Agenda - Executive Policy Committee - April 16, 2003

REPORTS

Item No. 2 Date of Tax Sale Number 108
File FL-2.4 (Vol. 19)

ADMINISTRATIVE RECOMMENDATION:

That Council delegate on-going authority to the Chief Administrative Officer to determine if the City of Winnipeg will exercise its prior right to purchase properties listed in Tax Sale on an annual basis.

ADMINISTRATIVE REPORT

RE: DATE OF TAX SALE NUMBER 108

FOR SUBMISSION TO: EXECUTIVE POLICY COMMITTEE

ORIGINAL REPORT SIGNED BY: CHIEF FINANCIAL OFFICER

REPORT DATE: March 28, 2003

RECOMMENDATION(S):

That Council delegate on-going authority to the Chief Administrative Officer to determine if the City of Winnipeg will exercise its prior right to purchase properties listed in Tax Sale on an annual basis.

REPORT SUMMARY:

Key Issue(s):

The City of Winnipeg Charter has changed the process for how the annual Tax Sale is initiated and administered.

Changes introduced under *The City of Winnipeg Charter* will enhance administrative requirements for notification and time limits in Tax Sale related matters.

There is no longer a requirement for Council to pass a resolution initiating the annual Tax Sale process. Also, the Tax Sale process can now be an entirely administrative function with Council delegating on-going authority to the Chief Administrative Officer to annually determine if the City will exercise its prior right to purchase the properties listed in Tax Sale.

Implications of the Recommendation(s):

General Implications

	None
X	**For the organization overall and/or for other departments**
	For the community and/or organizations external to the City
	Involves a multi-year contract

Comment(s): A Council resolution is no longer required to initiate the annual Tax Sale process. Council will be making the Tax Sale process an administrative function by delegating on-going authority to the Chief

Administrative Officer to determine if the City will exercise its prior right to purchase the properties listed in Tax Sale on an annual basis.

Policy Implications

X	**No**
	Yes

Comment(s):

Environmental Implications:

X	**No**
	Yes

Comment(s):

Human Resources Implications:

X	**No**
	Yes

Comment(s):

Financial implications

X	**Within approved current and/or capital budget**
	Current and/or capital budget adjustment required

Comment(s): There is no financial impact as the Tax Sale process is revenue neutral to the City.

REASON FOR THE REPORT:

Where any taxes on real property in the City of Winnipeg have been due and remain unpaid for more than one year after December 31st in the year in which the taxes were imposed, the property is liable to be sold for unpaid taxes by way of a Tax Sale.

Although *The City of Winnipeg Charter ("the Charter")* has maintained much of the administrative processes involved in the annual Tax Sale, one of the changes introduced in *the Charter* is that a Council resolution is no longer required to initiate the annual Tax Sale process.

HISTORY:

Under the former *City of Winnipeg Act,* Council was required to pass an annual resolution initiating the Tax Sale process. At this time each year a report was forwarded to the Executive Policy Committee requesting that three recommendations regarding the annual Tax Sale be forwarded to Council for approval. These recommendations, once approved: (i) set the date of the annual Tax Sale; (ii) ensured the Tax Sale was carried out in accordance with provisions established in legislation, and; (iii) authorized the City of Winnipeg to exercise its prior right to purchase the properties listed in Tax Sale.

DISCUSSION:

This will be the first year (2003) in which the Tax Sale will be conducted pursuant to new legislation. Under *the Charter*, Council is no longer required to pass a resolution initiating the annual Tax Sale process. By approving the recommendation contained in this report, Council will make the Tax Sale process an entirely administrative function since there will no longer be a need for Council to authorize the City to exercise its prior right to purchase the properties listed in Tax Sale on an annual basis. Should the Chief Administrative Officer determine that the City will not exercise its prior right to purchase all or some of the properties listed in Tax Sale in any given year, a report will be prepared for Council's consideration.

Notwithstanding the administrative changes under *the Charter* relating to Tax Sales and the recommendation contained in this report, in practice, the annual Tax Sale process will continue to be carried out in much the same manner as it has in previous years. The Tax Sale process will follow provisions in *the Charter*, including enhanced administrative requirements for notification and time limits.

For 2003, Tax Sale Number 108 will be for properties with tax arrears for all, or part, of 2001, 2002 and 2003. **Tax Sale Number 108 will be held on December 1, 2003.**

<u>Tax Sale – Administrative Process:</u>

The term "Tax Sale" does not have the meaning of the commonly understood transaction whereby a property is offered for sale (by a willing vendor) and subsequently sold (to a willing purchaser). Under the Tax Sale process, the Tax Sale purchaser (the City) purchases a Tax Sale Certificate that, after the passage of one full year from the date of the Tax Sale, entitles the City to apply through the Land Titles Office for ownership of the property. This Certificate is purchased for the amount of outstanding taxes, penalties and costs existing at the time of the Tax Sale.

