
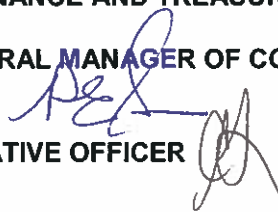

TO: GENERAL COMMITTEE


SUBJECT: TAX ARREARS EXTENSION AGREEMENT – 81 PATTERSON ROAD

WARD 4

PREPARED BY AND KEY CONTACT: R. MCDOUGALL, REVENUE AND TAXATION SUPERVISOR, EXT. 4791
K. SHORT, MANAGER OF REVENUE, EXT. 4428

SUBMITTED BY: C. MILLAR, DIRECTOR OF FINANCE AND TREASURER 

GENERAL MANAGER APPROVAL: P. ELLIOTT-SPENCER, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES 

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

1. That the City Clerk be authorized to execute the tax arrears extension agreement with the property owner identified in Appendix "A", to extend the deadline for paying the cancellation price based on the terms identified in Appendix "A".
2. That the City Clerk be authorized to prepare all necessary by-laws to establish the aforesaid extension agreement.

PURPOSE & BACKGROUND

3. Under section 378 of the *Municipal Act, 2001*, as amended, a municipality may pass a by-law after the registration of the tax arrears certificate and before the expiry of the one year payment period, to authorize an extension agreement with the owner of the property, in order to lengthen the period of time within which the cancellation price is to be paid.
4. Delegated authority was approved by Council in November 2013 authorizing the Director of Finance to execute extension agreements for residential properties that have been registered for tax sale, and the cancellation price is less than \$50,000. As this property is in the commercial class, delegated authority does not apply, and Council approval is required.
5. A tax arrears certificate was registered on title in the Land Registry Office on February 27, 2015 for the commercial property at 81 Patterson Road. The balance owing on the account as of April 30, 2015 is \$114,674.57.

ANALYSIS

6. The owner has recently made contact with the City to advise that they are in a position to start making tax payments. When possible, City staff work with the property owners to arrange full payment of the cancellation price within a one year period. However, given the financial hardship currently being experienced by the property owners, City staff have agreed to a longer period of time to pay off the cancellation price. The proposed tax arrears extension agreement and payment plan are attached as Appendix "A".
7. If payments are not received in accordance with the payment plan, the extension agreement will be terminated and the tax sale process would resume.

8. For the purpose of establishing the payment arrangements and time line, it was estimated that the taxes owing including future additional property taxes and penalties/interest incurred, will be \$360,855.37 by December 28, 2023. Any adjustments to the estimate will be made on the final payment.
9. The payment plan requires a lump sum payment of \$3,000 on May 19, 2015 and monthly payments of \$3,000.00 per month beginning May 28, 2015 until December 28, 2023. In addition to the monthly payments, the owner has agreed to an additional lump sum payment of \$5,000 every September.

ENVIRONMENTAL MATTERS

10. There are no environmental matters related to the recommendation.

ALTERNATIVES

11. There is one alternative available for consideration by General Committee:

Alternative #1 General Committee could reject the proposed recommendation by denying the Tax Arrears Extension Agreement and continue with the tax sale process.

This alternative is not recommended as it could result in the owners losing their property through the Tax Sale process, if they are unable to find an alternative way to pay off the cancellation price by February 27, 2016.

FINANCIAL

12. There are no direct financial implications for the Corporation resulting from the proposed recommendation as the tax arrears are fully secured.

LINKAGE TO 2014-2018 STRATEGIC PLAN

13. This is an operational matter that is not specifically related to the goals identified in the 2014-2018 Strategic Plan.

APPENDIX "A"

TAX ARREARS EXTENSION AGREEMENT

Effective as of the ____ day of _____, 2015__.

BETWEEN:

THE CORPORATION OF THE CITY OF BARRIE

("Barrie")

and

2127876 Ontario Inc.

(the "Owner")

Whereas:

- A. The Owner is the owner of land described as 81 Patterson Rd. in the City of Barrie (the "Owner's Land"), as set out in Instrument No. SC815355, registered in the Land Registry Office;
- B. There are arrears of taxes in respect of the Owner's Land on April 30, 2015 in the amount of \$114,674.57 and a tax arrears certificate was registered in the Land Registry Office, as set out in Instrument No. SC1195241 on the 27th of February 2015;
- C. The arrears of taxes in respect of the Owner's Land on December 31, 2014 were in the amount of \$101,839.70;
- D. Under s. 378 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, a municipality may by by-law passed after registration of a tax arrears certificate authorize an extension agreement to be entered into by the municipality with the owner in order to extend the period of time within which the cancellation price is to be paid;

IN CONSIDERATION of the premises and the covenants and obligations contained in this Agreement, it is hereby agreed as follows:

