

## Staff Report

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**Report To:** Corporate Services Committee  
**Report From:** Christine Gilbert, Deputy Treasurer  
**Meeting Date:** October 10, 2024  
**Report Code:** CR-24-092  
**Subject:** Property Tax Write Off – Extenuating Circumstances

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### Recommendations:

THAT in consideration of Staff Report CR-24-092 respecting Property Tax Write Off – Extenuating Circumstances, the Corporate Services Committee recommends that City Council direct staff to write off a combined total of \$5,205.27 in 2022 and 2023 property taxes for roll 4259-010-006-26400.

### Highlights:

- City staff recommend that property taxes and their associated responsibility be levied based on the assessment apportionment provided on the returned roll from MPAC.
- Any disputes on the apportionment of property taxes should be settled in the private sector with the ratepayers and their legal representatives or based on formal applications submitted by ratepayers for Committee/Council decision.
- To protect the assessment base and associated levies, property tax write-offs should not be considered other than one-off situations where they are the least costly option for the City.
- Given the extenuating circumstances involved in this situation, City staff are recommending that property taxes totalling \$5,205.57 for 2022 and 2023 combined, be written off for roll 4259-010-006-26400.

### Strategic Plan Alignment:

[Strategic Plan](#) Priority: Service Excellence.

This report demonstrates the Strategic Plan's priority of service excellence by attempting to resolve this matter in a way that best meets the needs of all involved ratepayers while also balancing staff time and avoiding additional costs.

## **Climate and Environmental Implications:**

There are no anticipated climate or environmental impacts.

## **Previous Report/Authority:**

*The Municipal Act, 2001*

*The Assessment Act*

## **Background:**

The City has been in discussions with a ratepayer regarding a situation which we were made aware of in February 2024, resulting from the sale of a property in November 2021. This situation has resulted in a dispute over property tax amounts levied and outstanding from 2022-2023, as well as who is responsible for the property taxes. Numerous factors have further exacerbated the complexity of the situation, including rolls with no municipal addresses, the properties bordering two municipalities (Owen Sound and Meaford), unstandardized roll division/severance data provided, dates and timelines for property tax roll return vs. the sale and original severance of the property, Requests for Reconsideration through MPAC and ARB appeals, as well as an administrative error by the City that neither party (seller or new owner) brought to light until 3 years after the sale.

Sustained efforts by the City as well as the ratepayer have yet to resolve the outstanding issue, which is compounded by the fact that certain resolution options are no longer valid due to the extended timelines. Other options, which will be discussed further below, will require significantly more time and effort from staff and the ratepayer(s) involved, with potentially uncertain outcomes.

As a result of the above, City staff are recommending that a portion of the 2022 and 2023 property taxes be written off. Instead of relieving the full 2022 and 2023 tax burdens, City staff are recommending that the property taxes be levied for these years based on the reduced assessment amount

provided by MPAC beginning in the 2024 tax year based on the results of a Request for Reconsideration.

## Analysis:

### Rolls Impacted:

Roll Number	Legal Description	Address	Current Owner
4259-010-006-26400	CON 10 S PT LOT 21 AND RP 16R7895 <b>PART 3</b>	28 <sup>th</sup> Ave E	Hemstock & Hemstock
4259-010-006-26410	CON 10 PT LOT 21 RP 16R7895 <b>PART 2</b>	N/A	Hemstock
4259-010-006-26450	CON 10 PT LOT 21 RP 16R7895 <b>PART 1</b>	2589 28 <sup>th</sup> Ave E	Sawatsky

### Timeline of Events:

1. 4259-010-006-26400 was severed into three parts, Part 1, 2 and 3.
  2. On November 30, 2021, roll 4259-010-006-26450 (hereafter known as **Part 1**), was sold from Hemstock to Sawatsky, after being severed from parent roll 4259-010-006-26400 (Part 3).
  3. In December 2021, correspondence was provided from the purchaser's lawyer advising that the subject property had been sold. This attached correspondence referenced an incorrect (Meaford) tax roll number and did not indicate only a partial sale had taken place. MPAC data also did not suggest any other anomalies occurred at this time.
- In December 2021, City staff completed a title change on both **Part 1 and Part 3**, where both rolls were transferred into Mr. Sawatsky's name with all billings directed to him. This was an administrative error by the City as only **Part 1** should have been transferred, leaving **Part 3** billed to Mr./Mrs. Hemstock.
  - The timing of the 2021 sale occurred after the assessment roll return for 2022 was completed, meaning that the applicable assessment for **Part 1** was retained under the parent roll (**Part 3**) rather than being distributed as would have occurred if the sale occurred prior to roll return.
  - Instead, this assessment remained status quo as was in place prior to the sale until the 2023 roll return.

