



IMPORTANT INFORMATION REGARDING THE SALE OF LAND BY PUBLIC TENDER

Definitions:

All references to section numbers in this Information Sheet are references to the *Municipal Act, 2001*. Additionally, this Information Sheet uses certain terms which are defined in the *Municipal Act, 2001*, Part XI Section 371 as set out below:

“Cancellation Price” means an amount equal to all the tax arrears owing at any time in respect of the land together with all current real property taxes owing, interest and penalties thereon and all reasonable costs incurred by the municipality after the treasurer becomes entitled to register a tax arrears certificate under section 373 or 373.1 in proceeding under this Part or in contemplation of proceeding under this Part and may include,

- a. legal fees and disbursements
- b. the cost of preparing an extension agreement under section 378,
- c. the costs of preparing any survey required to register a document under this Part, and
- d. a reasonable allowance for costs that may be incurred subsequent to advertising under section 379

“Tax Deed” means a tax deed prepared under section 379 and includes the title conferred by the registration of the tax deed.

“Notice of Vesting” means a notice of vesting prepared under section 379 and includes the title conferred by the registration of the notice of vesting.

Limitations:

The City of Greater Sudbury makes no representation regarding the title to or any other matters relating to the land to be sold. Responsibility for ascertaining these matters rests with the tenderers who are advised to investigate matters of interest prior to submitting a tender.

No verbal information or advice provided in furtherance or for the purposes of this tender by the Municipality or its staff will be binding on the Municipality. All written instructions, specifications and terms will be considered clear and complete unless written attention is called to any apparent discrepancies or incompleteness before the official closing.

Although this Information Sheet sets out as summary of the procedures, for your convenience, interested parties should reference the relevant sections of the *Municipal Act, 2001* as well as *Ontario Regulation 181/03* (Municipal Tax Sales Rules). These can be found online at <https://www.ontario.ca/laws>, among other locations.

In the event of a conflict between the contents of this document and the content of the *Municipal Act, 2001* or Regulations thereunder, the provisions of the *Municipal Act, 2001* and/or Regulation shall govern.

At any time prior to the registration of a Tax Deed the treasurer may halt proceedings and register a cancellation certificate as per section 382 of the *Municipal Act, 2001*, if in his or her opinion,

- a. it is not in the financial interests of the municipality to continue with the proceedings; or

- b. because of some neglect, error or omission, it is not practical or desirable to continue proceedings

The treasurer may postpone the tax sale and conduct it on a later date as per section 22 of the Regulation, if after advertising the treasurer is of the opinion that completing the sale would be impractical or would be unfair to the tenderers.

About Sale of Land by Public Tender (Tax Sale):

A Sale of Land by Public Tender (also referred to in this Information Sheet as a 'Tax Sale') is governed by the *Municipal Act, 2001*, and Ontario Regulation 181/03 (the "Municipal Tax Sales Rules"). By following the process set out in this legislation, the municipality has an opportunity to sell land which is in arrears of taxes in order to recover the arrears.

The Municipality registers a Tax Arrears Certificate on the title of a property in tax arrears for at least two (2) years. This certificate indicates that the property will be sold if the "Cancellation Price" is not paid within one year of registration of the certificate.

The Municipality advertises the property(s) for sale due to non-payment of taxes if the "Cancellation Price" is not paid within the one year registration of the certificate and no tax extension agreement has been executed.

Tender packages for properties being offered for Sale of Public Tender as part of a tax sale process will be made available for pickup through the City of Greater Tax Department on the 2nd Floor, Tom Davies Square, 200 Brady St, Sudbury. Municipal office hours are 8:30 a.m. to 4:30 p.m., Monday to Friday, holidays excluded. Documents will also be available online at <https://www.greatersudbury.ca/city-hall/tax-services/tax-sale-properties>, and may be printed and used.

All sealed tender envelopes received will be date and time stamped when received and will be retained unopened in a safe place by the treasurer.

All sealed tender and withdrawals will be opened at 3:30 p.m. local time on the closing date in a public place as indicated in the tender package and the advertisement.

