



Minister of Municipal
Affairs and Housing
Hon. Steve Clark
777 Bay St
17th Floor, Toronto
ON M5G 2E5
VIA EMAIL:
steve.clark@pc.ola.org

Minister of Finance
Peter Bethlenfalvy
Ministry of Finance
Frost Building South
7th Floor, 7 Queen's Park Cres.
Toronto, ON M7A 1Y7
VIA EMAIL:
Peter.Bethlenfalvy@pc.ola.org

Township of Puslinch
7404 Wellington Road 34
Puslinch, ON N0B 2J0
www.puslinch.ca

June 1, 2023

Dear Minister Clark and Minister Bethlenfalvy,

Please be advised that the Township of Puslinch Council, at its meeting held on May 24, 2023 received a report from the Township Finance Department regarding the reinstatement of legislation permitting a municipality to retain surplus proceeds from tax sales.

Prior to being repealed by the Modernizing Ontario's Municipal Legislation Act, 2017, Section 380(6) of the Municipal Act, 2001 allowed for a municipality to retain surplus proceeds from tax sales within their jurisdiction. The Township agrees with other municipalities that the Public Tax Sale process is burdensome to a municipality who invests a considerable amount of time and money recovering these proceeds for the potential sole benefit of the Crown in Right of Ontario.

As a result of this discussion, Council passed the following resolution:

Resolution No. 2023-175:

Moved by Councillor Bailey and
Seconded by Councillor Hurst

THAT Report FIN-2023-022 entitled Reinstatement of Legislation Permitting a Municipality to Retain Surplus Proceeds from Tax Sales be received; and

THAT Council direct Township staff to send a letter to all relevant taxation bodies, including the Ministry of Municipal Affairs, the Ministry of Finance, Wellington County Council, MPP Ted Arnott, Association of the Municipalities of Ontario and all other municipalities in



Ontario urging them to re-instate previous legislation that permitted a Municipality to apply for and retain the surplus proceeds from a tax sale in their jurisdiction.

CARRIED

As per the above resolution, please accept a copy of this correspondence for your information and consideration.

Sincerely,

Courtenay Hoytfox
Municipal Clerk

CC:

Wellington County Council jennifera@wellington.ca

Honourable Ted Arnott, MPP ted.arnottco@pc.ola.org

Association of Municipalities of Ontario (AMO) amo@amo.on.ca

All Ontario Municipalities



REPORT FIN-2023-022

TO: Mayor and Members of Council

PREPARED BY: Mary Hasan, Director of Finance/Treasurer

PRESENTED BY: Mary Hasan, Director of Finance/Treasurer

MEETING DATE: May 24, 2023

SUBJECT: Reinstatement of Legislation Permitting a Municipality to Retain Surplus
Proceeds from Tax Sales
File: F22 TAX

RECOMMENDATIONS

THAT Report FIN-2023-022 entitled Reinstatement of Legislation Permitting a Municipality to Retain Surplus Proceeds from Tax Sales be received; and

THAT Council direct Township staff to send a letter to all relevant taxation bodies, including the Ministry of Municipal Affairs, the Ministry of Finance, Wellington County Council, MPP Ted Arnott, Association of the Municipalities of Ontario and all other municipalities in Ontario urging them to re-instate previous legislation that permitted a Municipality to apply for and retain the surplus proceeds from a tax sale in their jurisdiction.

Purpose

The purpose of this report is to report back to Council based on direction from Council at their meeting held on April 12, 2023.

Background

Council at its meeting held on April 12, 2023 received Consent Item No. 6.26 and Consent Item No. 6.27. Council directed staff to forward Consent Item No. 6.26 to RealTax to obtain their input in order to report back to Council on this matter.

Attached as Schedule A to this Report is Consent Item No. 6.26 from the Town of Essex which was listed on the April 12, 2023 Council agenda regarding the reinstatement of Legislation Permitting a Municipality to Retain Surplus Proceeds from Tax Sales. Attached as Schedule B to this Report is Consent Item No. 6.27 from the Town of Plympton-Wyoming which was listed on the April 12, 2023 Council agenda supporting the resolution from the Town of Essex.

