



An ocean of opportunity

STAFF REPORT

SUBMITTED BY: Leah d'Eon

DATE: July 28, 2022

SUBJECT: Tax Sale Process

ORIGIN

We have a yearly property tax sale typically held in February, and for the past two years, the sale has been done by tender due to COVID-19 restrictions. These tax sales were highly successful; therefore we are seeking direction from Council whether to hold the tax sale in-person or continue with a tendering process.

BACKGROUND

Tax Sale Proceedings

As per our Tax Collection and Tax Sale policy and section 134(1) of the Municipal Government Act, the Municipality collects overdue tax by way of a property tax sale each year. Properties are placed on tax sale when the property taxes are two full years in arrears. Once the listing is certified by the Treasurer, the tax clerk proceeds through the steps of a tax sale which include the following.

- Preliminary Notices – Notices sent are sent to property owners, advising them that taxes are in arrears and providing them with 14 days to pay their outstanding property taxes.
- Title Search – A title search of the properties on the Tax Sale list is performed by the municipal solicitor.
- Notice of Intent to Sell – Once the title searches are completed, another notice is provided to the property owners, spouses, and any person with a mortgage, lien or other interest in the land.
- Advertisements and Notice – Properties to be sold at tax sale shall be advertised in two issues of the local newspaper. A listing is posted to the municipal website and information regarding the properties can be found at the Municipal Administration office.
- Tax Sale – Typically a public auction held at the Municipal Administration Building.

Tax Sale by Tender

Section 141 of the Municipal Government Act allows the Treasurer, with the consent of the council, to call tenders for property rather than put the property up for sale at public auction.

Section 149 of the Municipal Government Act describes the authority municipalities have to sell land by tender:

(1) Where a 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.

(2) Where a municipality calls tenders for land to be sold for taxes, the person whose tender is accepted shall pay the tender price within three business days after being notified of the acceptance.

(3) Where the balance of the purchase money is not paid within three business days, the land shall again be advertised and put up for sale.

(4) The expenses of the resale shall be deducted from the deposit and the balance shall be refunded after the resale is held.

DISCUSSION

Public Auction

In a typical property tax sale, we normally have between 20-30 properties to be sold with 40-50 bidders in attendance. This usually translates in most properties being sold and their outstanding taxes paid.

The tax sale is scheduled on a certain date/time and bidders are required to be present to bid. Bids are received by the public, with the highest bid winning the property. Bidders are required to pay the minimum bid price at the time of the tax sale and any remaining balance must be paid within 3 business days. Many of the properties are sold for the minimum bid price. Any surplus funds are held in a separate account for 20 years and then transferred to the Municipality if they are not requested by the property owner.

From a staff's perspective, a public action is very fast paced, and the workflow is much more intense and demanding.

Tax Sale by Tender

For the most part, the process for a tax sale by tender is the same as our regular tax sale process. We would send preliminary notices, perform title searches, send notices of intent to sell and advertise. The only difference would be that instead of having a public auction, we would accept bids on the properties.

Tenders would be accepted in a sealed envelope by the close of the tender (specific date and time). Minimum bids would be set at the amount of outstanding property taxes, tax sale expenses, deed registration and any applicable taxes. The tender would be required to meet the minimum bid set for the property.

Bidders are only permitted one bid per property and must provide their best price in order to be the successful bidder. The Municipality would reserve the right to reject any or all tenders, to accept a tender that is not the highest bid, or to accept any tender which it may consider to be in its best interest and the accepted tender price would have to be paid within three business days. Failure to pay the accepted tender price within three business days would result in the property being placed on the list of the next property tax sale.

The tender opening would be held shortly after the close of the tender. When municipal tenders are opened, we have at minimum 2 staff members present. Bid listings are created and signed off by all employees present to ensure accuracy and formal notice would be given the following business day. The results would then be posted on the municipal website.

We believe the tender process allows more bidders to bid on properties, which likely results in more properties being sold. We received over 100 bids each year on the properties remaining on the tax sale listing on the tax sale date. We also believe that the tendering process allows for bids from interested parties that may not be able to attend the tax sale in person. We have received bids from across Canada, the US and worldwide. This allowed everyone an equal opportunity to bid without having to be physically present.

One issue that we've experienced is when a bidder "cancels" their bid after they have won. In that case, Section 149(3) of the MGA is clear that if the successful bidder does not pay the balance of the property within 3 days, the property needs to be put up for tax sale again. That means we are not able to go to the second highest bidder. To counteract this issue, we required a deposit of \$200 to make any bids at the last tax sale. This discouraged people from bidding on properties that they were not highly interested in and reduced the number of cancelled bids. The deposit is kept by the Municipality if the sale does not proceed.

Logistically, tax sale by tender allows for a controlled workflow for the tax department. As tenders are received, they are sorted and placed in a secure location until the tender deadline has passed. Staff are able to open the tenders in an organized manner and all documentation is fully reviewed by multiple staff and recorded.

Finally, bid amounts received by tender are typically higher than the public auction, thus closer to fair value.

BUDGET IMPLICATIONS

Property taxes receivable balance as of March 31, 2023, would be impacted if the tax sale process is not completed prior to our fiscal year end. While this would not affect our yearly budget, an increased accounts receivable balance at year end would affect our municipal indicators. Accounts receivable collections is an area that we have improved upon over the past number of years and we continue to strive to achieve a “green” rating for that indicator.

