

Subject: Vesting of Property into Municipal Ownership
for Subsequent Sale

Recommendation:

THAT Committee receive Report #2019-0135 and recommend:

THAT Council: vest Roll # 2732 010 016 12510; PIN 64029-0272(LT); Part Lot 20 N/S Ontario St. Plan 703 Pelham as in RO112837 except RO107119 & Part 1 59R8830 into the name of the municipality, write-off the outstanding taxes, penalties, interest and tax sale fees, then subsequently sell the parcel of land on the market at an amount more attractive to potential purchasers.

Background:

On May 15th, 2019 the Town of Pelham (Town) conducted a Municipal Tax Sale (sale of land by public tender) under the authority of the *Municipal Act, 2001* (the Act). A total of three properties were advertised for sale. Two of the properties received bids and were sold successfully. One property received no bids and remains outstanding. Within two years of the tax sale date, the Town must decide whether to re-list the property for tax sale at the full cancellation price, re-list the property for tax sale at a reduced cancellation price or vest the property into the name of the municipality and subsequently sell the property on the market.

The property being considered is described as:

Roll Number: 2732 010 016 12510

Legal Description: PIN 64029-0272(LT); Part Lot 20 N/S Ontario St. Plan 703 Pelham as in RO112837 except RO107119 & Part 1 59R8830

Outstanding taxes, penalties, interest & tax sale fees owing as of November 1st, 2019: \$25,581.15

This parcel measures 1.63 acres. It is landlocked and its proximity to an active railway corridor limits the residential building envelope. Abutting property owners may wish to acquire this land for use.

Analysis:

Vesting the property into municipal ownership will allow the Town to subsequently sell the property at an amount more attractive to potential buyers. Although the Town may have to sell the property for less than the amount of the arrears, this alternative provides the greatest potential recovery and will serve to re-instate the property as a taxable property on the assessment roll so that future municipal taxes can be realized.

Financial Considerations:

Pursuant to Sections 354(2) and (3) of the Act, following an unsuccessful tax sale, Council, on the recommendation of the Treasurer, can write-off all or a portion of the tax arrears and charge back the proportionate share of the unpaid taxes to the Region and school boards. The financial impact of each alternative is considered below:

Option 1- Re-list the property for tax sale at the full cancellation price:

The cost of relisting the property for tax sale is approximately \$1,125 payable to Realtax. This amount is added to the tax account and can be recovered if the property sells successfully. The cancellation price (minimum tender) would be set to recover the full \$25,581.15 outstanding plus \$1,125 of additional tax sale fees, and any accumulated amounts up to the date of sale.

Option 2-Re-list the property for tax sale at a reduced cancellation price:

The cost of relisting the property for tax sale is approximately \$1,125 payable to Realtax. This amount is added to the tax account and can be recovered if the property sells successfully. The cancellation price (minimum tender) can be reduced by writing-off all or a portion of the arrears. However, any of the arrears written-off under this alternative will no longer be recoverable. If the Town chooses to write-off all interest, penalty and taxes outstanding, the Town's share of the write-off is approximately \$13,658 which consists of \$4,762 of taxes and \$8,896 of interest and penalty. The new cancellation price would be set at approximately \$4,800, which would recover the cost of all outstanding tax sale fees. Any amount received that exceeds the cancellation price is forfeited to the Courts and cannot be collected by the Town.

Option 3-Register a Notice of Vesting and sell the property on the market:

By vesting the property, all outstanding taxes, penalties, interest and tax sale fees owing will be written-off. The uncollected taxes written-off will be charged back to the Region and school boards proportionately. The Town's share of the write-off is \$17,225 which consists of \$3,567 of tax sale fees, \$8,896 of interest and penalties and \$4,762 of taxes plus any accumulated taxes, penalties and interest after November 1st, 2019. This alternative provides the greatest opportunity for recovery, as the Town is able to list the property for an amount more attractive to potential buyers and can recover more than the cancellation price listed in Option 2. Additional fees will be incurred to sell the property on the real estate market and the Town must pay a proportionate share of the proceeds from the sale to the Region and school boards, up to the amount of taxes previously written-off.

Alternatives Reviewed:

Option 1-Re-list the property for tax sale at the full cancellation price:

The Town may re-advertise the property for tax sale, pursuant to Section 380.1 of the Act, for the full cancellation price of \$25,581.15 plus any accumulated taxes, interest, penalties and tax sale fees to date. By relisting the property for tax sale, the Town is bound by the strict tax sale guidelines set out in the Municipal Tax Sale Rules. Under this alternative the Town does not take ownership of the property and therefore, is not responsible for the risks of ownership. However, considering the prior failed tax sale attempt, combined with the subsequent increase in cancellation price, the chance of receiving future tender bids under this alternative is considered to be low.

Option 2- Re-list the property for tax sale at a reduced cancellation price:

The Town may re-advertise the property for tax sale, pursuant to Section 380.1 of the Act, for a reduced cancellation price. All outstanding interest, penalty and taxes can be written-off, the Town's share of this write-off is \$13,658. By relisting the property for tax sale, the Town, is bound by the strict tax sale guidelines set out in the Municipal Tax Sale Rules and can only recover the amount of the cancellation price. Therefore, if the highest tender amount exceeds the new cancellation price of \$4,800, these surplus funds will be forfeited to the Courts and the Town will not be eligible to redeem them. Under this alternative the Town does not take ownership of the property and therefore, is not responsible for the risks of ownership but limits the recovery available.

Option 3-Register a Notice of Vesting and sell the property on the market:

Pursuant to Section 379 (5b) (7.1) of the Act, the Town may register on title a Notice of Vesting in the name of the municipality, transferring the ownership and

associated risks to the Town. Under this alternative any outstanding taxes are written off pursuant to Section 354(2) and (3) of the Act and charged back proportionately to the Region and school boards. The Town's share of this write-off is \$17,225. Following vesting, the Town may subsequently sell the municipal land on the market for an amount more attractive to potential purchasers. Under this alternative the Town is not bound by the strict tax sale guidelines set out in the Municipal Tax Sale Rules. This alternative provides the greatest opportunity for recovery, as the Town can recover more than the cancellation price. Additional fees will be incurred to sell the property on the real estate market and the Town must pay a proportionate share of the proceeds from the sale, to the Region and school boards, up to the amount previously written-off.

If the municipality has not registered a Notice of Vesting or re-advertised the property for tax sale within two years of the tax sale date the whole process is deemed to have been cancelled.

Strategic Plan Relationship: Financial Sustainability

Although the Town may have to sell the property for less than the amount of the arrears, this process will serve to recover a portion of the outstanding balance and re-instate this property as a taxable property on the assessment roll, so that future municipal taxes can be realized.

Consultation:

Realtax was consulted and provided the Town with the options available following the unsuccessful tax sale.

Other Pertinent Reports/Attachments:

Appendix A Property Map and Description

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