



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Services

TO:	Chair and Members Audit, Finance and Administration
COMMITTEE DATE:	August 15, 2018
SUBJECT/REPORT NO:	Treasurer's Write-off of Taxes under Section 354 of the Municipal Act, 2001 (FCS18073) (Ward 11)
WARD(S) AFFECTED:	Ward 11
PREPARED BY:	Maria Di Santo (905) 546-2424 Ext. 5254
SUBMITTED BY:	Rick Male Director, Financial Services, Taxation and Corporate Controller Finance and Corporate Services Department
SIGNATURE:	

RECOMMENDATION

That property taxes in the amount of \$6,145.01 for 1165 Green Mountain Road, Stoney Creek (Roll #2518 003 510 04200 0000) be written off under Section 354 of the Municipal Act, subject to the property being transferred back to the City of Hamilton (City), effective August 23rd, 2018, and that Alectra Utilities be refunded the property taxes paid in error.

EXECUTIVE SUMMARY

Section 354(4)(a) of the *Municipal Act, 2001* allows Council to write-off taxes “if the property is owned by Canada, a province or territory or a Crown agency of any of them or by a municipality”. In the case of 1165 Green Mountain Road (003.510.04200.0000), the property was owned by the City of Hamilton, and as such, exempt from property taxes up until it was wrongly transferred to Horizon Utilities Corporation as part of the Alectra/Horizon merger. Upon the transfer of ownership, the Municipal Property Assessment Corporation (MPAC) issued a class change from exempt to Residential taxable effective April 12, 2017. The transfer was completed in error, as Alectra misidentified the property on their asset list instead of the neighbouring transformer station parcel. The ownership of 1165 Green Mountain Road should have remained

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with the City of Hamilton and not have been included in the list of properties to be transferred as part of the Alectra/Horizon merger. As such, 1165 Green Mountain Road, should have continued to be exempt and not subject to property taxes.

Alectra has consented to the return of the property to the City of Hamilton, but have requested the refund of property taxes paid to date, which totals \$6,625.68. Although the property taxes are not unpaid, it is prudent that the City agree to the refund, being that the property taxes should not have been billed in the first place.

Staff are therefore recommending the write-off of taxes for the period of April 12, 2017 (when ownership was incorrectly changed) to August 22, 2018 (when ownership will be transferred back to the City of Hamilton). Taxation staff will then submit a Municipal Act application for exemption effective August 23, 2018.

Alternatives for Consideration –Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: As per the following table, the property taxes to be written off total **\$6,145.01**, assuming ownership will be transferred back to the City of Hamilton effective August 23, 2018. The municipal tax portion is \$5,151.38 to be charged to HAMTN 52174-252013. The amount to be recovered from the English Public School Board is \$993.63 to be charged to HAMTN 52174-252025. Alectra Utilities has paid the 2017 total taxes levied, in addition to the first 3 instalments of the 2018 total taxes levied, totalling \$6,625.68.

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2017 Property taxes - \$3,240.53			
Jan 1 - Apr 11, 2017	Exempt	\$ -	
Apr 12 - Dec 31, 2017	Residential taxable	\$ 3,240.53	Action - w/o under section 354 of Muni Act
		<u><u>\$ 3,240.53</u></u>	
2018 Property taxes - \$4,530.50			
Jan 1 - Aug 22, 2018	Residential taxable	\$ 2,904.48	Action - w/o under section 354 of Muni Act
Aug 23 - Dec 31, 2018	Residential taxable	\$ 1,626.02	Action - Municipal Act application for exemption
		<u><u>\$ 4,530.50</u></u>	
Total Taxes Levied (2017-2018)		\$ 7,771.03	
Less: write-off amount under section 354		\$ 6,145.01	
Municipal Act application for exemption		<u><u>\$ 1,626.02</u></u>	
2017 taxes paid by Alectra Utilities		\$ 3,240.53	
2018 taxes paid by Alectra Utilities		\$ 3,385.15	(first three instalments)
Total Taxes paid by Alectra Utilities		<u><u>\$ 6,625.68</u></u>	Action - to be refunded back to Alectra

Staffing: Not Applicable

Legal: The City's Legal Services will expedite the transfer of title back to the City of Hamilton.

HISTORICAL BACKGROUND

As part of the Alectra/Horizon merger, many properties were transferred from the City of Hamilton to Horizon Utilities Corporation and/or Alectra. The transfer of 1165 Green Mountain Road, Stoney Creek (Roll #2518 003 510 04200 0000) was completed in error.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Municipal Act, (2001), Part XI, Section 354.

RELEVANT CONSULTATION

City of Hamilton's Legal Services

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The ownership of 1165 Green Mountain Road, should have remained with the City of Hamilton, and as such, should not have been subject to property taxes. As such, Alectra Utilities should not have paid the property taxes billed. They were not aware that they owned this parcel, which is a park, and therefore had no beneficial ownership of the property. Due to this error, Alectra Utilities should be refunded the property taxes paid to date. Once ownership is transferred back to the City of Hamilton, Taxation staff will prepare a Municipal Act application for exemption as of August 23, 2018 (expected date the title of the property to be changed back to the City of Hamilton).

ALTERNATIVES FOR CONSIDERATION

Not applicable.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS18073 – Location map of 1165 Green Mountain Road, Stoney Creek, Roll # 003.510.04200.0000, Ward 11.

MD/dw