As noted above, *the Charter* provides that real property is liable to be sold in Tax Sale whenever the taxes have been unpaid for more than one year after December 31st in the year in which the taxes were imposed. Although this allows the Tax Sale process to

begin when a property has two years of taxes outstanding, it has been an administrative practice to wait until three years of taxes are due.

Prior to the Tax Sale date, a list is prepared which includes real property that is liable to be sold for unpaid taxes. The list contains title numbers, legal descriptions and the amount of taxes and penalties outstanding at the time of publication (owners names and the civic address of the properties are not shown on the list). The Tax Sale list is then advertised in The Manitoba Gazette at least 30 days but not more than 60 days before the date of the sale. The advertisement contains notification that, unless the unpaid taxes are sooner paid, each of the parcels on the list will be sold for unpaid taxes. Given that The Manitoba Gazette advertisement will also include notification that the City of Winnipeg intends to exercise its prior right to purchase the parcels listed in Tax Sale, there is no need to advertise the place where and a day and time when a public auction for the properties will be held – there will not be a public auction.

With respect to the enhanced administrative requirements for notification and time limits under *the Charter*, the registered owner of real property liable to be sold for unpaid taxes will receive two notices. The first notice will be sent by ordinary mail to the registered owner at least 120 days before the date of the Tax Sale and the second notice will be sent by ordinary mail to the registered owner at least 60 days before the date of the Tax Sale. Both notices will provide the registered owner with information concerning the amount of unpaid taxes and the Tax Sale implications. In addition to these two notices that are required under *the Charter*, a third notice will be sent by registered mail to owners whose real property will be listed in Tax Sale and advertised in The Manitoba Gazette. This third notice is not a requirement under *the Charter* but is provided pursuant to established Council Policy regarding the annual Tax Sale process.

When the City purchases real property (the Certificate) at the time of Tax Sale, title to the property does not immediately transfer to the City. Within a reasonable time after the Tax Sale, the City must forward a “First Return” to the District Registrar of the Winnipeg Land Titles Office setting out all of the parcels of real property sold in Tax Sale. The District Registrar records the Return against the applicable titles that were sold in the Tax Sale; however, title to the property is not transferred to the City of Winnipeg at this time. *The Charter* permits the owner of any real property sold in Tax Sale to redeem the property within one year from the date of sale through the City of Winnipeg. The property is considered to be redeemed once the City receives an amount totaling the sum of: (i) the full amount of all unpaid taxes on the property, including taxes levied after the property was sold for taxes; (ii) a penalty equivalent to 10% of the amount for which the property was sold in Tax Sale as fixed by the Tax Sale Penalty By-Law, and; (iii) a monthly penalty equivalent to a rate of interest as fixed by the Tax Sale Penalty By-Law on each monthly anniversary of the date of the Tax Sale. During this one-year period, the registered owner may conduct any other business vis-à-vis the property that is generally available to other property owners (e.g., list the property for sale).

In the case of Tax Sale Number 108, the one-year redemption period from the City of Winnipeg will expire on December 1, 2004. After this date, the City of Winnipeg will be in a legal position to start proceedings leading to ownership of real property not yet redeemed.

If the property is not redeemed within the one-year period, the City of Winnipeg must forward a “Second Return” to the District Registrar showing the parcels of real property not yet redeemed from Tax Sale. At this time, the City of Winnipeg is in a legal position to file application for title to the property and the Legal Services Division conducts the required process in accordance with legislation governing this procedure. Typically, this process takes an additional 3 to 6 months or even longer depending on circumstances unique to individual properties. During this time the property can still be redeemed from Tax Sale by full payment of outstanding taxes, penalties and costs but redemption would take place at the Land Titles Office rather than the City of Winnipeg.

The objective of the Tax Sale process is to enforce payment of outstanding taxes to the City of Winnipeg. The objective is not to force property owners out of their properties. However, due to the potentially serious implications surrounding the Tax Sale process, every effort is made to ensure that property owners are aware of these implications and each situation is reviewed and owners are provided with assistance or advise that may be required.

Financial Impact Statement **Date:** March 28, 2003

COMMENTS: No financial impact as the Tax Sale process is revenue nuetral to the City.

"Original Signed by Carrie Erickson"
Carrie Erickson
Manager of Finance & Administration

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Corporate Services Department, Legal Services Division

THIS REPORT SUBMITTED BY:

Department: Corporate Finance
Division: Taxation and Revenue
Prepared by: Mel Chambers, Coordinator of Customer Services
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