



REPORT

Report Date: October 24, 2022
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Meeting Date: November 3, 2022

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TO: Vancouver City Council
FROM: Director of Finance
SUBJECT: Property Tax Sale Manifest Error

RECOMMENDATION

THAT Council cancel the sale of a property known as 3018 Knight Street, Vancouver, BC and legally described as:

Parcel Identifier: 009-857-842

Legal Description: LOT L BLOCK 171 PLAN VAP8977 DISTRICT LOT 264A NWD OF LOT C

Due to a manifest error in the 2021 Property Tax Sale and the proceedings leading to the sale, and approve the refund to the tax sale purchaser of the upset price plus six percent interest in accordance with Section 445 of the *Vancouver Charter*.

REPORT SUMMARY

Council should declare a manifest error in a tax sale because the tax sale proceeded when the Owner was deceased and was not adequately notified of the impending sale.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

There is no applicable Council Authority or previous decisions relevant to this report.

CITY MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Purpose

This report seeks Council approval to cancel the tax sale of a property and to refund to the tax sale purchaser the upset price paid, plus interest, in accordance with section 445 of the *Vancouver Charter*, due to a manifest error in the 2021 Property Tax Sale.

Background/Context

The *Vancouver Charter* requires that real properties with unpaid property taxes delinquent for two years are offered for sale by public auction each year. Successful purchasers of property are required to pay the upset price, which is the sum of the delinquent taxes, penalty interest, and registration charges payable to the Land Title Office.

If, during the redemption period (which runs for one year after the tax sale), the City becomes aware that a manifest error has occurred in the sale or the proceedings, Council, under section 445 of the *Vancouver Charter*, may by resolution provide for the upset price to be returned to the purchaser with interest at six percent. This process voids the tax sale of the property.

Strategic Analysis

The City last conducted its annual tax sale on November 10, 2021. The tax sale included a property owned by William Burgess (the "Owner"), located at 3018 Knight Street, Vancouver, BC (the "Property").

The Owner has been the registered owner of the Property since 1992. The assessed value of the Property in 2022 is \$1,619,000.00.

The tax sale purchaser bid \$601,000 for the Property. The amount paid to the City (the "upset price") was \$34,906.32. The difference between the bid price and the upset price is only payable if the Property is not redeemed or the sale is not cancelled.

The Owner has not paid any City taxes on the Property since 2016. The Property appears to be abandoned. The City has attempted to deliver various notices and messages to the Owner, both leading up to and after the tax sale in November 2021, but has no confirmation that it has succeeded.

The City has had no confirmed communication with the Owner in 6 years.

The Public Guardian and Trustee ("PGT") has recently informed City staff that the Owner is deceased and has been deceased since 2016. The City has been unable to obtain a death certificate, but has no reason to disbelieve the PGT. The Owner's death amounts to a manifest error because the various mandatory notices in advance of the tax sale could not have been received. This includes two statutorily required warnings, under sections 406 and 407 of *Vancouver Charter* that the property was to be sold for taxes.

The Owner has been unresponsive to other tax matters as well. The Property has been subject to the City's Empty Homes Tax because of a failure to file a declaration. Several liens on the title show the Property has also been subject to BC's Speculation and Vacancy Tax.

There is no mortgage on the Property. It is not unusual for a bank or mortgage holder to pay the property taxes owing during the redemption period, but because there is no mortgage, that will not happen here.

Staff is recommending that Council make the declaration of manifest error because staff has no confirmation that the Owner received any Tax Notices or notices of the tax sale leading up to the tax sale, and staff understand the Owner is deceased. Any declaration of manifest error must be based on errors arising up to and including the sale of the Property. This failure to notify preceded the tax sale. It should also be noted that the property may have escheated to the Crown as there was no will and no heirs, though that is not certain at this time.

The tax sale purchaser has been given notice of this proposed Council resolution.

Section 445 of the *Vancouver Charter* is attached as Appendix A.

***Implications/Related Issues/Risk
Financial***

The City is required to return the upset price, plus six percent interest. Interest for one year up to November 10, 2022 totals \$2,082.90 and funding will be provided from the 2022 operating budget.

CONCLUSION

It is recommended that Council declare a manifest error in relation to the Property. Council approval is required to refund the upset price with interest of six percent to the purchasers before the redemption date of November 10, 2022.

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Appendix A – Section 445 of the Vancouver Charter

Section 445 of the *Vancouver Charter* reads:

Cancellation of sale for manifest error

445. (1) If, during the period of redemption, the Council is satisfied that a manifest error has taken place in the sale or in the proceedings leading to the sale, the Council may, by resolution and after giving notice to the purchaser, cancel the sale to that purchaser.

(2) If a sale is cancelled under subsection (1),

(a) the city shall return to the purchaser the upset price together with interest at the rate of 6% per year, and

(b) the taxes, as they appeared on the real-property tax roll before the sale, shall be restored to the roll as delinquent taxes.

2013-4-14.