



An ocean of opportunity

STAFF REPORT

SUBMITTED BY: Leah d'Eon

DATE: February 4, 2021

SUBJECT: Tax Sale Process

ORIGIN

The Municipality of the District of Barrington has a yearly property tax sale, held in February. Due to Covid-19 current gathering limits, the maximum amount of people who can attend a public auction property tax sale is 10, including staff. This raises the question of whether to have the tax sale in person or to proceed to a tendering process.

BACKGROUND

Tax Sale Proceedings

As per policy 3, Tax Collection and Tax Sale policy and the Municipal Government Act 134(1), the Municipality of the District of Barrington collects overdue tax by way of a property tax sale each year. Properties are placed on tax sale when the property taxes are two full years in arrears. Once the listing is certified by the Treasurer, the tax clerk proceeds through the steps of a tax sale which include the following.

- Preliminary Notices – Notices sent are sent to property owners, advising them that taxes are in arrears and providing them with 14 days to pay their outstanding property taxes.
- Title Search – A title search of the properties on the Tax Sale list is performed by the municipal solicitor.
- Notice of Intent to Sell – Once the title searches are completed, another notice is provided to the property owners, spouses, and any person with a mortgage, lien or other interest in the land.

- Advertisements and Notice – Properties to be sold at tax sale shall be advertised in two issues of the local newspaper. A listing is posted to the municipal website and information regarding the properties can be found at the Municipal Administration office.
- Tax Sale – Tax Sale is held at the Municipal Administration Building in the Multi-purpose room.

Gathering Limits

Emergency Management Act Direction 20-008 pertaining to municipal and village meetings was issued by the Minister of Municipal Affairs and Housing on July 29, 2020. The Direction says that municipalities and villages may hold meetings exclusively in person if the following conditions are met:

- i) the total number of persons present does not exceed a gathering limitation imposed in a *Health Protection Act* order; and,
- ii) all physical distancing requirements or other requirements imposed in a *Health Protection Act* order are met.

If these conditions cannot be met, the municipality or village must not hold meetings exclusively in person and must instead hold meetings either partly or wholly as virtual meetings, while continuing to ensure that the gathering limits and physical distancing limits are maintained for any portion of the meeting that is held in person.

The *Emergency Management Act* Direction is available here:

<https://novascotia.ca/coronavirus/docs/Direction-of-Minister-Municipal-Meetings-29-July.pdf>

The *Health Protection Act* Order by the Chief Medical Officer of Health is available here, and is updated from time to time:

<https://novascotia.ca/coronavirus/alerts-notice/#health-protection-act-order>

The gathering limits and physical distancing limits in the *Health Protection Act* Order have changed over time and may continue to do so. Under the current version of the *HPA* Order (version last updated January 29, 2021), the gathering limit is at **10 persons**, whether indoors or outdoors, and there is no exception for municipal meetings.

Tax Sale by Tender

In section 149 of the Municipal Government Act, it permits Municipalities to sell land by tender.

(1) Where a municipality calls tenders for land to be sold for taxes, the municipality may reject all tenders if

- (a) the price tendered is less than the taxes, interest, and expenses; and
- (b) the council considers that the best price offered is inadequate, and may again put the land up for sale, by tender or by public auction.

(2) Where a municipality calls tenders for land to be sold for taxes, the person whose tender is accepted shall pay the tender price within three business days after being notified of the acceptance.

(3) Where the balance of the purchase money is not paid within three business days, the land shall again be advertised and put up for sale.

(4) The expenses of the resale shall be deducted from the deposit and the balance shall be refunded after the resale is held.

DISCUSSION

In a typical property tax sale, the Municipality normally has between 20-30 properties to be sold with 40-50 bidders in attendance. This allows for most of the properties to be sold and their outstanding taxes paid.

If the current gathering limits (10) stay in place, this will only allow for 7 public members to attend the tax sale, as 3 staff are required to run the auction. With a low number of bidders in attendance, the chance that the majority of properties would be sold is unlikely. We would have to hold subsequent tax sales to try and sell the remaining properties. This would incur additional costs in advertising, tax sale expenses and staffing. With the unpredictability of the Covid-19 pandemic, it is difficult to predict what the gathering limits will be in the next few weeks.

Another option for the tax sale is to proceed with a tax sale by tender.

For the most part, the process for a tax sale by tender would be the same as our regular tax sale process. To date, we have sent the preliminary notices, performed the title searches, provided notice of intent to sell. We would have to advertise the date of the sale, potentially March 15, 2021, and proceed with accepting bids.

Tenders would be accepted in a sealed envelope by the close of the time and date of the tender. Minimum bid would be set at the amount of outstanding property taxes, tax sale expenses, deed registration and any applicable taxes. The tender must meet the minimum bid set for the property.

The Municipality reserves the right to reject any or all tenders, to accept a tender that is not the highest bid, or to accept any tender which it may consider to be in its best interest. The accepted tender price must be paid within three business days. Failure to pay the accepted tender price within three business days will result in the property being placed in the next property tax sale.

The tender opening would be held shortly after the closing time of the tender. When municipal tenders are opened, we have at minimum 2 staff members present. Bid listings are created and signed off by all

employees present to ensure accuracy. Formal notice will be given the following business day. The results will be posted on the municipal website.

The tender process would allow more bidders to bid on properties, in turn, this should result in more properties being sold. The tendering process would be in the best interest of public health and safety.