Township staff agree with these municipalities that the Public Tax Sale process is burdensome to a municipality who invests a considerable amount of time and money recovering these proceeds for the potential sole benefit of the Crown in Right of Ontario.

Township staff forwarded this information to RealTax to obtain their input. RealTax assists the Township with the tax registration process and public tax sales. RealTax advised that they do hope that municipalities regain this process and have the legislation reversed. The surplus funds are what is over and above the minimum tender amount (ie. the cancellation price which is the amount of tax arrears that are outstanding inclusive of legal costs, RealTax costs, outstanding taxes, outstanding penalties/interest, etc.) and the actual tender amount in a successful tax sale.

These funds must be paid into the Superior Court of Justice in accordance with the current provisions outlined in Section 380 of the current Municipal Act.

Prior to 2018, Section 380 of the Municipal Act included the following provisions regarding the proceeds of sale with the relevant items for municipalities underlined below:

380. (1) The proceeds of a sale under section 379 shall,

(a) firstly, be applied to pay the cancellation price;

(b) secondly, be paid to all persons, other than the owner, having an interest in the land according to their priority at law; and

(c) thirdly, be paid to the person who immediately before the registration of the tax deed was the owner of the land.

(2) The treasurer shall pay the proceeds of sale, minus the cancellation price, into the Superior Court of Justice together with a statement outlining the facts under which the payment into court is made including,

(a) whether the land, at the time of the registration of the tax arrears certificate, was vested in the Crown because of an escheat or forfeiture under the *Business Corporations Act* or the *Corporations Act*;

(b) the date that payment is being made into court; and

(c) a notice that a person claiming entitlement to the proceeds of sale must apply to the Superior Court of Justice within one year of the payment into court.

(3) Within 60 days after making a payment into court under subsection (2), the treasurer shall send a copy of the statement to the Public Guardian and Trustee and to the persons to whom the treasurer sent notice under subsection 379 (1).

(4) Any person claiming entitlement under clause (1) (b) or (c) may apply to the Superior Court of Justice within one year of the payment into court under subsection (2) for payment out of court of the amount to which the person is entitled.

(5) The court shall, after one year has passed from the day the payment was made into court, determine all of the entitlements to receive payments out of the proceeds of sale.

(6) If no person makes an application under subsection (4) within the one-year period referred to in that subsection, the amount paid into court under subsection (2) shall be deemed to be forfeited.

(a) to the Public Guardian and Trustee if, at the time of the registration of the tax arrears certificate, the land was vested in the Crown because of an escheat or forfeiture under the Business Corporations Act or the Corporations Act; or

(b) in any other case, to the municipality.

(7) The Public Guardian and Trustee or the municipality, as the case may be, may apply to the Superior Court of Justice for payment out of court of the amount that was paid in.

(8) In the absence of evidence to the contrary, the Superior Court of Justice may rely on the statement of the treasurer under subsection (2) in determining whether the amount paid into court under that subsection is forfeited to the Public Guardian and Trustee or the municipality under subsection (6).

(9) Money received by a municipality under subsection (6) shall be paid into the general funds of the municipality.

Financial Implications

As outlined throughout this Report.

Applicable Legislation and Requirements

Section 380 of the Municipal Act

Engagement Opportunities

Staff recommend that Council direct Township staff to send a letter to all relevant taxation bodies, including the Ministry of Municipal Affairs, the Ministry of Finance, Wellington County Council, MPP Ted Arnott, Association of the Municipalities of Ontario and all other municipalities in Ontario urging them to re-instate previous legislation that permitted a Municipality to apply for and retain the surplus proceeds from a tax sale in their jurisdiction.