- On April 19, 2022, the Land Planning Office received the severance information from MPAC and assessment was divided among the three rolls based on the 2021 sale.
- On April 21, 2022, the City received the Severance/Consolidation Plan Information Form (SCIF), which was treated for information purposes only per City procedures.
- As such, the assessment and tax responsibility remained status quo, on the original parent roll until the assessment roll was returned for 2023, at which time the assessment was divided between the three rolls based on MPAC data.
- From the period of November 2021 to February 2024, neither the seller or the purchaser notified the City about any issues regarding the affected rolls or the non-receipt of property tax bills.
- All property tax installments were paid on time and as expected.
- On February 28, 2024, City staff received a call from Mr. Hemstock inquiring about why he had not received a tax bill for his property (Part 3).
- In March 2024, City staff began our investigation and confirmed the ownership of the three affected rolls via the City solicitor, who completed a PIN search on the properties.
- At this time, City staff became aware of the administrative error regarding the title change for Part 3, which was transferred to the name of Mr. Sawatsky rather than remaining in the name of Mr./Mrs. Hemstock.
- Further investigation revealed that Mr. Sawatsky had paid \$7,307.01 in payments towards this roll, being billed to him in error.
- As such, these payments were transferred off the roll into an internal suspense account and both Mr. Sawatsky and Mr. Hemstock were advised of this along with the next steps for resolution, with the full amount being due from Mr./Mrs. Hemstock.
- City staff also had 2 conference calls during this time with Voxtur to confirm understanding, legislative requirements and potential resolutions. At this time, the City was provided advice to return the full amount of the payments made by Mr. Sawatsky to him and that the two properties should resolve the amounts owing between them in the private sector, as should have been done at the time of the sale.
- City staff have confirmed with the City's Planning department that the current severance is properly reflected in the City's records

- On May 3, 2024, a letter was sent to Mr. and Mrs. Hemstock explaining the situation and the potential solutions to the tax apportionments for the 2022 tax year.
- Since then, significant back-and-forth discussions and meetings have occurred between all parties involved, including various City staff in both Planning and Finance, MPAC representatives, both parties of the 2021 sale, as well as complaints escalated by Mr. and Mrs. Hemstock.

### **Extenuating Factors:**

- The City's administrative error which resulted in Mr./Mrs. Hemstock not receiving a tax bill from 2022 to the time the error was identified in February 2024, which did not allow them to resolve the issue or appeal the assessments sooner.
- Mr./Mrs. Hemstock did receive a tax bill for Part 2 and paid those amounts as due but failed to notify the City about the non-receipt of any tax bills for Part 3 until 2.5 years after the sale.
- In addition, as communicated on all tax mailings, failure to receive a tax bill does not exempt a ratepayer from paying taxes and any applicable penalties.
- Mr. Sawatsky received two tax bills (for Part 1 and Part 3) and did not notify the City about this billing error. Mr. Sawatsky paid all installments in full as they came due which did not flag these rolls for non-receipt of payment.
- City staff returned the full amount of Mr. Sawatsky's payments as advised by Voxtur, as it is not the City's responsibility or purview to intervene in private matters. However, Mr. Hemstock feels that Mr. Sawatsky's proportion of the 2022 property taxes should have been retained at this time.
- The legal representatives of both the seller and the purchaser failed to account for the complexities of the severance, especially given the timing of the sale and property tax roll return timelines, and as such did not appropriately apportion the 2022 taxes on the statement of adjustments.
- The City does not process SCIFs when received from MPAC as advised by Voxtur and instead relies on the parties to resolve this issue in the private sector or by making a s. 356 application if requested. The decision to process or not process SCIFs varies significantly by municipality but the City does not view SCIFs as actual basis for an in-year change, and rather relies upon the returned rolls per *the Assessment Act*.

