



CITY OF HAMILTON
FINANCE AND CORPORATE SERVICES DEPARTMENT
Financial Services and Taxation Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	October 16, 2019
SUBJECT/REPORT NO:	Strategies to Reduce Property Tax Arrears (FCS19081) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Maria Di Santo (905) 546-2424 Ext. 5254 Rob Divinski (905) 546-2424 Ext. 6196
SUBMITTED BY:	Rick Male Director, Financial Services and Taxation and Corporate Controller Corporate Services Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That effective January 1, 2020, the frequency of Reminder Notices mailed to taxpayers with property tax arrears be increased from the existing four reminder notices per year to seven reminder notices per year;
- (b) That the item respecting Strategies to Reduce Property Tax Arrears be considered complete and removed from the General Issues Committee's Outstanding Business List.

EXECUTIVE SUMMARY

On April 17, 2019 the General Issues Committee approved the following motion:

(Eisenberger/VanderBeek)

That staff be directed to communicate with other municipalities to determine strategies that those municipalities may be using to reduce their tax arrears and report back to the General Issues Committee with potential options.

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The above motion was as a result of the Report FCS19031 “Annual Tax Arrears as of December 31, 2018” which identified significant property tax arrears.

In reviewing the collection strategies used by other municipalities, the volume of property tax arrears, as well as existing resources and the ultimate potential impact on the taxpayer, staff are recommending increasing the frequency in which reminder notices are mailed out. Currently, the City of Hamilton mails out four reminder notices per year (March, May, July and October). Staff are recommending increasing this to seven reminder notices per year (to also include reminder notices in August, November and December). As the approved administration fee for reminder notice (2019 user fee is \$3.00) is added to the tax roll, there is no negative levy impact by increasing the number of reminder notices, as the user fee will cover the increase in postage, printing and staff time. Generating these notices can be accommodated within existing Taxation resources. Additional reminder notices may result in higher call/email volumes; however, it is not expected to be significant. More frequent reminder notices may spread out inquiries more evenly throughout the year. More frequent reminder notices intend to reduce the number of properties in arrears, and as such, staff would hope to issue fewer reminder notices per month (currently approximately 20,000 reminder notices per mailing).

Alternatives for Consideration – See Page 9

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: none

Staffing: none

Legal: none

HISTORICAL BACKGROUND

Report FCS19031 “Annual Tax Arrears as of December 31, 2018” was presented to the General Issues Committee on April 17, 2019. The report identified large property tax arrears. It should be noted that although the property tax arrears are significant (approximately \$73.7 million as of December 31, 2018), the City of Hamilton is protected in that it has priority lien status on the property and eventually will collect the property taxes, and other charges added to the tax roll, including penalty and interest, should it come down to the eventual tax sale of a property.

As identified in Report FCS19031, there are several steps currently taken by the City of Hamilton to ensure the taxes receivable are protected and ultimately collected. These

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steps are in adherence to the approved City of Hamilton Tax Collection Policy (FCS15068) and include:

- Arrears are indicated on both tax billings (Interim and Final tax bills).
- Penalty and interest rate set at the maximum allowable amount under the *Municipal Act* (1.25% per month / 15% per year).
- Four reminder notices issued per year to any arrears greater than \$50.00.
- Letters to new owners of properties (when there is no upcoming tax billing or reminder notice) advising of any arrears and upcoming instalments that are due.
- An annual letter mailed in January to all properties in three+ years in arrears, advising of potential lien being registered should the arrears not be dealt with.
- For taxpayers who ignore the arrears letters, liens are registered on title and notices are sent to anyone on title, including mortgage holders. Tax staff monitor all properties in three+ years in arrears, registering liens in order of largest arrears.
- Tax sale (on average, the City of Hamilton holds two tax sales per year).

For the most part, the above steps are consistent with other Ontario municipalities.