BUDGET IMPLICATIONS

Property taxes receivable balance as of March 31, 2021 will be impacted if the tax sale process is not complete prior to our fiscal year end. While this would not affect our yearly budget, an increased accounts receivable balance at year end would affect our municipal indicators. Accounts receivable collections is an area that we have improved upon over the past number of years.

LEGAL IMPLICATIONS

N/A

PUBLIC CONSULTATION/COMMUNICATIONS

N/A

RECOMMENDATION

It is recommended by staff that the property tax sale should be conducted through a public tender process. This would allow the greatest number of bids while following the Health Protection Act Order.

ATTACHMENTS

Draft Property Tax Sale Tender Document

DRAFT PROPERTY TAX SALE BY SEALED TENDER

Notice is hereby given, in accordance with the Municipal Government Act, Part 6, Section 142, that the Municipality of the District of Barrington is inviting sealed tenders for the following properties:

ASSESSMENT #	PID #	PROPERTY DESCRIPTION	ASSESSED OWNER	MINIMUM BID
12345678	8000000	Land	John Doe	\$ 1, 000

For a more detailed description of the property, please see the tax sale list on our website or contact the Municipality of Barrington at 902-637-2015, extension 224, or via email wchristie@barringtonmunicipality.com.

Tenders shall be submitted in a sealed envelope, addressed to the undersigned and shall be clearly marked on the outside of the envelope, **“PROPERTY TAX SALE BY TENDER,”** and **“ASSESSMENT ACCOUNT NUMBER”** to 2447 Highway 3, Barrington, NS, B0W 1E0.

Bidders shall complete one **“Tender Form”** for each property they are bidding on and place each form in its own envelope when bidding on more than one property. The forms are available on the municipal website, barringtonmunicipality.com, by calling (902) 637-2015, ext 224, or email, wchristie@barringtonmunicipality.com.

TENDERS WILL BE ACCEPTED UNTIL 2 P.M. ATLANTIC STANDARD TIME ON MONDAY, MARCH 15, 2021.

TERMS: Bidder must meet the minimum bid set per property; bid price includes HST (if applicable) and the certificate of sale and certificate of discharge/tax deed recording fees. **The accepted tender price must be paid within three full business days after being notified of acceptance. Failure to pay the accepted tender price within three full business days will result in the property being placed on the next property tax sale. Acceptable methods of payment will be by cash, certified cheque, money order, bank draft, irrevocable letter of credit or lawyer’s trust cheque as per the MGA 148(1.)**

All properties are sold “as is where is.” Although the Municipality has made all reasonable efforts to confirm ownership, it does not guarantee title or boundaries of the aforementioned property. Prospective purchasers are responsible to conduct their own searches and surveys or other investigations.

The Municipality reserves the right to reject any or all tenders, to accept a tender that is not the highest bid, or to accept any tender which it may consider to be in its best interest. The Municipality also reserves the right to waive formality, informality or technicality in any tender. Tenders must be received by a qualified bidder.

LIMITATION OF LIABILITY: By submitting a tender, you agree that neither the Municipality, nor any of its employees, officers, agents, elected appointed officials, advisors or representatives will be liable, under any circumstances, for any claim, loss or damage you may suffer arising out of this tender process.

TENDER OPENING: Tenders will be opened Monday, March 15th at 2:30 p.m. Due to Covid 19, the tender opening will be done in private and formal notice will be given the following business day. The successful bidder will have three full business days after notice to pay in full by certified cheque, money order, bank draft, irrevocable letter of credit or lawyer’s trust cheque.

Leah d’Eon
Director of Finance

TENDER FORM
PROPERTY TAX SALE BY SEALED TENDER

NAME(S): _____

MAILING ADDRESS: _____

TELEPHONE: _____ EMAIL: _____

ASSESSMENT ACCOUNT #: _____ BID AMOUNT: _____

MANNER OF TENURE: _____

The manner of Tenure should be chosen if there will be more than one owner of the property. The choices are either as Joint Tenants or as Tenants in Common. If Joint Tenants are chosen, it means that if any of the multiple owners passes away, the other(s) will inherit the entire property. If Tenants in Common are chosen and one of the owners passes away, their share of the ownership would be passed to their heirs. If a Manner of tenure is not selected, the default choice will be Tenants in Common.

SIGNATURE: _____ DATE: _____

Summary Instructions for Sealed Tenders and Terms/Conditions:

1. One tender form per assessment number must be submitted. Each form must be in a separate envelope when submitting a bid on more than one property.
2. All properties are sold "as is where is." Although the Municipality has made all reasonable efforts to confirm ownership, it does not guarantee title or boundaries of the aforementioned property.
3. Tax Sales do not always clear up defects in title, the tax deed only conveys the interest of those assessed.
4. Pursuant to Section 144(2) of the NS MGA, purchase of Tax Sale Property by Municipal Employees or their Spouses is not permitted.
5. The successful bidder will be given three full business days after the awarding of the tender to pay the bid amount in full.
6. Faxed/electronic (emailed) tenders will not be considered.
7. The Municipality reserves the right to reject any or all tenders, to accept a tender that is not the highest bid, or to accept any tender which it may consider to be in its best interest.
8. The tender must meet the minimum bid set for the property.
9. Limitation of Liability: By submitting a tender, you agree that neither the Municipality, nor its employees, officers, agents, elected appointed officials, advisors or representatives will be liable, under any circumstances, for any claim, loss or damage you may suffer out of this tender process.