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Town of Aurora
Committee of the Whole Report
No. FIN24-052

Subject: Tax Sale Process

Prepared by: Elizabeth Adams-Quattrociocchi, Manager, Financial Reporting and Revenue

Department: Finance

Date: November 5, 2024

Recommendation

1. That Report No. FIN24-052 be received for information.

Executive Summary

As property taxes are the largest source of revenue supporting the Town's operations, this report is to provide Council information about collection processes available to the Town that are within the legislation of the Municipal Act. The Town plans to commence consistent application of the tax registration and tax sale legislation through a documented process in an effort to decrease property tax arrears balances.

- The Town actively keeps residents informed of the status of their property tax account
- The Town will continually review property tax collection processes to actively manage outstanding property tax levies
- The Town will follow a six-stage process, the final stage being a tax sale
- Staff plan to actively review property tax accounts and commence the tax sale process for qualified properties

Background

The Municipal Act, 2001, and Ontario Regulation 181/03 (the "Municipality Tax Sales Rules") govern the circumstances under which a property may be sold by the Town. The

Town may register a Tax Arrears Certificate against a title if the property taxes remain unpaid for the two years prior to January 1 of any year. This applies to both residential and non-residential classes of properties.

The Town's most recent policy titled, Property Tax Collection Procedures, was last updated January 1, 2019. Post the approval of this policy, the Town has not proceeded with the tax sale process for any of the eligible properties mainly because of the pandemic. Finance plans to update this policy to accurately reflect the steps detailed within this report.

Tax registration is a set of procedures that must be followed before a property can be advertised for tax sale. Practices demonstrated by multiple municipalities across Ontario show indications that in most cases tax registration does not result in a tax sale; instead, it results in property owners finding the means to pay tax arrears in full within one year.

Analysis

The Town actively keeps residents informed of the status of their property tax account

Property tax bills are mailed out to all residents twice a year, first through the interim bills and second through the final bills. The bills detail the current year levy and include overdue balances of any unpaid bills and applicable interest charges that resulted from the overdue balances. Instalment dates for current year bills are in February, April, July and September. After each instalment date, the Town issues Reminder Notices for all property tax accounts that have an overdue balance, the balance may consist of any combination of current year taxes, prior year taxes, interest and eligible charges transferred to the property tax account.

In 2022, Finance initiated a collection process by sending additional notices twice a year, in late spring and early fall. These notices explained that the property tax outstanding balance made the property eligible for property tax sale. In these notices the Town encouraged residents to contact the Finance department to set up payment plans in order to actively demonstrate commitment to reduce the overdue balance. This initiative was paused in 2023 during the implementation of the new financial system and is set to recommence in late fall of 2024.

The Town will continually review property tax collection processes to actively manage outstanding property tax levies

The Town reviews all accounts in arrears and sends out collection notices following the interim and final billings (spring and fall). Additional attempts will be made to contact accounts in arrears that are identified to have significant balances, residential properties with balances above \$10,000 and non-residential properties with balances above \$25,000. Arrears accounts on active payment plans will be reviewed to ensure the payments are essentially bringing down the balance of the account to a current position. If not, the Town will contact the property owner informing them they are required to increase the amount of their payments.

Properties that reach the third year of arrears will be subject to a final notice collection letter that will advise the property owner of the potential for tax proceedings. The notification will request full payment or specified payment arrangement. The Town will send this letter in the fall of each calendar year.

Properties that reach the start of fourth year of arrears will be subject to tax sale proceedings that will commence on January 1 of the fourth year. The Town will conduct a title search to identify all registered mortgages, interested parties and any outstanding liens. Notices will be sent to all identified parties, in many cases this step can result in the arrears being paid often by the mortgage company. In cases of nonpayment, a notice tax sale registration will be sent to the property owner. If the owner contacts the Town at this stage, the Town will consider allowing the owner to enter into a payment agreement limited to twenty-four months or less.

Properties ready for tax sale registration will be recommended by Finance to the executive leadership team to proceed with tax sale registration.

