

Subject: Tax Collection and Registration Process**Recommendation:**

BE IT RESOLVED THAT Council receive Report 2021-0107;

AND THAT Council direct staff to resume normal tax collection processes, including registering tax arrears certificates against properties with tax arrears in excess of 2 years.

Background:

The Town of Pelham (the "Town") is part of a two-tier municipal system that levies property taxes in accordance with the *Municipal Act, 2001*. In this two-tier system, the Town levies and collects taxes on behalf of the Region and School Boards in addition to its own budgetary requirements. Property tax bills are sent to property owners twice annually and are due in four installments. Penalties and interest are charged at the statutory rate of 1.25% monthly on the first day of default and on the first day of each month thereafter. All interest and penalty charged on past due balances ("arrears") is retained by the Town. Amounts levied on behalf of the Region and School Boards are paid to these parties in quarterly installments regardless of actual collection.

In order to ensure collection of property taxes, Section 371 of the *Municipal Act, 2001* allows the Town to register a tax arrears certificate ("registration") against any property in which taxes are owing on January 1st in the second year following that in which they became due. If the cancellation price remains unpaid one year after the registration date, the Town can list the property for tax sale. The Town utilizes an external service provider, Realtax Inc., to assist with the registration and tax sale process.

In the past, the Town has maintained the following collection procedures:

- Property tax bills are sent twice a year detailing the current and past due amounts outstanding. Each bill is due in two installments; the last business day in February, April, June and September.
- Reminder notices are sent following each installment due date (March, May, July, October) advising of any amounts left unpaid. A final reminder notice is sent in

December showing the amounts outstanding for December 31st.

- Arrears calls are placed to anyone with one or more years of arrears and with available contact information.
- Notice of eligibility for registration is sent mid-year for properties that are approaching three years of arrears or when a property has defaulted on a payment agreement.
- In December a final notice is sent to property owners, that previously received notice of eligibility for registration and have not made payment or entered into a payment agreement, advising that registration will occur in January.
- If a payment agreement has not been reached or collection has not been received on eligible accounts by December 31st, the Town will contact Realtax to move forward with the registration process as of January 1st. Once the tax arrears certificate is registered, the Town can no longer accept partial payments. Only full payment of the cancellation price can be accepted to redeem the property.
- If after the one-year period following the date of registration the cancellation price has not been paid or an extension agreement has not been granted, the Town will proceed with a tax sale.

As a result of COVID-19, the Province put in place Ontario Regulation 73/20 which suspended limitation periods and procedural timelines related to the registration and tax sale process. This suspension was in place from March 16th, 2020 until it was revoked on September 11th, 2020. As a result, any properties that were registered prior to the pandemic were reset back to March 16th, 2020. The Town has continued to send tax bills and reminder notices as detailed above throughout the pandemic but has not resumed with registering tax arrears certificates.

Analysis:

The collection risk of property taxes is generally considered to be low, since the Town is able to recuperate any outstanding tax arrears, interest and penalty, tax registration fees, tax sale fees and certain amounts added to tax for collection purposes by way of tax sale.

The current year tax balance at April 30th as a percentage of the interim billing is lower than previous years. Therefore, despite the impacts of COVID-19, less of the interim billing remains unpaid at April 30th and collections in 2021 have actually improved slightly over previous years. Below is a 4-year comparison of the current year tax at April 30th as a percentage of the interim billing.

| | 2018 | 2019 | 2020 | 2021 |
|------------------------------|---------------|---------------|---------------|---------------|
| Current Year Balance | \$ 2,669,682 | \$ 2,665,023 | \$ 3,002,715 | \$ 3,027,184 |
| Interim Billing | \$ 16,293,026 | \$ 16,758,412 | \$ 17,839,133 | \$ 19,242,411 |
| Percentage of Interim | 16.4% | 15.9% | 16.8% | 15.7% |

Below is a summary of the number of properties that currently have a balance outstanding greater than \$50 and are not enrolled in a monthly preauthorized payment plan.

