



# Corporate Report

<b>REPORT NUMBER</b> 127-2023-Corporate Services & Long-Term Care-Revenue		
<b>DATE</b>		
<b>PREPARED</b>	March 29, 2023	<b>FILE</b>
<b>MEETING DATE</b> April 24, 2023		
<b>SUBJECT</b> Unsuccessful Tax Sale Properties		

## RECOMMENDATION

WITH RESPECT to Report 127-2023-Corporate Services & Long-Term Care-Revenue, we recommend that Administration be authorized to enter into agreements with the Crown relative to any Crown liens registered against the following properties that did not sell in the 2021 and 2022 tax sales:

<u>Roll Number</u>	<u>Address</u>	<u>Balance at March 31, 2023</u>
02.103.51200.0000	410 Everton Avenue	\$4,088.66
02.103.51400.0000	394 Everton Avenue	\$4,228.75
02.103.54500.0000	395 Morecombe Avenue	\$3,316.16
02.103.58100.0000	417 Lancaster Avenue	\$3,341.08
02.103.58200.0000	425 Lancaster Avenue	\$3,169.55
03.108.22600.0000	2008 Pennington Avenue	\$5,535.00
03.109.15800.0000	4330 Chilton Avenue	\$3,045.78
03.109.17513.0000	4412 Willard Avenue	\$3,032.96
03.109.17540.0000	4480 Willard Avenue	\$3,309.69
03.109.17573.0000	4411 Neebing Avenue	\$3,072.73
03.109.19700.0000	4610 Chilton Avenue	\$3,184.80
03.109.20424.0000	4643 Chilton Avenue	\$2,443.73
04.113.11100.0000	626 McBain Street	\$80,504.13
04.120.04900.0000	640-642 Simpson Street	\$34,481.04
04.120.05100.0000	636 ½ Simpson Street	\$13,050.73
04.140.04300.0000	113 Cumming Street	\$34,302.79
04.148.04700.0000	129 May Street South	\$89,757.89
04.218.03400.0000	135 Frederica Street West	\$20,783.44
04.218.03500.0000	137 Frederica Street West	\$94,526.80

AND THAT upon entering into agreements with the Crown relative to any Crown liens, the City Treasurer vest the following properties in the name of the municipality being properties having a low environmental risk and that the properties be retained by the municipality for municipal purposes:

<u>Roll Number</u>	<u>Address</u>
02.103.51200.0000	410 Everton Avenue
02.103.51400.0000	394 Everton Avenue
02.103.54500.0000	395 Morecombe Avenue
02.103.58100.0000	417 Lancaster Avenue
02.103.58200.0000	425 Lancaster Avenue
03.108.22600.0000	2008 Pennington Avenue
03.109.15800.0000	4330 Chilton Avenue
03.109.17513.0000	4412 Willard Avenue
03.109.17540.0000	4480 Willard Avenue
03.109.17573.0000	4411 Neebing Avenue
03.109.19700.0000	4610 Chilton Avenue
03.109.20424.0000	4643 Chilton Avenue

AND THAT upon entering into agreements with the Crown relative to any Crown liens, the City Treasurer vest the following properties in the name of the municipality, having low/medium environmental risk and that the properties be declared surplus to municipal needs and either demolished and sold or advertised for sale immediately in an “as is” “where is” condition on the open market:

<u>Roll Number</u>	<u>Address</u>
04.113.11100.0000	626 McBain Street
04.120.04900.0000	640-642 Simpson Street
04.120.05100.0000	636 ½ Simpson Street
04.140.04300.0000	113 Cumming Street
04.148.04700.0000	129 May Street South
04.218.03400.0000	135 Frederica Street West
04.218.03500.0000	137 Frederica Street West

AND THAT upon the vesting of properties, taxes be written off as uncollectible;

AND THAT immediately upon the vesting of properties, Administration take the appropriate steps to manage all risks associated with ownership of the properties;

AND THAT the General Manager of Development and Emergency Services be authorized to execute all required documentation with respect to the sale of the properties in a content and form satisfactory to the Manager of Realty Services;

AND THAT any necessary by-laws be presented to City Council for ratification.

## **EXECUTIVE SUMMARY**

City Council authorized tax registration and sale proceedings for 415 properties in 2018, 343 properties in 2019 and 266 properties in 2020 that were in two years tax arrears. Of the 1,024 properties that were authorized for tax registration, arrears were paid on 935 properties, and extension agreements were approved for 45 properties. The annual tax sale that was planned for June 2020 was postponed due to COVID, therefore two tax sales were held in 2021 and a tax sale was held in June 2022 resulting in 25 properties being sold. This report recommends an approach to deal with the remaining 19 properties that did not sell in the 2021 and 2022 tax sales.

## **DISCUSSION**

Each year, City Council authorizes tax sale proceedings for properties that are 2 years in tax arrears. A tax arrears certificate is registered and the property owner/interested party has one year to pay the property tax account in full (cancellation price), or enter into an extension agreement.

If the cancellation price is not paid or an extension agreement is not executed within one year of the tax arrears certificate being issued, the property is offered for public sale.

A tax sale is held annually; however, the 2020 tax sale was postponed due to COVID and therefore two tax sales were held in the fall of 2021. A tax sale was also held in June 2022.

The chart below provides details of the number of properties that were approved for tax registration and sale proceedings.

Year Approved	# Properties Approved	# Properties Paid Before Tax Sale	# Properties Entered into Extension Agreements	# Properties Sold	# Properties Not Sold
2018	415	381	9	11	14
2019	343	315	13	11	4
2020	266	239	23	3	1
Total	1,024	935	45	25	19

This report recommends an approach to deal with the 19 properties that did not sell in the 2021 and 2022 tax sales.

