Minutes – Executive Policy Committee – October 17, 2023

REPORTS

Item No. 18 Amendment to City Organization By-Law 7100/97 to Designate Appeal Body

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and recommended to Council:

1. That a by-law to amend the City Organization By-law No. 7100/97, a draft of which is attached as Appendix A to this report, be enacted.

2. That the Director of Assessment and Taxation be appointed as the designated employee to issue orders and otherwise enforce section 365 The City of Winnipeg Charter, and that the Director of Assessment and Taxation be authorized to sub-delegate this authority to other City employees.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

That the recommendation of the Winnipeg Public Service be concurred in and forwarded to Council.

Carried

ADMINISTRATIVE REPORT

Title: Amendment to City Organization By-Law 7100/97 to Designate Appeal Body

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
T. Yanchishyn	T. Austin	C. Kloepfer	M. Jack

EXECUTIVE SUMMARY

Enforcement of section 365 of the Charter has never been utilized, however, the City is exploring additional methods of collecting outstanding business taxes and section 365 orders are being considered.

An amendment to the City Organization By-law No. 7100/97 is included for approval to designate an appeal body to hear any orders issued to enforce section 365 of the City of Winnipeg Charter.

The Standing Policy Committee on Finance and Economic Development is the appropriate committee to hear any appeals under this section as the committee responsible for business taxes.

In addition to designating the appeal body, the City must also authorize a member of the Public Service to act as a designated employee for the purposes of issuing orders and otherwise enforcing section 365. The Public Service proposes that the Director of Assessment and Taxation fill this role, given their jurisdiction over tax matters,

It is important to note that the issuance of orders under section 365 is currently considered a last resort once all other attempts at recovery have failed. A business owner who is ordered to cease operations will have been provided many notices, warrants, and opportunities to contact the Assessment and Taxation Department via 311, or the bailiff company, in order to make the payment related to outstanding business taxes or to negotiate a mutually agreeable payment arrangement.

RECOMMENDATIONS

1. That Council enact a by-law to amend the City Organization By-law No. 7100/97, a draft of which is attached as Appendix A to this report.

2. That Council appoint the Director of Assessment and Taxation as the designated employee to issue orders and otherwise enforce section 365 The City of Winnipeg

Charter, and that the Director of Assessment and Taxation be authorized to sub-delegate this authority to other City employees.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

By-law amendments must be approved by Council.

IMPLICATIONS OF THE RECOMMENDATIONS

The recommendations, if approved, will enable the City to issue an order under section 365 of the City of Winnipeg Charter. If issued, will order the business to cease operations while they are in default of payment of their business taxes.

HISTORY/DISCUSSION

The Assessment and Taxation Department is requesting approval to designate an appeal body, and for Council to appoint a designated employee with the authority to issue orders related to section 365 of the City of Winnipeg Charter.

The City of Winnipeg Charter authorizes two mechanisms to collect outstanding business taxes. The first mechanism that is used annually is the issuance of distress warrants under section 356 of the Charter. Issuing of a distress warrant authorizes that the City may seize assets from the business to attempt to recover the value of outstanding taxes and penalties. Distress Warrants are issued and served every year by bailiffs, and operates fairly successfully.

However, in situations where the business does not have sufficient assets to cover the balance owing but the business continues to operate, and in order to be compliant with the City of Winnipeg Charter, a section 365 order would be necessary to cause the business to cease operations until the debt is paid.

City of Winnipeg Charter states:

Assets insufficient to cover taxes
365 A person shall not, in any year, carry on a business that is subject to business tax or a license fee if

a) the person is in default in the payment of any business taxes or license fees for the previous year or part of the previous year; and

b) the city has issued a warrant of distress for the business taxes or license fees due by the person and the value of the property distrained is not sufficient to pay the total of the taxes or fees in arrears and the cost of the distress and sale of the property.

Under sections 184 and 189 of the Charter, only a designated employee may issue orders, and any order issued must be appealable to a committee designated by Council. Since no section 365 order has ever been issued, no appeal body has been designated.

As the Department is now considering the use of section 365, it is now necessary to designate an appeal body; the appropriate body to hear any appeals is the Standing Policy Committee on Finance and Economic Development, as it is the committee with responsibility for business tax matters.

The designated employee required for the purpose of issuing orders is recommended to be the Director of Assessment and Taxation, who may further delegate this responsibility to other City employees. The Director of Assessment and Taxation is the position that certifies the business assessment roll.

It is important to note that the issuance of orders under section 365 is currently considered a last resort once all other attempts at recovery have failed. A business owner who is ordered to cease operations will have been provided many notices, warrants, and opportunities to contact the Assessment and Taxation Department via 311, or the bailiff company, in order to make the payment related to outstanding business taxes or to negotiate a mutually agreeable payment arrangement.

FINANCIAL IMPACT

Financial Impact Statement

Date: August 30, 2023

Project Name:

Amendment to City Organization By-Law 7100/97 to Designate Appeal Body

COMMENTS:

There is no immediate impact to the report recommendations. However, it is anticipated that issuing orders under section 365 of the City of Winnipeg Charter may reduce the amount of uncollectible business taxes.

Randy Bernard

Randy Bernard, CPA, CMA
Manager of Finance & Administration (Campus)
Corporate Finance Department

CONSULTATION

This Report has been prepared in consultation with:

- Legal Services (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

Financial processes as outlined in this report are generally aligned with the goal of Leadership and Good Governance.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Consideration was given as to whether this report connects to the Winnipeg Climate Action Plan (CAP), and it was determined that the CAP is not applicable to this specific report.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

Consideration was given as to whether this report connects to the Winnipeg Poverty Reduction Strategy (PRS), and it was determined that the PRS is not applicable to this specific report.

SUBMITTED BY

Department: Assessment and Taxation
Division: Taxation and Finance
Prepared by: Tanis Yanchishyn
Date: September 13, 2023

Attachments:

Appendix A – Draft By-law Amendment – Organizational By-law 7100/97

THE CITY OF WINNIPEG

BY-LAW NO. /2023

A By-law of THE CITY OF WINNIPEG to amend the City Organization By-law No. 7100/97.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

City Organization By-law amended

1 The City Organization By-law No. 7100/97 is amended by adding the following as section 9.4.1.

9.4.1 The Standing Policy on Finance and Economic Development shall hear appeals respecting orders issued to enforce section 365 of the City of Winnipeg Charter.

Coming into force

2 This by-law will come into force upon being given third reading by Council.

DONE AND PASSED this day of , 2023.

Mayor

City Clerk

Approved as to content:

Director of Assessment and Taxation

Legally reviewed and certified as to form:

for Director of Legal Services
and City Solicitor

DRAFT