

## THE TAX SALE PROCESS – FREQUENTLY ASKED QUESTIONS

### **Why is the Municipality selling these properties?**

As per provincial legislation, a municipality may recover unpaid property taxes through the registration of a tax lien in the land registry office and eventually through the sale of the property if the taxes remain unpaid. By the time a property is eligible to have a Tax Lien registered against the property, the property taxes are at least in their second year of arrears.

### **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. The Municipality has generally used a tender process with a fixed submission date. The Municipality chooses an external company to provide support in preparing documents, advice and ensuring compliance with legislation throughout the tax registration and tax sale process. In addition to the legislated advertising requirements, this remains a more economical option to assist the Municipality in meeting all regulatory requirements while ensuring good market exposure to potential bidders. Tender packages are available for a nominal fee at the Municipal office or from our tax agent's website, which is currently [www.ontariotaxsales.ca](http://www.ontariotaxsales.ca).

### **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 of Kincardine 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 licenced 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.

### **How long does the tax sale process take?**

In the event the cancellation price is not paid before the expiry of the one-year redemption period, calculated from the date the tax lien is registered, these properties can be disposed of either by public auction or by public tender. Advertisements are published in the local newspapers once a week for 4 weeks and the Ontario Gazette for 1 week. The advertisement will also be published on the Municipal website [www.kincardine.ca](http://www.kincardine.ca) and on our tax agent's website, which is currently [www.ontariotaxsales.ca](http://www.ontariotaxsales.ca). The tender opening will occur at least 7 days after the date of the final publication of the newspaper advertisement.

### **What does "Cancellation Price" mean?**

The Cancellation Price is an amount equal to all tax arrears owing at any time in respect of land together with all current real property taxes owing, interest, penalties thereon, other land-related costs (such as unpaid water or sewer charges added to the tax account) and all reasonable costs incurred by the Municipality after the Treasurer becomes entitled to register a Tax Arrears Cancellation Certificate under S371 of the Municipal Act. In this context, "land" means both the physical land as well as any buildings and improvements located on it.

**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, engage the services of a title searcher or they may obtain more information or conduct their own search at:

Bruce County Land Registry Office  
203 Cayley St.  
Walkerton, Ontario N0G 2V0  
Phone : 519-881-2259  
Fax: 519-881-2322

**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. Please 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 are the annual water and/or sewer costs?**

Please note that not all properties within the municipality are serviced with municipal water and sewer. Some will be serviced by private well and/or private septic system. If a property is serviced with municipal water and/or sewer, the Property Information Sheet will identify this. Utility bills for water and sewer are generated 3 times per year and consist of a flat water charge plus usage fees and a flat sewer charge. The current approved rates can be found on the Municipality's website of [www.kincardine.ca](http://www.kincardine.ca) in the latest Consolidated Fee By-law.

**What is the property assessed for and/or what are the annual property taxes?**

Assessment values are available by viewing the tax roll ledgers at the Municipal office. Normally, staff are not available to assist with the roll books, but the books are available for public viewing and are organized by roll number. Assessed values are provided in the roll book, along with specific property details such as size etc. To determine annual taxes you can multiply the assessed values by the appropriate tax rates which are available on the Municipality's website of [www.kincardine.ca](http://www.kincardine.ca) in the latest Tax Rates bylaw.

Additional information related to assessment can be obtained from the Municipal Property Assessment Corporation (MPAC): [www.mpac.ca](http://www.mpac.ca) 1-866-296-MPAC (6722)

**What are the zoning and planning opportunities and limitations that exist for the property?**

The Municipality cannot comment on specific opportunities. We recommend that a planner be engaged to discuss this type of question. Our Comprehensive Zoning By-law and the Official Plan that may assist in identifying specific zoning information may be obtained from the Building and Planning Department located at 1475 Concession 5 or on the Municipality's website of [www.kincardine.ca](http://www.kincardine.ca). Questions can be directed to 519-396-3468 X7129.

**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 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.

**Can I pick up my deposit cheque?**

YOU CANNOT PICK UP YOUR CHEQUE. Deposit cheques of unsuccessful tenderers will be returned by mail ONLY.

**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. 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?**

The Municipality has 2 years from the date of the failed tax sale to vest the property to the Municipality or 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

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

The Municipal Property Assessment Corporation (MPAC) [www.mpac.ca](http://www.mpac.ca)