After the opening of all sealed envelopes, the treasurer will examine all envelopes, tender to purchase forms and bid deposits. Any tender that does not meet all of the necessary criteria will be rejected.

All rejected tenders together with the tenderer's deposit will be returned by registered mail, along with an explanation as to the reason for its rejection to the mailing address provided on the Tender to Purchase Form submitted by the tenderer.

If two or more tenders of equal amount are tendered, then the tenderer who submitted the earlier tender will be deemed to be the higher tenderer.

The two highest tenders will be retained until the successful tenderer has met all commitments. The successful tenderer will be notified in writing by ordinary mail to the address provided on the Tender to Purchase Form, that the tenderer will be declared the successful purchaser if, within 14 days of the notice the balance reflected on the notice is paid in full. This balance will include the balance of the amount tendered, any taxes that may be applicable, such as land transfer tax and/or HST and accumulated taxes. As a result, the total amount required to close, including registration costs will exceed the tendered amount.

The tenderer will be required to retain a lawyer to act on their behalf to process the transaction and register the transfer.

If the highest tenderer does not remit the remaining funds as required within the 14 days of the notification, the highest tenderer's deposit is forfeited to the Municipality and the property is offered with the same terms and conditions to the second highest tenderer.

If the second highest tenderer does not remit the remaining funds as required, then the second highest tenderer's deposit is forfeited to the Municipality and the treasurer shall declare that there is no successful purchaser.

For every property advertised for Sale of Land by Public Tender that has a successful purchaser, the Municipality does obtain (prior to transfer) a statement from the Ministry of Energy, Northern Development and Mines that the land:

- a) is liable to a tax imposed under the *Mining Act* and accordingly, under section 384 of the *Municipal Act, 2001*, the registration of this document creates a severance of the surface rights from the mining rights, or
- b) is not liable for a tax imposed under the *Mining Act* and accordingly, under section 384 of the *Municipal Act, 2001*, the registration of this document does not create a severance of the surface rights from the mining rights.

Note: This process is required by law and may increase the timeframe between the tender opening and the transfer of title.

Certain interests in the land will survive the tax sale. The Tax Deed provides the successful tenderer with title to the land free of all interests except:

- a) easements and restrictive covenants that run with the land,
- b) any estates and interests of the Crown in right of Canada or in right of Ontario,
- c) any interest or title acquired by adverse possession by abutting landowners before registration of the tax deed.

The Municipality does not provide vacant possession of any property purchased through a Sale of Land by Public Tender or provide keys to any building on the property on closing. If the property purchased through a Tax Sale is not vacant, it is the sole responsibility of the tenderer to secure possession at their own cost.

If no tenders are received or if no tenders remain for a property after the review process, then the treasurer shall declare that there is no successful purchaser.

If there is no successful purchaser, the Municipality has the option to register a notice of vesting in favour of the Municipality.

Additional Information About Sale of Land by Public Tender:

You should be aware that Sale of Land by Public Tender is not a regular real estate transaction. If you are participating in a sale of land by public tender **it is highly recommended that you seek independent legal advice prior to submitting a tender to ensure your interests are protected.**

The City of Greater Sudbury does not own or have access to the properties being advertised for Sale by Public Tender and cannot provide access to potential tenderers for viewing. All property is sold 'as is'.

All potential tenderers are advised to obtain all required information about the property prior to submitting a tender.

The onus is on the tenderer to conduct their own inquiries into such matters as zoning, access, work orders, environmental concerns, water, hydro and other arrears, building restrictions, access to public roads, title problems or the physical condition of the land and/or any structure(s) thereon.

The Municipality does not provide legal opinions or advice to potential tenderers in respect of issues which may arise in the context of a Sale of Land by Public Tender.

The Municipality makes no representations as to the quality of the title, the value or marketability of the property(s) being sold under Sale of Land by Public Tender. Under the provisions of the *Municipal Act, 2001*, the treasurer is not bound to inquire about or form any opinion of the value of the properties before conducting a sale and has no duty to obtain the highest or best price for the property(s).

The Municipality is not obligated to provide a survey or reference plan or any document other than a Tax Deed to a successful purchaser for any parcel of land being sold under tax sale.