Breakdown of Property Tax Arrears

Table 1 is a breakdown by ward of the number of properties that had outstanding property taxes back to 2016 or prior as of January 1st, 2019 (three+ years in arrears). The table also provides a percentage of the total number of properties within each ward that were in arrears three+ years as of the beginning of 2019.

Table 1 Property Breakdown of Arrears per Ward

Ward #	# of Properties as of Jan 1, 2019	# of properties in arrears 2016 and prior	% in arrears
1	10,271	85	0.83%
2	8,585	105	1.22%
3	13,528	269	1.99%
4	14,685	190	1.29%
5	11,924	95	0.80%
6	12,537	113	0.90%

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Ward #	# of Properties as of Jan 1, 2019	# of properties in arrears 2016 and prior	% in arrears
7	13,975	122	0.87%
8	11,252	92	0.82%
9	10,722	94	0.88%
10	14,821	146	0.99%
11	10,449	104	1.00%
12	16,089	157	0.98%
13	12,467	106	0.85%
14	9,913	66	0.67%
15	10,697	127	1.19%
TOTAL	181,915	1,871	1.03%

From the statistics provided in Table 1 above, it is apparent that all wards have properties in significant arrears. All 15 wards fall near the overall average of 1.03%, with Ward 3 having the highest percentage of arrears at 1.99%, while Ward 14 the lowest at 0.67%. Of the 1,871 properties identified in Table 1 above, approximately 230 properties have a lien already registered on title, with the remainder being at risk of a lien being registered in 2019, should the arrears not be adequately addressed. Approximately 88% of these properties are residential or residential with a commercial component.

As far as demographics are concerned, staff do not have a “profile” of a taxpayer in arrears. Based on discussions with taxpayers, the reasons for being in arrears vary, however some common reasons include:

- Estate issues whereby the family is in the process of dealing with the estate or it is currently occupied by a surviving family member that is simply not addressing the property taxes or not expediting the settling of the estate in a timely manner.
- Rental properties (i.e. single-family homes/condos not owner-occupied) where the property owner is assuming the tenant is paying the property taxes.
- Charges added to the tax roll (i.e. water arrears, property standards charges, provincial offences fines, development charges, etc.).
- Taxpayers in financial hardship (i.e. due to job loss, divorce, illness or the death of one of the owners or family, etc.). These cases are referred to the Compassionate Appeal process, however, require that the taxpayers apply annually by the application deadline and provide the required financial records / attending physician’s statement.

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- Taxpayers making incorrect/misinformation assumptions (i.e. assuming they are paying their property taxes through their mortgage, assuming they are in good standing on their monthly pre-authorized payment plan, assuming another family member/partner is paying the property taxes, etc.).
- Opting to pay just the minimum required to discharge the lien or to avoid the City of Hamilton registering a lien. As such, these taxpayers are always in arrears and continue to incur a significant penalty and interest charges monthly.
- Remnant parcels, non-buildable lots.
- Pending assessment appeal (i.e. choosing not to fully pay the taxes levied, by assuming a successful outcome to their appeal that will eventually clear the arrears once processed).
- Opting to enter into a two-year extension agreement once they are registered.

The above reasons are not unique to the City of Hamilton.

It should be noted that the number of properties in three+ years arrears as of January 1, 2019 (1,871 properties) was reduced by more than half within six months. Through Taxation's collection efforts, the number of properties in three+ years in arrears as of June 1, 2019 decreased to 864. Although this is a significant reduction, unfortunately, as experienced in previous years, this number will climb back up to 1,800 (or higher) come January 1, 2020. This is reflected in the following table which takes a snapshot of the number of properties in arrears as of June 30, 2019.

