

THE TAX SALE PROCESS – FREQUENTLY ASKED QUESTIONS

Why is the Municipality selling these properties?

A tax sale is the sale of one or more properties by a municipality to recover unpaid property taxes on those properties. The sale is conducted in accordance with the Municipal Act, 2001 and the Municipal Tax Sales Rules.

How does the Municipality sell these properties – is there a realtor involved?

There is no realtor involved. The Municipality can sell the property by public tender or public auction.

Can I really buy property so cheaply?

Tax sales are not typical real estate transactions and there are risks associated with this type of transaction. The Municipality is only interested in recovering unpaid taxes including the costs of the tax registration and sale process and is not obligated to, nor incentivized to obtain fair market value. Prior to considering participating in a tax sale, it is recommended that potential bidders seek advice from a lawyer licensed to practice in Ontario and in good standing with the Law Society of Upper Canada, preferably one who deals in these types of sales, and conduct thorough research before submitting a tender.

Up to What Point can the owner pay the taxes and avoid the sale?

The owner can pay the “cancellation price” at any time up to the point in which the property is either transferred to the successful tenderer or vested in the Municipality due to a failed tax sale.

Can the Municipality recommend a lawyer for this purpose?

The Municipality does not provide recommendations for legal counsel.

How would I determine if there is a mortgage or any liens owed against the property?

It is the responsibility of the tenderer to search title at their expense. They may choose to have their lawyer search title. A search can be conducted at the appropriate county Land Registry Office.

Who is the legal owner of the property during the tax sale process?

Up until the time the property is transferred to a new owner or is vested in the Municipality as a result of a failed tax sale, legal title does not change, and it continues to be held in the name of the current owner.

Am I able to view and/or tour the property?

Because the Municipality does not own the property during the tax sale process, we cannot provide access to view or tour the property. Access without authorization from the owner of the property is considered trespassing.

What is the condition of the property? What if the property is in poor condition or there is debris or junk on the premises?

Properties are sold **AS IS**. The Municipality does not make any representation as to the condition or size of the property. The purchaser is responsible for the removal of any debris, junk, etc. left at the property and any associated expenses.

What if the property is occupied?

The Municipality does not guarantee vacant possession. Contact a lawyer licensed to practice in Ontario and in good standing with the Law Society of Upper Canada, preferably one who deals with tax sales.

What are the annual utilities costs?

The Municipality does not have this information.

What other costs are payable to the Municipality if I am the Purchaser?

The Purchaser is responsible for payment of any additional taxes, charges, penalties and interest that may be owing subsequent to the property being advertised for sale. In addition, the successful tenderer is responsible for the land transfer taxes, registration fees and HST, if applicable. All instalments and interest to the tax sale date have already been included in the final cancellation price.

If I am not the highest tenderer, do I receive my deposit cheque back at the tender opening?

NO DEPOSIT CHEQUES WILL BE RELEASED AT THE TENDER OPENING UNDER ANY CIRCUMSTANCES. Deposit cheques or bank drafts of unsuccessful tenderers will be returned by mail ONLY.

My tender submitted is much lower than others – why may I not receive my deposit cheque back at the tender opening?

The Municipality must review all tenders for compliance with the requirements of the legislation and Municipal processes following the public opening. The highest tender may not be the successful tender. Tenders can be rejected for a variety of reasons including noncompliance with the legislation. Lower tenders may be considered.

When will I know if I am the successful tenderer?

The highest qualifying tenderer will be notified by mail within 1 week following the public tender opening and will be provided with the balance to be paid. In order for the highest qualifying tenderer to be declared the successful tenderer, the balance due must be paid within 14 calendar days of the mailing date of the notice. Upon receiving notification, the highest qualifying tenderer may wish to retain a lawyer licensed to practice law in Ontario and in good standing with the Law Society of Upper Canada, preferably one who deals in these types of sales.

What happens if the highest qualifying tenderer does not follow through?

The highest qualifying tenderer's deposit is forfeited to the Municipality and the property is offered to the second highest qualifying tenderer who has 14 calendar days from being notified by mail to pay the balance owing.

How do I get keys for the property?

The Municipality does not have keys to the property and is not responsible to provide one to the purchaser.

What happens if the property is sold for more than the cancellation price – what happens to the extra money? What about other parties that might have an interest in the property ie: lienholders, creditors)?

Any monies received as part of the tender that are not required to clear the cancellation price are paid into Court pursuant to Section 380 of the Municipal Act.

Parties who have a claim may be able to apply to the Court to access these residual monies to cover their loan or other interest.

What happens to the property if the Municipality does not receive any tenders?

After a failed tax sale, the Municipality may choose to vest the property to the Municipality, or at a future date to re-advertise the property for sale.

What if I still have some questions about the process?

There are a number of on-line resources you could consult such as:

The Ministry of Municipal Affairs and Housing Citizen's Guide – Plan Review and Approval Process:

<https://www.ontario.ca/document/citizens-guide-land-use-planning>

The Municipal Act, 2001 as amended: <https://www.ontario.ca/laws/statute/01m25>

The Municipal Property Assessment Corporation (MPAC): www.mpac.ca