- Mr. Hemstock completed a successful Request for Reconsideration (RfR) with MPAC as soon as he became aware of the assessment amount attached to **Part 3**.
- Given the timeline since the original sale, MPAC is unable to backdate this assessment reduction to 2023's assessment and Mr. Hemstock is unable to complete the ARB appeal since the deadline has passed. However, it is likely that Mr. Hemstock would have completed an RfR for 2023 if within the applicable timelines, and as such the assessment would have been reduced in 2023 regardless.

## **Resolution Options:**

### Private Resolution

- The preferred method of resolution would have been to resolve the 2022 property tax apportionment privately between Mr./Mrs. Hemstock and Mr. Sawatsky and their legal representatives, as this should have been completed originally on their statement of adjustments at the time of the 2021 sale.
- City staff confirmed that the 2022 property taxes were levied in accordance with both the *Municipal Act, 2001* and the *Assessment Act*, based on the returned roll for 2022.
- City staff would have no formal role in this resolution option but offered to provide the assessment apportionment details and tax share calculations.
- Neither Mr. Sawatsky nor Mr./Mrs. Hemstock wanted to pursue this option due to the additional legal fees involved, with Mr. Hemstock suggesting that he was told this would be an additional \$2,500 to resolve.
- City staff have also reviewed the Statement of Adjustments from the 2021 sale to ensure that 2022 property taxes were not apportioned as part of the sale.

### s. 356 Application to Committee/Council

- A formal request to apportion the 2022 property taxes could be requested by Mr./Mrs. Hemstock.
- This process requires City staff to present reports and by-laws for Council approval, in addition to the requirement to have a public meeting where both ratepayers can present their claims to Council.

- This option is more time-consuming, and the outcome is not assured, as any Council decisions can be appealed to the Assessment Review Board.
- This would not result in a property tax write off, but rather an apportionment between the ratepayers based on assessment as if the 2022 returned roll had been adjusted based on the updated assessments received from MPAC in the SCIF.

Write off a partial amount of the property taxes

- On a general basis, City staff strongly do not support the writing off of property taxes as a means to resolve a dispute over the responsibility of property tax apportionment that should be dealt with in the private sector.
- However, due to the extenuating circumstances discussed above, the complexity of this situation, the expected out-of-pocket costs of other resolution methods and the amount of City staff time (among MPAC and ARB staff time) that will continue to be spent on this matter until a resolution is obtained, City staff are recommending this approach.

**Financial Implications:**

City staff are recommending the following:

- That the 2022 property taxes for **Part 3** be based on the assessment value from 2024 (that was reduced in 2024 based on an RfR completed by Mr. Hemstock) multiplied by the 2022 tax rates and that any additional tax amounts outstanding be written off.
- That the 2023 property taxes for **Part 3** be based on the assessment value from 2024 (that was reduced in 2024 based on an RfR completed by Mr. Hemstock) multiplied by the 2023 tax rates.

It is estimated that City Staff have already spent upwards of 25 hours on this file, in addition to the cost of PIN searches and guidance from Voxtur.

Further appeals will result in more City staff time being spent with a potential that the assessment for 2023 be reduced via the ARB regardless or the City having to incur additional legal costs to collect the unpaid property taxes.

The proposed solution is agreeable to the affected ratepayers.

Year	Original Property Taxes	Suggested Property Taxes	Suggested Write off
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2022	\$4,465.34	\$473.33	(\$3,992.01)
2023	\$1,714.19	\$500.93	(\$1,213.26)
Total	\$6,179.53	\$974.26	\$(5,205.27)

**Communication Strategy:**

Affected ratepayers will be notified in writing upon the decision of Committee/Council.

**Consultation:**

Voxtur (previously MTE Property Tax Consultants)

Director of Corporate Services

**Attachments:**

1. Letter to Property Owners
2. Visual of Impacted Rolls
3. Correspondence from Property Owners
4. SCIF 4259-010-006-26400

**Recommended by:**

Christine Gilbert, Deputy Treasurer

**Submission approved by:**

Tim Simmonds, City Manager

For more information on this report, please contact Christine Gilbert, Deputy Treasurer at [cgilbert@owensound.ca](mailto:cgilbert@owensound.ca) or 519-376-4440 ext. 1223.