1. The parties agree that the period of time within which the cancellation price is to be paid shall be and is hereby extended to December 31, 2023, providing the Owner is not in default hereunder.
2. Despite any of the provisions of this Agreement, the Owner acknowledges that the *Municipal Act, 2001* shall continue to apply to the collection and enforcement of all tax arrears and all taxes with respect to the Owner's Land, except that the Treasurer and the collector of taxes of the City without waiving any statutory rights and powers of the City or the Treasurer, agree that the City shall not enforce collection of such tax payments by the sale of the Owner's Land, during the time that this Agreement is in force, so long as the Owner is not in default hereunder.
3. The Owner agrees to pay to the City the sums indicated in Schedule A in the manner indicated therein.

4. If the Owner sells the Owner's Land prior to December 31, 2023, the balance of the cancellation price shall become immediately due and payable on the business day immediately prior to the date of closing of the sale.
5. If the Owner defaults in any payment due under this Agreement or is in default of any covenant or condition of this Agreement, this Agreement shall cease to be considered a subsisting agreement for the purposes of s. 378 of the *Municipal Act, 2001*.
6. Despite the provisions of paragraph 1, the Owner, or any other person, may on or before December 31, 2023, pay the balance of the cancellation price and, upon receipt of the said payment by the City, this Agreement shall terminate and the Treasurer shall forthwith register a tax arrears cancellation certificate.
7. If the cancellation price is not paid by December 31, 2023, this Agreement shall terminate. The Owner will not object to the sale of the Owner's Land by the City and shall consent to any court orders necessary to permit the City to sell the said land. The Owner covenants and agrees to be bound by this paragraph 7 notwithstanding the termination of this Agreement.
8. This Agreement shall extend to and be binding upon and enure to the benefit of the parties and to their respective successors and assigns.
9. Any notice to be given to the parties to this Agreement shall be sufficiently given if sent by registered or certified post to the following addresses:

To Barrie:

70 Collier Street, PO Box 400
Barrie, ON
L4M 4T5
Attention: Director, Finance

To the Owner:
2127876 Ontario Inc.
81 Patterson Rd
Barrie On L4N 3V9

IN WITNESS WHEREOF the parties have affixed their Corporation seals attested by the hands of their respective officers in that behalf, as of the day and the year first above written.

Name of Tax Debtor

The Corporation of the City of Barrie

per: _____
2127876 Ontario Inc.

per: _____
Ms. Dawn A. McAlpine
City Clerk

I have authority to bind the corporation

Schedule A

Calculation of Payment Required under Extension Agreement

AMOUNT:

1. Outstanding taxes, penalty and interest charges on 81 Patterson Road, Tax Arrears Certificate (to December 31, 2014). \$101,839.70

2. Additional taxes levied and interest charges subsequent to tax sale proceedings includes, 2015 interim and estimated final levy, and estimated 2016 - 2023 interim and final levy *from January 1, 2015 to December 31, 2023*

| | |
|------------------------------------|--------------|
| 2015 Taxes/Additional Charges | \$18,323.59 |
| 2016 - 2023 Estimated Annual Taxes | \$147,200.00 |
| 2015 - 2023 Estimated Penalties | \$91,654.19 |
| 2023 Estimated Legal Fees | \$1,837.89 |

Estimated amount to be paid under Extension Agreement \$360,855.37

TO BE PAID AS FOLLOWS:

| | |
|---------------|------------|
| May 20, 2015 | \$3,000.00 |
| May 28, 2015 | \$3,000.00 |
| June 28, 2015 | \$3,000.00 |
| July 28, 2015 | \$3,000.00 |
| Aug 28, 2015 | \$3,000.00 |
| Sep 28, 2015 | \$8,000.00 |
| Oct 28, 2015 | \$3,000.00 |
| Nov 28, 2015 | \$3,000.00 |
| Dec 28, 2015 | \$3,000.00 |
| Jan 28, 2016 | \$3,000.00 |
| Feb 28, 2016 | \$3,000.00 |
| Mar 28, 2016 | \$3,000.00 |
| Apr 28, 2016 | \$3,000.00 |
| May 28, 2016 | \$3,000.00 |
| June 28, 2016 | \$3,000.00 |
| July 28, 2016 | \$3,000.00 |
| Aug 28, 2016 | \$3,000.00 |
| Sep 28, 2016 | \$8,000.00 |
| Oct 28, 2016 | \$3,000.00 |
| Nov 28, 2016 | \$3,000.00 |
| Dec 28, 2016 | \$3,000.00 |
| Jan 28, 2017 | \$3,000.00 |
| Feb 28, 2017 | \$3,000.00 |
| Mar 28, 2017 | \$3,000.00 |
| Apr 28, 2017 | \$3,000.00 |
| May 28, 2017 | \$3,000.00 |
| June 28, 2017 | \$3,000.00 |
| July 28, 2017 | \$3,000.00 |
| Aug 28, 2017 | \$3,000.00 |
| Sep 28, 2017 | \$8,000.00 |
| Oct 28, 2017 | \$3,000.00 |
| Nov 28, 2017 | \$3,000.00 |
| Dec 28, 2017 | \$3,000.00 |