### Write Off of Taxes

Administration is able to recover the education portion of the taxes from school boards when the taxes are written-off. The education taxes that were billed have already been passed on to the school boards on the assumption the municipality would collect them. Recognizing them as uncollectible and writing them off will allow the municipality to recover the monies advanced in previous years. If a property is sold within 7 years of vesting, and the cancellation price exceeds \$10,000, the municipality is required to share the net sale proceeds in proportion to amounts written off with the school boards.

### Provincial and Federal Crown Liens

There is legislation that applies to Provincial Crown liens. Section 353 of the *Municipal Act, 2001* provides that upon vesting, a property vests free and clear of Provincial liens, but if it is subsequently sold within seven years by the municipality, then net sale proceeds are to be proportionally shared among Crown lien holders and the City in relation to amounts written off. If a municipality sells a property after seven years, all proceeds are retained by the municipality.

Although there is no similar legislation at the Federal level, historically Federal lien holders have been receptive to arrangements that mirror Provincial legislation. Federal liens have been registered against title to the following properties:

<u>Roll Number</u>	<u>Address</u>
04.218.03400.0000	135 Frederica Street West
04.218.03500.0000	137 Frederica Street West

Administration is recommending that it be authorized to enter into agreements with Federal lien holders, whereby liens will be removed from the properties and upon sale of the lands, any proceeds net of costs incurred by the municipality will be shared in an agreed upon manner with the Federal lien holder. All recommendations to vest properties are subject to reaching an acceptable agreement with the Federal lien holder.

### Environmental Risks

The *Environmental Protection Act* provides some protection measures for municipalities vesting property as a result of unsuccessful tax sale proceedings. Protection is limited to a period of five years from the date the municipality becomes the owner of the property. During that time, the Province will not issue any order under the *Environmental Protection Act* to the municipality with respect to the property because of the presence or discharge of a contaminant on, in or under the property, unless any of the following circumstances exist:

1. There is danger to the health or safety of any person

2. There is impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it.
3. There is injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

This legislation provides a five-year period of protection for the municipality to vest and sell off property that could potentially have contamination issues.

**Low Risk Properties Recommended to be Vested and Retained by City**

The municipality has an interest in retaining twelve properties as follows:

<u>Roll Number</u>	<u>Address</u>
02.103.51200.0000	410 Everton Avenue
02.103.51400.0000	394 Everton Avenue
02.103.54500.0000	395 Morecombe Avenue
02.103.58100.0000	417 Lancaster Avenue
02.103.58200.0000	425 Lancaster Avenue
03.108.22600.0000	2008 Pennington Avenue
03.109.15800.0000	4330 Chilton Avenue
03.109.17513.0000	4412 Willard Avenue
03.109.17540.0000	4480 Willard Avenue
03.109.17573.0000	4411 Neebing Avenue
03.109.19700.0000	4610 Chilton Avenue
03.109.20424.0000	4643 Chilton Avenue

**Low/Medium Risk Property Recommended for Vesting and Declared Surplus**

The following properties are identified as having either low or low to medium environmental risk and are being recommended to vest in the name of the municipality, declared surplus to municipal needs and either demolished and sold or advertised for sale immediately in an “as is” “where is” condition on the open market:

<u>Roll Number</u>	<u>Address</u>
04.113.11100.0000	626 McBain Street
04.120.04900.0000	640-642 Simpson Street
04.120.05100.0000	636 ½ Simpson Street
04.140.04300.0000	113 Cumming Street
04.148.04700.0000	129 May Street South
04.218.03400.0000	135 Frederica Street West
04.218.03500.0000	137 Frederica Street West

### ***FINANCIAL IMPLICATION***

The municipal portion of arrears totaling \$376,838.41 recommended for write-off has been accounted for in the 2023 operating budget.

The education portion of arrears totaling \$32,337.30 recommended for write-off will be recovered from the respective school boards.

### ***CONCLUSION***

It is concluded that the City Treasurer should vest unsuccessful tax sale properties, as recommended in this Report, in the name of the Municipality.

### ***BACKGROUND***

The *Municipal Act, 2001* provides a two-year deadline from the date of a tax sale for the Treasurer to make a decision to vest a property in the name of the municipality. If after the two-year deadline, the property has not been vested, tax sale proceedings are deemed to have been cancelled. The *Municipal Act, 2001* also provides authority for Council to write off unpaid taxes as uncollectible after an unsuccessful tax sale whether or not the property vests in the municipality.

In 2008, City Council approved a Tax Sale Vesting Policy. The policy establishes guidelines with respect to the management of unsuccessful municipal tax sale properties. The intent of the Policy is to provide an equitable and advantageous method to restore under-utilized and potentially contaminated properties to productive tax generating uses. However, the Policy does provide consideration for situations, whereby an unsuccessful tax sale property may have characteristics that would make vesting not viable and in these situations, proceedings are cancelled.

### ***REFERENCE MATERIAL ATTACHED***

Attachment 1 – Details of Unsuccessful Tax Sale Properties Recommended to Vest

### ***REPORT PREPARED BY***

*Kathleen Cannon, Director-Revenue*

### ***REPORT SIGNED AND VERIFIED BY***

Corporate Report 127-2023-Corporate Services & Long-Term Care-Revenue

Emma Westover, General Manager Corporate Services & Long Term Care and City  
Treasurer (Acting)

04/12/2023