| | Registration initiated prior to March 16th, 2020 | Three years or prior arrears (>2018) | Two year arrears (2019) | One year arrears (2020) | Current year arrears (2021) |
|---------------------------------------|--|--------------------------------------|-------------------------|-------------------------|-----------------------------|
| Number of properties | 4 | 12 | 25 | 91 | 129 |
| Percentage of total properties | 0.05% | 0.16% | 0.34% | 1.25% | 1.77% |
| Arrears balance* | \$ 67,731 | \$ 247,700 | \$219,609 | \$344,131 | \$185,994 |

*Arrears balance includes all outstanding taxes (Town, Region and School Board), interest and penalty and amounts added to tax for collection purposes as of May 25th, 2021.

As per the *Municipal Act, 2001* properties with two years arrears or greater were eligible for registration as of January 1st. Therefore, 37 properties with a total balance of \$467,309 are currently eligible for the registration. The arrears on these properties resulted prior to the COVID-19 pandemic and relate to the years 2019 and older. As of January 1st, 2022 an additional 91 properties will become eligible. The average number of properties becoming eligible for registration at the start of each year is approximately 63 properties. The increase in number of properties becoming eligible as of January 2022 may be the result of COVID-19, since these arrears relate specifically to the year 2020.

It is recommended that the Town resume the registration process on the 37 properties currently eligible for registration beginning in June 2021 as follows:

- Send notice of eligibility for registration in June to the properties currently eligible.
- Send final notices in December to any eligible properties where collection has not been received, advising that registration will occur on January 1st, 2022.
- Contact Realtax as of January 1st, 2022 to begin the registration process on any eligible properties where collection has not been received as of December 31st, 2021. Once the tax arrears certificate is registered the Town can no longer accept partial payments. Only full payment of the cancellation price can be accepted to redeem the property.
- If after the one-year period following the date of registration the cancellation price has not been paid or an extension agreement has not been granted, the Town

will proceed with a tax sale.

Financial Considerations:

The registration of a tax arrears certificate by Realtax costs approximately \$1,155 plus HST per property. This fee is transferred to the property owner and fully recovered when the cancellation price is paid to redeem the property. The cancellation price includes the current and prior years' tax arrears, all accumulated interest and penalties, allowable amounts added to tax for collection purposes and the tax registration fees charged by Realtax. If the cancellation price is not paid and the property proceeds to tax sale, the registration fee plus tax sales fees of approximately \$1,350 plus HST are added to the account and included in the minimum tender amount. The minimum tender amount includes current and prior years' tax arrears, all accumulated interest and penalty, allowable amounts added to tax for collection purposes, tax registration fees and tax sale fees charged by Realtax. Any amounts received in excess of the minimum tender are remitted to the Superior Court of Justice and are not retained by the Town.

In the event of an unsuccessful tax sale, the Town may relist the property for tax sale within two years in an effort to recover all costs or vest the property into municipal ownership. When the property is vested into municipal ownership the outstanding taxes are charged back to the Region and School Boards proportionality. However, the interest and penalty, tax registration fees and tax sale fees are all written-off at the Town's expense.

Other financial considerations include the cost of staff time required to monitor and administer the registration and tax sale process which can be very time consuming.

Alternatives Reviewed:

Council may elect to further postpone the registration of tax arrears certificates on eligible properties, which is not recommended. These properties will continue to be taxed and incur monthly interest and penalties which will increase the likelihood that the property owner will be unable to pay the cancellation price to redeem the property when a tax arrears certificate has been registered. This will result in an increase in future tax sales.

Strategic Plan Relationship: Financial Sustainability

By resuming the registration process as detailed in this report, this should help to improve financial sustainability by increasing cash flows. In addition, it will protect property owners from allowing their balances to grow too large, to the point where

tax sale becomes the only option.

Consultation:

Area municipalities were consulted to determine how they have proceeded with tax registrations after Ontario Regulation 73/20 was lifted. Of the eleven municipalities consulted, six have resumed the registration process, two have postponed the registration process until COVID-19 restrictions have been lifted and three municipalities have not made a decision on how to proceed.

Other Pertinent Reports/Attachments:

None

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