



REPORT

Report Date: June 22, 2020
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VanRIMS No.: 08-2000-20
Meeting Date: July 7, 2020
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TO: Vancouver City Council
FROM: Director of Finance
SUBJECT: Defer 2020 Sale of Land for Taxes

RECOMMENDATION

- A. THAT Council approve, in principle, a by-law to defer the date of the 2020 sale of land for taxes until November 10, 2021 in accordance with Provincial Ministerial Order No. M159, "Local Government Finance (COVID-19) ", issued under the Emergency Program Act and generally in accordance with Appendix A.
- B. THAT Council not extend the redemption deadline for properties that have a redemption period ending in 2020 as permitted in Provincial Ministerial Order No. M159, "Local Government Finance (COVID-19) ", issued under the Emergency Program Act.
- C. THAT the Director of Legal Services, in consultation with the Director of Finance, be instructed to bring forward for enactment a by-law generally in accordance with Appendix A.

REPORT SUMMARY

The purpose of this report is to recommend the deferment of the 2020 sale of land for taxes from November 4, 2020 to the following year on November 10, 2021 as permitted by the Provincial Ministerial Order No. M159, issued under the Emergency Program Act.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

On April 28, 2020 Council approved an amendment to Tax Penalty By-law No. 9284, to adjust the remittance due date for the July main property tax notices from July 3, 2020 to September 30, 2020.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

On April 28, 2020, Council approved a delay in the 2020 payment deadline for both residential and commercial property taxes. The new tax payment deadline is September 30, 2020, delayed from July 3, 2020. The decision followed measures announced by the Province on April 16, 2020 including a mandated delay in the penalty date for commercial tax payers to October 1, 2020, along with a reduction in school tax payments for owners of industrial, business, recreation, and non-profit properties.

On May 15, 2020, the Minister of Public Safety and the Solicitor General, under the Emergency Program Act, passed Ministerial Order No. M159. This Order includes the authority for Vancouver Council to “by bylaw adopted on or before August 31, 2020, defer the annual tax sale for 2020, provided for under section 422 [tax sale each year] of the *Vancouver Charter*, until November 10, 2021, with the effect that the annual tax sale would be on that date in respect of the upset price described in section 427 [price to be paid] of that Act.” Basically, the order allows Council to delay the 2020 tax sale for a year.

The Order also provides that “Any taxes that are delinquent, as described in section 407 [further warning of tax sale] of the *Vancouver Charter*, remain delinquent for 2021, with interest charges that are carried under that Act.”

Strategic Analysis

Under section 422 of the *Vancouver Charter*, the Collector must offer for sale by public auction every parcel of real property on which, according to the real-property tax roll, any unpaid taxes have been delinquent for a period of two years. For 2020, unpaid taxes levied in 2017 on parcels meet that criterion and would normally be subject to the tax sale process.

As noted above, Council can, by by-law, delay the 2020 tax sale in accordance with Ministerial Order M159.

While the approximately 400 parcels currently headed for the 2020 tax sale did not become delinquent as a result of the current COVID-19 pandemic, the owners' ability to pay sufficient delinquent property taxes to avert the tax sale may be further hampered by its effects. A one year delay may assist those already facing auction, but does not benefit those who may fall into arrears for the first time in 2020 as a result of COVID-19 hardship. Over the past several years, there have been 20 or fewer properties ultimately sold at the auction annually. After the sale, the distressed owner is still afforded one year to redeem their property, in order to avert the process of transferring of the property to the successful bidder. It has been unusual for a property to actually change hands as a direct result of the tax sale.

The auction is conducted annually at City Hall, with capacity attendance of approximately 105 members of the public, along with hopeful attendees waiting in the foyer unable to participate. In order to ensure fair and reasonable bids, staff consider it to be necessary to accommodate similar maximum attendance levels. If the number of participants is limited, bids may be lower than they

otherwise would be, which may result in undue harm to the owners of the parcels being auctioned. This in turn may result in legal challenges to the tax sale process, and possibly the overturning of a sale. Staff expect the current social distancing norms to still be in place this November, which would limit attendance to possibly as few as 30 people. There is currently no authority under the *Vancouver Charter* to allow for telephone or Internet based bidders. Staff feel that even if additional rooms were opened and made available within City Hall employing electronic means to enable attendees to bid, that attendance may be limited, bids may be depressed, and delinquent owners may suffer significant financial damage.

Ministerial Order No. M159 also provides Council the authority to extend the redemption deadline for properties which were auctioned during the 2019 tax sale. However, staff are not in favour of this extension as it results in an inequity between those owners whose properties were sold, but which have subsequently been redeemed and those approximately 10 properties that have not been redeemed. In addition, successful bidders from the 2019 auction expected to either be repaid with interest for a period up to one year or to have the option to pay the bid price and take possession of the property at the one year point. A one year extension, while permissible under the Order, effectively changes the terms of the tax sale for the successful bidder. While some successful bidders may favour the extension, others may feel they have been forcibly required to wait for a second year before receiving their funds or the option to purchase.

Financial

The delay in receipt of revenue based on the volume of annual parcels sold for taxes is not expected to be material. Although there are currently approximately 400 properties headed for tax sale, staff continue collection efforts up to and including during the auction itself which significantly reduces the number of properties that advance to auction. Similar to all properties with taxes in arrears, owners are subject to interest charges under Section 415 (2) of the *Vancouver Charter*.

If the City proceeds with the land sale for taxes in November 2020, the limiting participation in the auction due to COVID-19 social distancing may yield suboptimal bidding activities, and creates litigation and associated financial risks.

Legal

Council is authorized to delay the tax sale, by by-law, under Ministerial Order No. M159.

CONCLUSION

As a result of the COVID-19 pandemic, the Province passed Ministerial Order No. M159 which in part provides the City of Vancouver the permissive authority by by-law adopted on or before August 31, 2020, to defer the annual tax sale for 2020 to November 10, 2021. In the interest of conducting a safe, fair and open tax sale auction, staff recommend adoption of the necessary by-law.

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BY-LAW NO.

A By-law to defer the 2020 Tax Sale

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. The name of this By-law, for citation, is the Tax Sale Deferral By-law.
2. This By-law is being enacted pursuant to Ministerial Order No. M159 “Local Government Finance (COVID-19) Order”.
3. The annual tax sale pursuant to section 422 of the Vancouver Charter for 2020 is deferred to November 10, 2021.
4. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.
5. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2020

Mayor

Acting City Clerk