The Town will follow a six-stage process, the final stage being tax sale

The Town plans to engage Realtax to conduct tax sale registration and tax sale proceedings for eligible arrears property tax accounts. The following are the stages of the proceedings that will be conducted by Realtax:

Stage one will be a title search and a corporation search using the information about the property in question from the assessment roll. The title search will reveal the legal description of the property, owners, mortgage companies, liens and any other security on the property.

Stage two will initiate a tax arrears certificate that will be signed by the Treasurer and registered on title at the land registry office. Once a tax arrears certificate is registered on title, the Town can no longer accept any partial payments on the account. In order to discharge the registered lien on title, the cancellation price must be paid. Property owners are given a one-year redemption period in which they may pay the cancellation price to avoid the property from proceeding to tax sale. The tax registration ends when someone pays the cancellation price.

In stage three, a notice of registration of tax arrears, commonly referred to as a first notice, is prepared and signed by the Treasurer. In the case of multiple owners for one property, each owner will receive a signed notice. Following the sending of the first notice, the Treasurer must then sign a Treasurer's Statutory Declaration which sets out whom final notices were sent to and on what date.

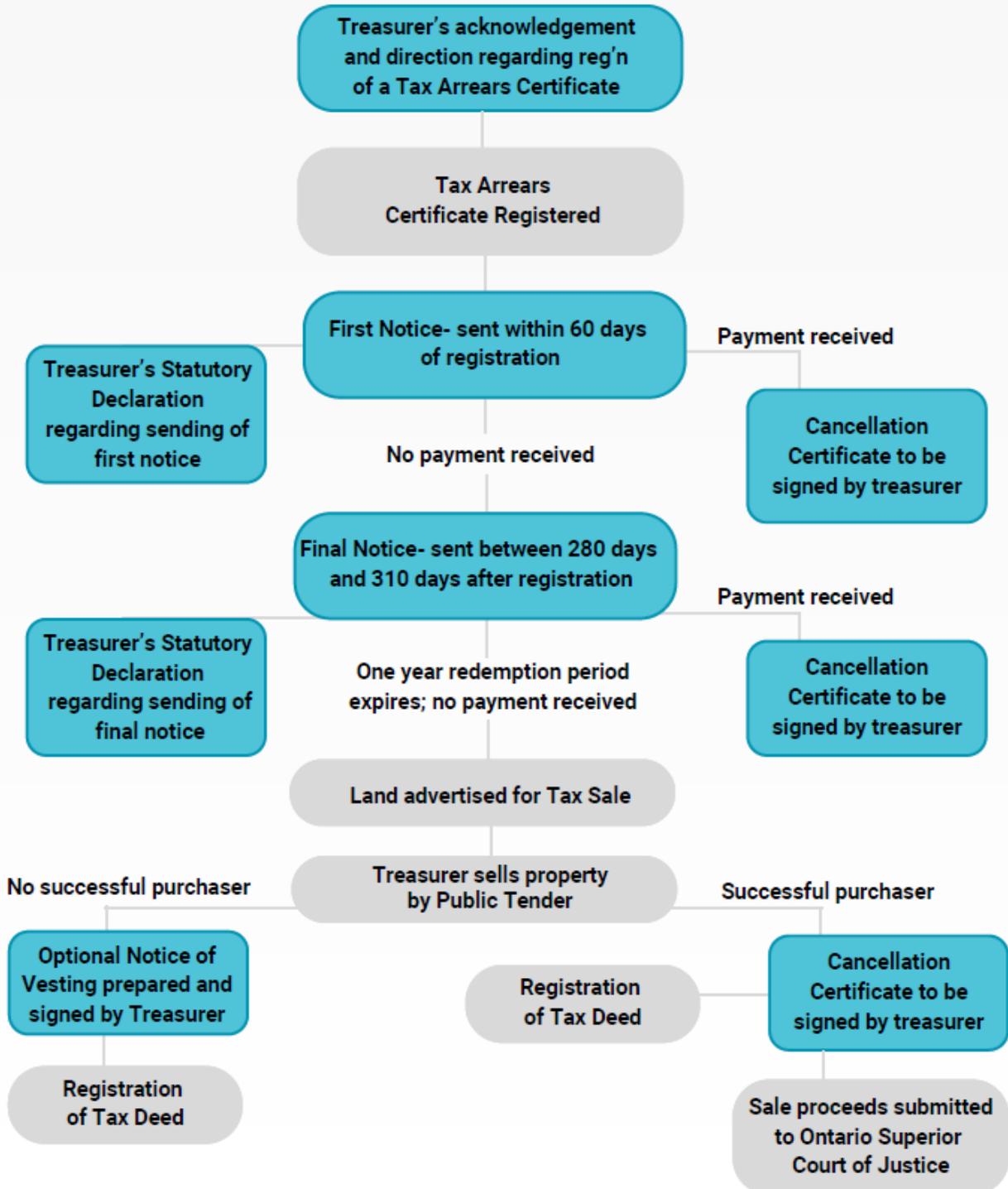
Stage four occurs between 280 and 310 days after the tax arrears certificate was registered, whereby the treasurer will sign and issue a final notice to all interested parties. Following the final notice, the treasurer must then sign a treasurer's statutory declaration that sets out to whom the final notices were sent and on what date.

