

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé, Chief Administrative Office

DATE: November 10, 2021

SUBJECT: Tendering Properties for Tax Sale

ORIGIN

The social distancing restrictions in effect due to the COVID-19 pandemic necessitated the cancellation of in person public tax sale auctions in 2020. Section 164 of the Halifax Regional Municipality Charter enables the Municipality to call for tax sale tenders instead of holding a public auction. On December 15, 2020, Council authorized the Treasurer to use the tax sale tender process for the 2021 calendar year. This report is requesting Council to authorize the tax sale tender process beyond the 2021 calendar year.

Halifax Regional Municipality Charter, SNS 2008, c 39, s 148 states that:

- (1) Property may be sold for taxes if the taxes with respect to the property are not paid in full for the taxation year immediately preceding the year in which the tax sale proceedings are commenced, but the proceedings must not commence before June 30th in the year immediately following the taxation year.
- (2) Property must be put up for tax sale if taxes are in arrears for the preceding three fiscal years.
- (3) The Council may defer tax sale proceedings for a property for up to two years.

.....

Halifax Regional Municipality Charter, SNS 2008, c 39, s 156 states that:

- (1) Unless the arrears of taxes, interest and expenses are paid, the Treasurer shall proceed to sell land liable to be sold for taxes at public auction.
- (2) The Treasurer may, with the consent of the Council, call tenders for property rather than put the property up for sale at public auction.

.....

Halifax Regional Municipality Charter, SNS 2008, c 39, s 164(1) states that:

Where the 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.

.....

Administrative Order 18, Revenue Collections Policy section 4.2.3(h)(3) states:

Where the property has been put up for tax sale three times in the past with no satisfactory offer staff will then proceed, as per section 158 (4) of the HRM Charter, and without further notice to the owner and encumbrances, to again advertise the property and sell it at either public auction or tender starting with the minimum reserve bid as set by Council resolution. Any remaining arrears after the tax sale will be adjusted to the allowance for tax account (G/L 2521). Staff will then advise Council of the results, including any adjustments within 30 days of the tax sale via an information report.

RECOMMENDATION

It is recommended that Regional Council consent and authorize the Treasurer to call for tenders for any properties being put up for tax sale.

BACKGROUND

The HRM Charter has a provision to permit tax sales to be conducted via tender instead of a public auction with the consent of Council. Prior to 2020, HRM tax sales were conducted solely via the public auction method and typically attended by 200-300 members of the public. In 2020 there were gathering restrictions in place due to COVID and staff received Council approval to conduct tax sales via tender, which was in the best interest of public health and safety during the pandemic. In 2021 staff conducted three tax sales via the tender process. The tendering process has benefits and efficiencies over the public auction process and staff feel there is merit to continuing to use the tender process for tax sales.

DISCUSSION

In 2020, there were 3 tender tax sales conducted via the Province of Nova Scotia's established procurement website and electronic bids were accepted through HRM's existing bid submission website used by Procurement.

Tender Date	Number of Properties Sold	Number of Bids Received	Total Taxes Recovered
April 13, 2021	4	154	\$ 41,737.70
July 13, 2021	16	126	\$107,616.55
October 12, 2021	4	68	\$ 28,376.55

The tendering process permits the municipality to meet tax sale legislative requirements while ensuring public safety while COVID gathering restrictions are in place. As well, additional benefits are realized:

- Tendering via the online website broadened the audience able to participate in the tax sale as customers did not have to be present in the Municipality on a particular day and time to bid.

Customers who indicated they do not have access to a computer to complete the tender form online have the option to complete the tender form and drop it off at a Customer Service Center so the tax sale process is still accessible to customers who do not have internet or computer access.

- Each public auction costs approximately \$1500 to host (auctioneer fees, police extra duty, etc.). These costs are avoided with the tendering process.
- A public auction is a stimulating environment where customers can become caught up in the excitement of bidding and bid more than they intended to spend. Submitting a tender encourages a more thoughtful approach to bidding.
- The municipality's mandate for tax sales is to recoup the taxes owing and return the property to the hands of a customer who will keep the taxes current. In the event a property sells for more than the taxes owing, the excess amount is referred to as a surplus. Anyone who has an interest in the property can apply to the provincial court to obtain all or a portion of that surplus. If the provincial court determines that customer has a valid interest in the surplus the court will award that customer all or a portion of the surplus. Any surplus received in a tax sale only reverts to the municipality if it remains unclaimed for 20 years. Staff's experience with the tender sales held in 2021 was that often properties would receive higher outlier bids than would likely be realized via a public auction, where customers know the prior bid and increase their own bid in a small increment. The tender process encourages customers to submit their highest and best bid, which staff believe have led to realizing higher surpluses than would be realized via a public auction. It is difficult to compare tender results against public auction results because each property that goes to tax sale has unique characteristics that will impact the amount customers are willing to pay for it, regardless of whether the property is sold via auction or tender.

FINANCIAL IMPLICATIONS

HRM relies on the collection of property taxes to provide services, to make infrastructure improvements and to meet financial obligations. To ensure that everyone who is required to pay municipal taxes does so, the Charter ensures HRM can collect the taxes that are due and gives HRM the authority to enforce payment of legally levied taxes. The purpose of the tax recovery process, including conducting tax sales, provides a means through which HRM receives the taxes to which it is entitled. The tax sale process is a vital part of this process as both an enforcement mechanism, and a path to getting parcels into interested parties' hand thereby ensuring increasing development, and ultimately revenue for HRM, rather than abandonment and unpaid tax accounts. As noted above, tendering avoids costs associated with public auctions (\$1500 per tax sale). The municipality typically conducts 5 auctions a typical year (\$7,500 annual savings).

RISK CONSIDERATION

Pursuant to section 148(2) of the Charter, properties must be put up for tax sale if taxes are in arrears for the preceding three fiscal years, although pursuant to section 148(3) Council may defer tax sale proceedings for a property for up to two further years. The Charter obligates HRM to take properties to tax sale after a certain amount of time, hence if we do not proceed with a form of tax sale it is possible we could be offside the Charter regarding a failure to take certain properties to tax sale. If gathering limits are in place and a public auction cannot be conducted, the ability to tender properties for tax sale alleviates this risk. In addition, 147(7) of the Charter states that taxes cease to be a lien on the property when six years have elapsed after the end of the fiscal year in which they were levied but may be collected after they have ceased to be a lien. There is a risk if gathering limits are in place and the municipality does not have the ability to tender tax sale properties that HRM could lose their priority lien position regarding the tax arrears, interest and expenses.

COMMUNITY ENGAGEMENT

No community engagement required.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

Council could choose not to approve the continuation of the tendering process and to only conduct tax sales via public auction.

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Renée Towns, Director of Revenue, Treasurer, Finance & Asset Management,
902.293.7983
