise Council of the results, including any adjustments within 30 days of the tax sale via an information report.

RECOMMENDATION

It is recommended that Regional Council:

1. Consents and authorizes the Treasurer to call for tenders for any properties being put up for tax sale prior to December 31st 2021;
2. Direct that any tender process that has been initiated by the publication of advertisement, pursuant to section 157 of the Charter, but has not been completed prior to December 31st 2021 shall proceed until the tender process is completed;
3. Direct further that the Treasurer set the minimum bid for each property being sold through the tender process at an amount equal to the total of taxes, interest and expenses outstanding on the particular property, as such amount maybe determined by the Treasurer; and
4. Authorize the Treasurer, after a property has been put up for tender three times without any successful minimum bid, to set the minimum reserve bid at \$770 for each property being sold and, as part of the ongoing tender process, attempt to sell the subject property one more time by tender.

BACKGROUND

The HRM Charter has a provision to permit tax sales to be conducted via tender instead of a public auction, with the consent of Council. HRM tax sales are typically attended by 200-300 members of the public, which makes social distancing difficult for the public and staff. Staff feel the tendering process is in the best interest of public health and safety and request that Council approve this option. Other municipalities in Nova Scotia have continued to hold tax sales in 2020 with social distancing measures in place (eg, Colchester, Guysborough) or via public auction (eg, District of St. Mary's).

DISCUSSION

Section 148(2) of the Charter requires that properties must be put up for tax sale when taxes are in arrears for the preceding three fiscal years. Historically, HRM has fulfilled this legislative obligation by conducting 4 to 5 public auctions each year. The public auctions are held in a large venue (for example, at the Halifax Forum) and are typically attended by 200-300 members of the public. Given the unpredictable nature of the pandemic and fast changing health and safety directives, it would be logistically challenging to adapt a space to conduct a public auction safely. HRM may recover unpaid property taxes eventually through the sale of the property if the taxes remain unpaid. By the time a property is eligible to have a tax lien registered against the property, the property taxes are at least in their second year of arrears.

It is recommended by staff that tax sales should be conducted through a public tender process.

The proposed tax sale tendering process will be conducted via the Province of Nova Scotia's established procurement website, with bids only to be accepted electronically through HRM's existing bid submission website. Tenders will be opened and evaluated on the date and time advertised. Following the opening, HRM reviews all tenders for legislative compliance and determines the highest qualified tenderer. HRM will notify the highest tenderer of the balance to be paid for the tenderer to be declared the successful purchaser. The balance due must be paid in full within 3 business days of the notice. All other legislatively mandated tax sale process steps will continue to be followed.

Staff recognize the financial hardship COVID-19 has caused for many residential and commercial customers. It is important to note that staff work diligently with all customers who are struggling to pay their tax bill and offer as much support as legislatively permitted. For customers in arrears, staff provide assistance such as:

- Recommending payment arrangements to help customers better manage their payments by dividing them into more regular, smaller amounts
- Determine if customers are eligible for relief under the Municipality's low-income tax exemption and deferral program
- Help educate customers about available provincial or federal grant programs.

The advancement of a property to tax sale is an absolute last resort.

Staff will continue to work with customers experiencing financial hardship however, taxes continue to accrue, and bad debt allowances must be held against these receivables. Staff believe that it is in the best interests of all rate-payers that these tax accounts once again become active by getting parcels into interested parties' hand thereby ensuring increasing development, and ultimately revenue for HRM, rather than abandonment and unpaid tax accounts. Through this process, staff is hopeful that the properties under new ownership will become less of a collection risk, be re-capitalized or developed, which in the long run would add taxable value to future assessment rolls.

At tax sale, a property is listed for taxes owing, interest and expenses. Properties that do not sell are brought forward to the next tax sale. If the property has not sold for taxes owing, interest and expense after 3 tax sales, the property may be brought to the fourth tax sale listed at a bid lower than the taxes owing, interest and expenses.

FINANCIAL IMPLICATIONS

HRM relies on the collection of property taxes to provide services, to make infrastructure improvements and to meet financial obligations. To ensure that everyone who is required to pay municipal taxes does so, the Charter ensures HRM can collect the taxes that are due and gives HRM the authority to enforce payment of legally levied taxes. The purpose of the tax recovery process, including conducting tax sales, provides a means through which HRM receives the taxes to which it is entitled. The tax sale process is a

vital part of this process as both an enforcement mechanism, and a path to getting parcels into interested parties' hand thereby ensuring increasing development, and ultimately revenue for HRM, rather than abandonment and unpaid tax accounts. Tendering will also avoid security and facility rental costs associated with public auctions (approximately \$4,400 per year in savings).

RISK CONSIDERATION

Pursuant to section 148(2) of the Charter, properties must be put up for tax sale if taxes are in arrears for the preceding three fiscal years, although pursuant to section 148(3) Council may defer tax sale proceedings for a property for up to two further years. The Charter obligates HRM to take properties to tax sale after a certain amount of time, hence if we do not proceed with a form of tax sale it is possible we could be offside the Charter regarding a failure to take certain properties to tax sale. In addition, 147(7) of the Charter states that taxes cease to be a lien on the property when six years have elapsed after the end of the fiscal year in which they were levied but may be collected after they have ceased to be a lien. There is a risk by waiting further on completing tax sales HRM could lose their priority lien position regarding the tax arrears, interest and expenses.

COMMUNITY ENGAGEMENT

N/A

ENVIRONMENTAL IMPLICATIONS

N/A

ALTERNATIVES

Council could choose not to approve the tendering process. This is not recommended as it will necessitate the tax sales to be held at public auction, which introduces a health risk to participating staff and customers.

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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