THE CORPORATION OF THE TOWNSHIP OF THE NORTH SHORE

POLICY MANUAL

POLICY TITLE:	SUBJECT:
Vesting of Property	Tax Sale Vesting
POLICY SECTION:	POLICY NO:
V	1
EFFECTIVE DATE:	ENACTED BY:
May 28, 2014	Resolution

POLICY STATEMENT:

It is the policy of the Corporation of the Township of the North Shore to establish guidelines with respect to the management of unsuccessful municipal tax sale properties.

PURPOSE:

To provide an equitable and advantageous method to restore under-utilized and potentially contaminated properties to productive tax generating uses.

LEGISLATIVE PROVISIONS

The Municipal Act provides a two year period for municipalities to make a decision to vest a property in the name of the municipality after an unsuccessful tax sale.

The Environmental Protection Act provides a five year period of limited protection from environmental orders for municipalities that vest contaminated property as a result of tax sale proceedings.

GUIDELINES

Step 1:

All properties having gone through an unsuccessful tax sale may be subject to an environmental pre-screening. The outcome of the pre-screening will be an assessment of risk associated with vesting from an environmental contamination perspective. In such case, the property will be assessed with a low, medium or high risk of contamination. If results indicate a low to medium risk, proceed to step 2. If results of the pre-screening indicate a high risk of contamination, proceed to step 3.

Step 2:

All properties that have gone through an unsuccessful tax sale and are not subject to an environmental pre-screening, or properties exhibiting a low to medium risk of contamination in the environmental pre-screening will be reported to Council with a recommendation that taxes be written off and the properties be vested in the name of the municipality. A recommendation to declare each property surplus, or to retain for municipal purposes if there is a municipal interest shall also be included in the report.

Step 3:

Properties exhibiting a high risk of contamination in the environmental pre-screening will be evaluated further on a property by property basis. A decision to vest will be based on a site specific analysis of the following considerations:

- The environmental conditions involved
- The tax arrears
- Remediation potential and the likely costs involved
- An assessment of liabilities and risks
- The location and value of land involved

Staff will engage an environmental consultant to conduct a Phase I Environmental Site Assessment.

The Phase I ESA is to be completed and presented to Council with a recommendation to proceed with a Phase II ESA if it appears that there are significant potential environmental problems. In this situatin proceed to Step 5.

Step 4:

If, following receipt of the completed Phase I ESA and based on its findings, it is determined that there are no significant environmental conditions affecting the subject property, a report shall be submitted to Council with a recommendation that taxes be written off and the property be vested in the name of the municipality. A recommendation to declare the property surplus, or to retain it for municipal purposes if there is a municipal interest shall also be included in the report.

Step 5:

The Clerk will provide an appraisal report on the subject property, establishing the market value of the property in an “unaffected” (i.e. uncontaminated) state, and also request an environmental consultant to conduct a Phase II ESA, and/or a Designated Substance Survey.

The Phase II ESA should provide a proposed remediation plan, an estimate of the cost and time involved to remediate the property to acceptable provincial standards and an indication of the potential to develop the property utilizing a Site Specific Risk Assessment (SSRA) approach.

A Designated Substance Survey may also be undertaken to identify contaminants related to structures and building (i.e. asbestos, PCBs, etc). These would only be undertaken when structures or buildings are present on the property and are likely or suspected to be affected by contaminants.

Upon receipt of a Phase II Environmental Report and/or a Designated Substance Survey the Clerk shall report to Council with recommendations on the future ownership and treatment of the property including a complete costing of cleanup and site remediation requirements.

Exception Allowance:

In some unique situations, an unsuccessful tax sale property may have characteristics that would make vesting not viable. When encountered, immediately following an unsuccessful tax sale, the Clerk or alternate, will report to Council with a recommendation that proceedings be abandoned. Then, upon expiration of the two year period following an unsuccessful tax sale, the Tax Arrears Certificate registered against title to the property is deemed to have been cancelled. The property would remain in the name of the last registered owner and any previous owner arrears would remain on the tax rolls as amounts due

the Township, together with interest and penalty (unless these amounts had been written off as uncollectable).

Where the two year period has elapsed without the Township taking any action, a Tax Arrears Cancellation Certificate will be registered on title to the property to clearly establish that no action is being taken in consequence of the registration of the Tax Arrears Certificate. As a courtesy, staff will inform the property owner by mail that the tax sale process is at an end and that the Township has neither sold nor acquired the property but that the property tax arrears with interest and penalty remain payable.

Following the registration of a Tax Arrears Cancellation Certificate, the Clerk or designate, at any time, may register a new Tax Arrears Certificate provided that three or more years of taxes continue to remain unpaid.

FUNDING

A reserve fund may be created to finance the associated costs such as, but not limited to, site assessment/remediation and costs related thereto, and will be subject to funds being available.