| | |
|---------------|------------|
| Jan 28, 2018 | \$3,000.00 |
| Feb 28, 2018 | \$3,000.00 |
| Mar 28, 2018 | \$3,000.00 |
| Apr 28, 2018 | \$3,000.00 |
| May 28, 2018 | \$3,000.00 |
| June 28, 2018 | \$3,000.00 |
| July 28, 2018 | \$3,000.00 |
| Aug 28, 2018 | \$3,000.00 |
| Sep 28, 2018 | \$8,000.00 |
| Oct 28, 2018 | \$3,000.00 |
| Nov 28, 2018 | \$3,000.00 |
| Dec 28, 2019 | \$3,000.00 |
| Jan 28, 2019 | \$3,000.00 |
| Feb 28, 2019 | \$3,000.00 |
| Mar 28, 2019 | \$3,000.00 |
| Apr 28, 2019 | \$3,000.00 |
| May 28, 2019 | \$3,000.00 |
| June 28, 2019 | \$3,000.00 |
| July 28, 2019 | \$3,000.00 |
| Aug 28, 2019 | \$3,000.00 |
| Sep 28, 2019 | \$8,000.00 |
| Oct 28, 2019 | \$3,000.00 |
| Nov 28, 2019 | \$3,000.00 |
| Dec 28, 2019 | \$3,000.00 |
| Jan 28, 2020 | \$3,000.00 |
| Feb 28, 2020 | \$3,000.00 |
| Mar 28, 2020 | \$3,000.00 |
| Apr 28, 2020 | \$3,000.00 |
| May 28, 2020 | \$3,000.00 |
| June 28, 2020 | \$3,000.00 |
| July 28, 2020 | \$3,000.00 |
| Aug 28, 2020 | \$3,000.00 |
| Sep 28, 2020 | \$8,000.00 |
| Oct 28, 2020 | \$3,000.00 |
| Nov 28, 2020 | \$3,000.00 |
| Dec 28, 2020 | \$3,000.00 |
| Jan 28, 2021 | \$3,000.00 |
| Feb 28, 2021 | \$3,000.00 |
| Mar 28, 2021 | \$3,000.00 |
| Apr 28, 2021 | \$3,000.00 |
| May 28, 2021 | \$3,000.00 |
| June 28, 2021 | \$3,000.00 |
| July 28, 2021 | \$3,000.00 |
| Aug 28, 2021 | \$3,000.00 |
| Sep 28, 2021 | \$8,000.00 |
| Oct 28, 2021 | \$3,000.00 |
| Nov 28, 2021 | \$3,000.00 |
| Dec 28, 2021 | \$3,000.00 |
| Jan 28, 2022 | \$3,000.00 |
| Feb 28, 2022 | \$3,000.00 |
| Mar 28, 2022 | \$3,000.00 |
| Apr 28, 2022 | \$3,000.00 |
| May 28, 2022 | \$3,000.00 |
| June 28, 2022 | \$3,000.00 |

| | |
|-----------------------------------------|-------------------|
| July 28, 2022 | \$3,000.00 |
| Aug 28, 2022 | \$3,000.00 |
| Sep 28, 2022 | \$8,000.00 |
| Oct 28, 2022 | \$3,000.00 |
| Nov 28, 2022 | \$3,000.00 |
| Dec 28, 2022 | \$3,000.00 |
| Jan 28, 2023 | \$3,000.00 |
| Feb 28, 2023 | \$3,000.00 |
| Mar 28, 2023 | \$3,000.00 |
| Apr 28, 2023 | \$3,000.00 |
| May 28, 2023 | \$3,000.00 |
| June 28, 2023 | \$3,000.00 |
| July 28, 2023 | \$3,000.00 |
| Aug 28, 2023 | \$3,000.00 |
| Sep 28, 2023 | \$8,000.00 |
| Oct 28, 2023 | \$3,000.00 |
| Nov 28, 2023 | \$3,000.00 |
| Dec 28, 2023 *(Estimated Final Payment) | <u>\$3,855.37</u> |
| TOTAL | \$360,855.37 |

*Dec 28, 2023 payment will be adjusted to include any additional charges
Legal fees, etc to bring the account to a zero balance.