Table 2 Analysis of Properties in Arrears

Years in Arrears	# of Properties as of Jan 1, 2019	# of properties in arrears as of June 30, 2019	% in arrears
3+ yrs arrears (owe 2016 and prior)	181,915	864	0.47%
2+ yrs arrears (owe back to 2017)	181,915	1,859	1.00%

As shown in Table 2 above, although as of June 30th, 2019 the number of properties that are in three+ years in arrears (owe taxes back to 2016 or prior) has been reduced by more than half to 864 properties, the number of properties in two+ years in arrears (owe taxes back to 2017) is 1,859. If these 1,859 properties do not clear their 2017 taxes by

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the end of 2019, they will be in three years arrears, and therefore at risk of registration, by January 1, 2020.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Collection efforts must ensure that the City of Hamilton's property taxes are protected and ultimately collected. Legislation, including the *Municipal Act, 2001*, *Assessment Act* and *Education Act*, as well as municipal by-laws, stipulate the means utilized in the billing and collection of property taxes.

The methods permitted to enforce collection of property taxes include:

- a) Penalty and Interest By-Law;
- b) Rent Attornment;
- c) Bailiffs; and
- d) Tax Sale

RELEVANT CONSULTATION

As directed by the General Issues Committee, staff have communicated with other Ontario municipalities to determine strategies in reducing property tax arrears. Appendix "A" to Report FCS19081 identifies some key items identified as a result of this survey.

In reviewing the survey results, some items to note include:

- The City of Hamilton is consistent with most municipalities surveyed concerning the mailing of four reminder notices per year, however, some send reminder notices more frequent (i.e. the City of London mails out nine reminder notices per year).
 - Prior to 2015, the City of Hamilton only mailed out two reminder notices per year. Although the additional reminder notices did not significantly reduce the overall number of properties in arrears, they did have some positive effects in collections, by advising taxpayers earlier where a potential problem may exist (i.e. misapplied payment, lost tax bill, one missed instalment, etc.).
- Consistent with the City of Hamilton, most municipalities surveyed register liens for properties in three+ years in arrears. Only a few municipalities are registering at two+ years in arrears, while some are simply investigating the option to go to two years. When comparing to the municipalities surveyed, the City of Hamilton far exceeds the number of registrations per year. Moving to two years' arrears for registration could potentially increase the City of Hamilton's registrations by over 2.5 times. Due to Hamilton's current high volume of tax registrations per year (on average 300 – 500 registrations per year), additional resources would be required if registration was completed at two years in arrears. Registering liens one year sooner is expected to have a significant impact on reducing the arrears. It also forces taxpayers to deal with

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their arrears sooner, hopefully when the arrears are at a more manageable amount. Unfortunately, it may also result in more properties proceeding to tax sale.

- Most of the municipalities surveyed require payment in full to remove the lien. Hamilton, London and Kitchener were the only municipalities identified in the survey to allow partial payments, with this partial payment being full payment of the third year in arrears only. Not requiring full payment may ultimately lead to the re-registration of the property the following year, should the property owner not continue to make payments for the remainder of the arrears. Unfortunately for some taxpayers in financial difficulty, paying the minimum required to clear the third year in arrears only, is all that they can afford to avoid going to tax sale. Typically, if there is a mortgage on title, the full arrears (and not just the third year) will be settled by the mortgagee. Although the City of Hamilton accepts payment to clear the third year in arrears only, 60% of the liens discharged in 2019 were as a result of a payment for more than the minimum required (up to the full arrears being paid). Not requiring full payment gives taxpayers in financial difficulty the ability to avoid their property going to tax sale, however, with the understanding that they run the risk of being re-registered the following year if no solution is reached on dealing with the remaining arrears. Since these properties continue to incur penalties and interest on the arrears, the remaining arrears can quickly become unmanageable if not dealt with in a promptly.
- Most of the municipalities surveyed allow for extension agreements. These extension agreements are only applicable after a lien has been registered. The City of Hamilton allows for a two-year extension agreement. This is a formal agreement that affords the property owner an additional two years to pay the arrears, subject to the property owner adhering to the agreed-upon monthly payments. Penalty and interest charges continue to incur while on the extension agreement. As long as the agreement is in good standing, the City of Hamilton will not proceed to tax sale within this two-year extension.
- The City of Hamilton does not employ the services of a bailiff to assist in the collection of tax arrears, as the tax sale process will ultimately settle the arrears. Some of the municipalities surveyed do use bailiffs, something the City of Hamilton would consider if all other collection measures are unsuccessful. This is identified in the approved City of Hamilton Tax Collection Policy (FCS15068) which states; *“Bailiffs would be used where there is the potential that the recovery of tax arrears by the other methods would not cover the outstanding taxes or where we are prohibited by one of the other methods due to overriding legislation. An example would be a tenant of a Crown property not paying taxes and the Crown unwilling to assist in collection. Crown owned property cannot be sold for tax sale, thereby taking away our ability to collect the outstanding amount via tax sale.”* To date, the City of Hamilton has not required the use of a Bailiff.