In stage five, the property will be advertised for tax sale if the cancellation price is not paid within one year of the tax arrears certificate. Finance will prepare a tax sale authorization inventory which will be presented to Council recommending approval to proceed with a tax sale. Council will review and, if approved, the Town will proceed with the tax sale.

In stage six, the Treasurer will conduct the tax sale by way of public tender. Figure 1 illustrates the steps of the tax sale process in a flow chart.

FIGURE 1: TAX SALE PROCEDURE FLOW CHART

*Steps in turquoise require signature(s) from the Treasurer



Staff plan to actively review property tax accounts and commence the tax sale process for qualified properties

The tax sale process will commence in the second quarter of 2025. Preliminary collections notices to property owners will be the first stage along with engaging Realtax. Secondly, the list of qualifying properties will be developed. It is expected that if the 2025 collection activities are not successful, the Town will proceed with tax sales of properties in 2026.

Advisory Committee Review

There is no advisory committee related to the rate program.

Legal Considerations

A documented tax sale process establishes a transparent and fair process for dealing with delinquent tax accounts and increases compliance with legislated timelines. In addition, it assists the Town in managing financial risk by minimizing budget shortfalls due to tax delinquency and it encourages taxpayer compliance.

Any updates to the Property Tax Collection Procedures policy will be reviewed by key staff, the Corporate Management Team and the Executive Leadership Team in accordance with the Town's policy program.

The stages mentioned in this report are consistent with the process required under the Municipality Tax Sales Rules.

Financial Implications

The Town has approximately 153 property tax accounts with arrears balances that are three years overdue amounting to a balance \$2.6 million. In addition, the Town has 135 property tax accounts with arrear balances that are two years overdue amounting to a balance of \$500,000. Tax registration and tax sale initiatives would allow the Town to improve collections increasing cash flows. Increasing cash on hand allows the Town to utilize investment opportunities and potentially increase investment income.

The Town applies a rate of 1.25 per cent to all overdue property taxes on a monthly basis, the current average monthly interest revenue is approximately \$160,000. Successful collection activities should reduce the arrear balances which would result in lower interest revenue from overdue property tax bills.

The engagement of Realtax will have no financial impact on the Town. The cost of the service is added to the applicable property tax account and will either be collected from the property owner or included in the minimum value of the tax sale.

Communications Considerations

The information in this report will be posted online for residents. Communications will work with Finance to ensure the policy and tax sale process is clear and posted online.

Climate Change Considerations

The recommendations from this report do not directly impact greenhouse gas emissions or climate change adaptation.

Link to Strategic Plan

Supports the guiding principle of leadership in corporate and financial management.

Alternative(s) to the Recommendation

1. Do not proceed with tax sale registration and tax sale proceedings.

Conclusions

Recommendation that Finance proceeds with tax registration and tax sale within the limits of the Municipality Tax Sales Rules commencing with eligible properties that have the largest arrears balance. The Town will update the applicable policy to support the process that will be actively implemented.

Attachments

None

Previous Reports

None

Pre-submission Review

Agenda Management Team review on October 17, 2024

Approvals

Approved by Rachel Wainwright-van Kessel, CPA, CMA, Director, Finance

Approved by Doug Nadorozny, Chief Administrative Officer