Attachments

Schedule A – Consent Item No. 6.26 listed on the April 12, 2023 Council Meeting from the Town of Essex regarding the reinstatement of Legislation Permitting a Municipality to Retain Surplus Proceeds from Tax Sales

Schedule B - Consent Item No. 6.27 listed on the April 12, 2023 Council Meeting from the Town of Plympton-Wyoming supporting the resolution from the Town of Essex

Respectfully submitted:

Mary Hasan
Director of Finance/Treasurer



CORPORATION OF THE TOWN OF ESSEX

33 Talbot Street South, Essex, Ontario, N8M 1A8

p: 519.776.7336 f: 519.776.8811 | essex.ca

Honourable Steve Clark

Ministry of Municipal Affairs and Housing
College Park 17th Floor, 777 Bay Street
Toronto, ON M7A 2J3

March 22, 2023

RE: The Reinstatement of Legislation Permitting a Municipality to Retain Surplus Proceeds from Tax Sales

Dear Honourable Steve Clark,

At its Regular Council Meeting held on March 6, 2023, Mayor Bondy brought forward a Notice of Motion for Council's consideration regarding the reinstatement of previous legislation permitting a municipality to retain surplus proceeds from tax sales. It was discussed that, prior to being repealed by the Modernizing Ontario's Municipal Legislation Act, 2017, Section 380(6) of the Municipal Act, 2001 allowed for a municipality to retain surplus proceeds from tax sales within their jurisdiction. It was further noted that the Public Tax Sale process is burdensome to a municipality who invest a considerable amount of time and money recovering these proceeds for the potential sole benefit of the Crown in Right of Ontario.

As a result of this discussion, Council passed the following resolution:

R23-03-081

Moved by: Mayor Bondy

Seconded by: Councillor Allard

That Council direct Administration to send a letter to all relevant taxation bodies, including the Ministry of Municipal Affairs, the Ministry of Finance, Essex County Council, MPP Anthony Leardi, Association of the Municipalities of Ontario and all other municipalities in Ontario urging them to re-instate previous legislation that permitted a Municipality to apply for and retain the surplus proceeds from a tax sale in their jurisdiction.

Carried

I trust you will find this satisfactory. If you have any questions or comments, please feel free to contact the undersigned.

Yours truly,



Shelley Brown

Acting Clerk

sbrown@essex.ca



CORPORATION OF THE TOWN OF ESSEX

33 Talbot Street South, Essex, Ontario, N8M 1A8

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c.c. Honourable Peter Bethlenfalvy, Minister of Finance
minister.fin@ontario.ca

Mary Birch, Interim Chief Administrative Officer
mbirch@countyofessex.ca

Anthony Leardi, MPP
anthony.leardi@pc.ola.org

Association of Municipalities of Ontario ("AMO")
resolutions@amo.on.ca

All other municipalities in Ontario



The Honourable Steve Clark
Minister of Municipal Affairs & Housing
minister.mah@ontario.ca

The Honourable Peter Bethlenfalvy
Minister of Finance
minister.fin@ontario.ca

DELIVERED VIA EMAIL

March 31st 2023

Re: Municipalities Retaining Surplus Proceeds from Tax Sales

Dear Premier Ford,

Please be advised that at the Regular Council Meeting on March 29th 2023, the Town of Plympton-Wyoming Council passed the following motion, supporting the resolution from the Council of the Town of Essex regarding Municipalities Retaining Surplus Proceeds from Tax Sales.

Motion 14

Moved by Councillor Mike Vasey

Seconded by Councillor Bob Woolvett

That Council support item 'N' of correspondence from the Town of Essex regarding Municipalities Retaining Surplus Proceeds from Tax Sales.

Carried.

If you have any questions regarding the above motion, please do not hesitate to contact me by phone or email at dgiles@plympton-wyoming.ca.

Sincerely,



Denny Giles
Deputy Clerk
Town of Plympton-Wyoming

cc: Bob Bailey – MPP, Sarnia-Lambton
Association of Municipalities of Ontario
All Ontario Municipalities



CORPORATION OF THE TOWN OF ESSEX

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Honourable Steve Clark

March 22, 2023

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College Park 17th Floor, 777 Bay Street
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Carried

I trust you will find this satisfactory. If you have any questions or comments, please feel free to contact the undersigned.

Yours truly,

A handwritten signature in blue ink, appearing to read "Shelley Brown".

Shelley Brown

Acting Clerk

sbrown@essex.ca



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