LEGAL IMPLICATIONS

N/A

PUBLIC CONSULTATION/COMMUNICATIONS

N/A

RECOMMENDATION

For the reasons listed above, **it is recommended that the property tax sale be once again conducted through a public tender process.**

ATTACHMENTS

- Draft Property Tax Sale Tender Document

DRAFT PROPERTY TAX SALE BY SEALED TENDER

Notice is hereby given, in accordance with the Municipal Government Act, Part 6, Section 142, that the Municipality of the District of Barrington is inviting sealed tenders for the following properties:

ASSESSMENT #	PID #	PROPERTY DESCRIPTION	ASSESSED OWNER	MINIMUM BID
12345678	8000000	Land	John Doe	\$ 1, 000

For a more detailed description of the property, please see the tax sale list on our website or contact the Municipality of Barrington at 902-637-2015, extension 224, or via email wchristie@barringtonmunicipality.com.

Tenders shall be submitted in a sealed envelope, addressed to the undersigned and shall be clearly marked on the outside of the envelope, **“PROPERTY TAX SALE BY TENDER,”** and **“ASSESSMENT ACCOUNT NUMBER”** to 2447 Highway 3, Barrington, NS, B0W 1E0. A refundable \$ 200 deposit is required with each bid, paid by cheque or money order.

Bidders shall complete one **“Tender Form”** for each property they are bidding on and place each form in its own envelope when bidding on more than one property. The forms are available on the municipal website, barringtonmunicipality.com, by calling (902) 637-2015, ext 224, or email, wchristie@barringtonmunicipality.com.

TENDERS WILL BE ACCEPTED UNTIL 2 P.M. ATLANTIC STANDARD TIME ON TUESDAY, February 14, 2023.

TERMS: Bidder must meet the minimum bid set per property; bid price includes HST (if applicable) and the certificate of sale and certificate of discharge/tax deed recording fees. **The accepted tender price must be paid within three full business days after being notified of acceptance. Failure to pay the accepted tender price within three full business days will result in the property being placed on the next property tax sale. Acceptable methods of payment will be by cash, certified cheque, money order, bank draft, irrevocable letter of credit or lawyer’s trust cheque as per the MGA 148(1.)**

All properties are sold “as is where is.” Although the Municipality has made all reasonable efforts to confirm ownership, it does not guarantee title or boundaries of the aforementioned property. Prospective purchasers are responsible to conduct their own searches and surveys or other investigations.

The Municipality reserves the right to reject any or all tenders, to accept a tender that is not the highest bid, or to accept any tender which it may consider to be in its best interest. The Municipality also reserves the right to waive formality, informality, or technicality in any tender. Tenders must be received by a qualified bidder.

LIMITATION OF LIABILITY: By submitting a tender, you agree that neither the Municipality, nor any of its employees, officers, agents, elected appointed officials, advisors or representatives will be liable, under any circumstances, for any claim, loss, or damage you may suffer arising out of this tender process.

TENDER OPENING: Tenders will be opened Tuesday, February 14th at 2:30 p.m. The successful bidder will have three full business days after notice to pay in full by certified cheque, money order, bank draft, irrevocable letter of credit or lawyer’s trust cheque.

Leah d’Eon
Director of Finance

TENDER FORM
PROPERTY TAX SALE BY SEALED TENDER

NAME(S): _____

MAILING ADDRESS: _____

TELEPHONE: _____ EMAIL: _____

ASSESSMENT ACCOUNT #: _____ BID AMOUNT: _____

MANNER OF TENURE: _____

The manner of Tenure should be chosen if there will be more than one owner of the property. The choices are either as Joint Tenants or as Tenants in Common. If Joint Tenants are chosen, it means that if any of the multiple owners passes away, the other(s) will inherit the entire property. If Tenants in Common are chosen and one of the owners passes away, their share of the ownership would be passed to their heirs. If a Manner of tenure is not selected, the default choice will be Tenants in Common.

SIGNATURE: _____ DATE: _____

Summary Instructions for Sealed Tenders and Terms/Conditions:

1. One tender form per assessment number must be submitted. Each form must be in a separate envelope when submitting a bid on more than one property.
2. A refundable \$ 200 deposit is required with each bid, paid by cheque or money order.
3. All properties are sold "as is where is." Although the Municipality has made all reasonable efforts to confirm ownership, it does not guarantee title or boundaries of the aforementioned property.
4. Tax Sales do not always clear up defects in title, the tax deed only conveys the interest of those assessed.
5. Pursuant to Section 144(2) of the NS MGA, purchase of Tax Sale Property by Municipal Employees or their Spouses is not permitted.
6. The successful bidder will be given three full business days after the awarding of the tender to pay the bid amount in full.
7. Faxed/electronic (emailed) tenders will not be considered.
8. The Municipality reserves the right to reject any or all tenders, to accept a tender that is not the highest bid, or to accept any tender which it may consider to be in its best interest.
9. The tender must meet the minimum bid set for the property.
10. Limitation of Liability: By submitting a tender, you agree that neither the Municipality, nor its employees, officers, agents, elected appointed officials, advisors or representatives will be liable, under any circumstances, for any claim, loss, or damage you may suffer out of this tender process.