

REPORT FROM THE DIRECTOR OF FINANCE & TREASURER

Re: 33 HERGOTT AVENUE TAX SALE BY PUBLIC TENDER

RECOMMENDATION

That staff be directed to have the property, 33 Hergott Avenue, vested to the municipality by writing off the taxes and charging the education portion back to the school board.

BACKGROUND

In accordance with the Municipal Act (subsections quoted below), a tax arrears certificate was registered against the title to the land recognized as 33 Hergott Avenue, Elliot Lake, on July 29, 2021 due to two (2) years of tax arrears owing. As no payment was received for the cancellation price within one year of the registration of the tax arrears certificate, the property was scheduled to be sold by public tender on October 5th, 2023. Members of the public had until 3:00 PM on October 5th, 2023 to submit their tender packages. As no tender was received for the tax sale of this property, Council must now select its preferred option by resolution as outlined in this report.

373 (1) *Registration of tax arrears certificate - Where any part of tax arrears is owing with respect to land in a municipality on January 1 in the second year following that in which the real property taxes become owing, the treasurer of the municipality, unless otherwise directed by the municipality, may prepare and register a tax arrears certificate against the title to that land.*

373 (2) *Form - A tax arrears certificate registered under this section shall indicate that the land described in the certificate will be sold by public sale if the cancellation price is not paid within one year following the date of the registration of the tax arrears certificate.*

The property at 33 Hergott Avenue is a vacant property, based on a visual inspection, there are no personal property or chattels present on the property.

ANALYSIS

OPTION #1

Have the property vested in the municipality by writing off the taxes and charging the education portion back to the school board.

NOTE: If a vested property has personal property / chattels, the municipality would be required to seek legal advice on how to handle personal property / chattels found on vested property, which could result in further legal fees.

OPTION #2

Have the property re-advertised a second time after writing off all the taxes, or after writing off a portion of the taxes and charging back to the school board the proportionate share of the unpaid taxes, in order to offer the property for a lower Tender Amount, which may or may not be more attractive to purchasers. If the municipality chooses this option, the property must be re-advertised prior to October 5th, 2025.

OPTION #3

Write-off all or a portion of the taxes and charge back to the school board the proportionate share of the unpaid taxes *without* vesting the property and *without* re-advertising the property a second time for the tax sale by public tender.

OPTION #4

Have the property re-advertised before October 5th, 2025 without writing off any taxes, resulting in a higher Tender Amount.

OPTION #5

Do nothing with the property. No taxes are written off, and the property is not vested in the municipality and not re-advertised before October 5th, 2025.

FINANCIAL IMPACT

OPTION #1

Have the property vested in the municipality.

With this option, all taxes would be written off, all interest and penalties would be unapplied to the account, costs incurred would not be recovered, and the proportionate share of the unpaid taxes would be charged back to the school board.

	2019	2020**	2021	2022	2023	Total
Tax Arrears:	\$435.38	\$1,635.92	\$195.24	\$201.73	\$211.10	\$2,679.37
Penalty/ Interest:	\$217.66	\$802.42	\$69.47	\$41.43	\$11.60	\$1,142.58
Costs/ Adjustments:	\$13,323.33*	-	\$1,506.05	\$559.35	\$1457.70	\$16,846.43
Total:	\$13,976.37	\$2,438.34	\$1,770.76	\$802.51	\$1,680.40	\$20,668.38

* Cost for demolition of building and removing vehicle as per By-Law order

** Decrease in yearly taxes due to demolition of building

	2019	2020	2021	2022	2023	Total
School Board Charge Back:	\$125.58	\$13.92	\$13.92	\$13.92	\$13.92	\$181.26*

*This total would be charged back to the school board if the total taxes were written off (as indicated in the table above).

Should Council choose to vest the property, the municipality would have to register on title a Notice of Vesting before October 5th, 2025. There would be further costs to update the title search and to register the Notice of Vesting.

1. Should the municipality then decide to sell the property within seven years of the registration of the Notice of Vesting, the municipality must share the proceeds of the sale.
2. Should the municipality then decide to sell the property after seven years of the registration of the Notice of Vesting, the municipality does not have to share the proceeds of the sale.

The property at 33 Hergott Avenue is a vacant property, based on a visual inspection, there are no personal property or chattels present on the property.

OPTION #2

Have the property re-advertised after writing off all or a portion of the taxes.

Should Council select this option, the municipality would be deducting the value of their taxes receivable by the amount of taxes written off. There would also be additional costs involved for notice and advertising requirements. These costs would be recovered in the event of having a “successful purchaser” in the Tax Sale by Public Tender. If no tender is received or if there isn’t a successful purchaser for the tax sale, these costs would not be recovered, and Council would once again be required to select one of the options provided in this report.

OPTION #3

Write-off all taxes or portion of taxes without vesting and without re-advertising.

Should Council select this option, the municipality would be deducting the value of their taxes receivable by the amount of taxes written off. In addition, the property owner *could* come along and pay the lower cancellation price before October 5th, 2025 and have the tax arrears certificate cancelled. According to subsection 371(1) of the Municipal Act, the cancellation price equals all tax arrears, current taxes, interest, penalties, and all reasonable costs *at any given time*. If the cancellation price is not paid before October 5th, 2025, and if the municipality chooses not to vest or to re-advertise the property, the whole process is deemed to be cancelled. If the municipality wants to continue with the tax sale process as a collection tool, the process would need to be started all over again from the beginning with the registration of a tax arrears certificate.

OPTION #4

Have the property re-advertised without writing-off taxes.

Should Council select this option, the cancellation price for 19 Forest Pl would be increased due to penalties, interest, and past due tax installments that have been added to the property’s tax account since the last tax sale held on October 5th 2023. The new cancellation price would be equal to all tax arrears, current taxes, interest, penalties, and all reasonable costs as of the first day of the tax sale advertisement, which would be approximately four/five weeks prior to the tax sale date. There would also be additional costs for notice and advertising requirements, which would be recovered in the event of having a “successful purchaser” in the Tax Sale by Public Tender. If no tender is received or if there

isn't a successful purchaser for the tax sale, these costs would not be recovered, and Council would once again be required to select one of the options provided in this report.

OPTION #5

Do nothing with the property.

Should Council select this option, annual property taxes, penalties, and interest will continue to be added to this property's tax account. If the municipality wants to continue with the tax sale process as a collection tool after October 5th, 2025, the process would need to be started all over again.

LINKS TO STRATEGIC PLAN

Strong Municipal Corporate Administration and Governance

Consistent and timely tax collection procedures is a key element in the City's goal to operate in a fiscally responsible manner.

SUMMARY

It is recommended that staff be directed to continue with option 1: Have the property vested in the municipality.