

<b>TO:</b>	<b>CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON NOVEMBER 1, 2016</b>
<b>FROM:</b>	<b>MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER</b>
<b>SUBJECT:</b>	<b>VESTING PROPERTIES IN THE NAME OF THE CITY AFTER A TAX SALE</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the following properties be vested in the name of the City of London in accordance with section 379(5) (b) of the *Municipal Act, 2001* at a time to be determined by the City Treasurer and City staff be directed to enter into discussions with the appropriate representatives of the Crown in right of Canada with respect to the disposition of the Crown interests in the properties:

- a) 1694 Evangeline Street, London Ontario PIN 08108-0097 (LT) roll number 39.36.030.280.135.00
- b) 126 Hamilton Road, London Ontario PIN 08316-0187 roll number 39.36.050.090.077.00.

<b>BACKGROUND</b>
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On November 19<sup>th</sup> 2015 City Staff conducted a tax sale in accordance with Part XI of the *Municipal Act, 2001*. Included in that sale were two parcels of land described in detail under the recommendations section of this report. Neither of these properties sold at the tax sale.

In accordance with section 379(5) and 379(15) of the *Municipal Act, 2001* when properties do not sell at a tax sale a municipality has up to two years to vest the property in the municipality's name. During this two year period the municipality has the authority under section 386.1 of the *Municipal Act, 2001* to "enter on and inspect the land". The purpose of this authority under section 386.1 is for the municipality "to determine whether it is desirable to acquire" the land that did not sell at the tax sale.

The City has a Council approved policy for dealing with land that has not sold at a tax sale. A copy of that policy is attached as Schedule "A". In accordance with that policy, City Staff have engaged a consultant to carry out phase 1 Environmental Site Assessment (ESA) studies for the two above referenced properties. Representatives of the City's Environmental Services Department have reviewed the two phase 1 ESA reports and agree with the conclusions and recommendations of the reports and do not believe that a phase II ESA is required. The recommendation of this report to vest the two properties and enter into discussions with the representatives of the Crown interests is in accordance with Notes C and B and step 4 of the Council approved policy attached on Schedule "A" to this report.

The primary reason that the above referenced properties were not marketable at a tax sale was the existence of Crown interests in the properties that could not be expunged by the tax sale process. In the case of 1694 Evangeline Street the Business Development Bank of Canada has an indicated interest of in excess of \$1,000,000. In the case of 126 Hamilton Road, the Canada Revenue Agency has an indicated interest of in excess of \$117,000 and the Ministry of Revenue for Ontario has an indicated interest in excess of \$5,500. For Provincial interests in sale proceeds on the subsequent sale of land vested in a municipality after a tax sale, section 353(4.1) of the *Municipal Act, 2001* is applicable. This section sets out how the proceeds are to be shared between the

Province and the municipality. In the case of the Federal Government and its agencies such as the Business Development Bank of Canada there is no such legislation and the sharing of any sale proceeds must be agreed to on an individual basis. City staff would therefore bring back for Council approval any proposed agreement on the sharing of sale proceeds with the Federal Government and/or its agencies.

The amount of outstanding taxes levied on 1694 Evangeline Street as at September 30, 2016 amount to \$247,533.05. The amount of outstanding taxes levied on 126 Hamilton Road as at September 30, 2016 amount to \$93,055.06. The outstanding taxes on these two properties have been expensed in the financial statements of previous years and included in the allowance for uncollectable taxes at year end.

City staff will enter into discussions with the representatives of the Crown interests to come to an agreement on the sharing of any proceeds on a future sale. The City Treasurer will use his discretion as to the timing of the vesting of the two properties based on the progress of discussions with the Business Development Bank of Canada and the Canada Revenue Agency. The vesting of the properties will remove any deadline on the City while carrying out discussions with the Business Development Bank and the Canada Revenue Agency and put the City in a more advantageous position. After a sale of the properties, it is expected that the properties will once again be in productive use and generate tax revenue for the City. Any proposed agreement with respect to the Crown interests will be brought back to Council for approval.

Staff in the Planning department have indicated that the property at 126 Hamilton Road falls within the Hamilton Road Area Community Improvement Project Area boundary. Planning staff have advised that, in two community consultation sessions held this year, local business interests have expressed interest in acquiring this property. The City Tax Office has also received communications indicating interest from the private sector in the property at 1694 Evangeline.

<b>SUMMARY</b>
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It is recommended that the City Treasurer vest the two parcels situated at 1694 Evangeline Street and 126 Hamilton Road in the City's name at a time to be determined by the City Treasurer. These two properties did not sell at a tax sale on November 19, 2015. Finance staff will enter into discussions to resolve Federal Crown interests. Any proposed agreement for the sharing of sale proceeds for Federal Crown interests will be brought back to Council for approval. The future sale of the properties should bring the properties back to productive use and generate tax revenue for the City.

<b>PREPARED BY:</b>	<b>CONCURRED BY:</b>
<b>JIM LOGAN DIVISION MANAGER TAXATION &amp; REVENUE</b>	<b>ANNA LISA BARBON DIRECTOR, FINANCIAL SERVICES</b>
<b>RECOMMENDED BY:</b>	
<b>MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER</b>	

## **Schedule "A"**

### **26(4) Treatment of Properties That Do Not Sell at Municipal Tax Sales**

- 1) After a failed tax sale, circulate the property to internal departments and external agencies in accordance with City policy for the sale of City-owned properties in order to determine if they have any interest in the property, should the City vest the property; (if there is internal or agency interest in a property, this interest will be presented to the Finance and Administration Committee and Council for a decision as to whether or not to take ownership for the department or agency after conducting a Phase 1 and Phase 2 ESA as considered appropriate).
- 2) Conduct a Phase 1 Environmental Site Assessment (ESA).
- 3) Conduct a Phase 2 Environmental Site Assessment where appropriate as indicated by the Phase 1 ESA.
- 4) Report to the Finance and Administration Committee and if there is no internal department or external agency interest in the property, market the property by issuing a Request for Proposals which shall include an evaluation criteria with weighted scoring and a draft Agreement of Purchase and Sale.
- 5) Evaluate the submissions received from the Request for Proposals and prepare a recommendation report for the Finance and Administration Committee for the Proponent with the highest technical combined score for the property acquisition.
- 6) Vest property and convey to purchaser after approval of sale agreement by the Finance and Administration Committee and Council.
- 7) Apply the proceeds of the sale against the tax arrears; deem any remaining tax arrears uncollectible and write off the remaining tax arrears upon registration of the notice of vesting of the property by the City.

#### **NOTES:**

- A) Clauses in a form satisfactory to the City Solicitor will be included in the Agreement of Purchase and Sale to clarify that the property is being sold by the City on an "as is, where is" basis and that the purchaser acknowledges that the City has regulatory liability limitation from MOE orders under the EPA for the time that it owns the property (for up to five (5) years).
- B) Where encumbrances of the Federal or Provincial Governments or their agencies exist, City staff will attempt to negotiate a resolution of the interest as part of or prior to step 4.
- C) Where it is determined that a property has no environmental risks or liabilities or where the estimated market value will exceed the estimated costs of clean up, City staff may vest the property at any time and follow standard procedures for the designation and sale of surplus City land.
- D) Where it is determined that environmental risks or liabilities are so severe with respect to a property that the City should not vest a property even for the purposes of immediate transfer, then a recommendation to take no action with respect to the property will be provided to Council by staff.