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- Regardless of the City of Hamilton's higher volume of liens registered, the number of properties that eventually go to tax sale is not significantly higher than other municipalities. When looking at the number of properties advertised for tax sale in 2018, although some municipalities did not have any properties advertised for tax sale, Sudbury and Windsor had twice as many as Hamilton.
- Some municipalities, particularly smaller ones, may employ more aggressive collection efforts earlier on (i.e. stronger warning letters in the second year, calling the taxpayer, etc.). With the City of Hamilton's current volumes, such efforts cannot currently be accommodated with the existing resources. As such, apart from including arrears on the two tax billings and the mailing of reminder notices, the City of Hamilton does not commence more aggressive collection efforts until the arrears reach three years.

Customer Service staff have been consulted concerning implications of the potential increase in call/email volumes resulting from more frequent reminder notices. No issues are anticipated, and in fact, it is expected that the more frequent reminder notices may spread out call and email inquiries more evenly throughout the year.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Although there is no guarantee that increasing the number of reminder notices mailed out per year will significantly reduce the number of arrears, it is the option that can be accommodated within existing resources and the option that will have the least impact on taxpayers in financial difficulty. The intent of the more frequent reminder notices is to keep the taxpayer informed of their most up to date arrears balance, with the hopes that they will take quicker action to settle the arrears (i.e. refinance, use of other financial tools, sale of property, contact the City of Hamilton to make payment arrangements, etc) before the arrears become unmanageable and/or before the City of Hamilton proceeds with the registration of the lien.

These reminder notices break down the arrears by year, identify the current penalty and interest rate (1.25% per month / 15% per year), as well as provide notice that taxes in arrears are at risk of a lien being registered on title.

It is not until the property reaches three years in arrears that the City of Hamilton commences additional collection efforts. Once arrears reach three years, the City of Hamilton sends a notice (mailed out in January) of potential registration of a tax arrears lien and possible tax sale if no action is taken. Unfortunately, some taxpayers do not take any action until they receive this three years arrears letter. By this point, they would have received multiple notices of their growing arrears and should be aware of the financial and legal implications of remaining in arrears. Once the taxpayer receives the three years

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in arrears warning in January, staff proceed with the registration process by March, starting with the largest arrears.

ALTERNATIVES FOR CONSIDERATION

The two main alternatives that would have the most significant impact in reducing the level of arrears include:

- registering liens at two years arrears (rather than three years arrears)
- requiring full payment of the arrears (rather than just the third year) to discharge the lien and avoid tax sale

Staff are not recommending implementing these alternatives at this time, however, they will continue to monitor the arrears and investigate these alternatives in more detail, should circumstances warrant further review.

Moving to registration at two years is not realistic with the current resources in Taxation. Registration at two years and/or requiring full payment will also inevitably result in more properties being registered and ultimately sold at a tax sale, particularly affecting the most vulnerable taxpayers in financial hardship. As these two alternatives would have the most significant impact in reducing arrears, the current Penalty and Interest revenue (averaging approximately \$11.8M per year) would also be impacted.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

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 FCS19081 - Strategies to Reduce Property Tax Arrears

MD/RD/rw