



Ontario

Ministry of  
Consumer and  
Commercial  
Relations

Property  
Rights  
Division

Legal  
and  
Survey  
Standards  
Branch

BULLETIN NO. 84035

DATE: December 27, 1984

TO:  
ALL LAND REGISTRARS

MUNICIPAL TAX SALES ACT, 1984

TAX SALE PROCEDURE REPLACING THAT  
UNDER MUNICIPAL ACT AND MUNICIPAL  
AFFAIRS ACT

Effective January 1, 1985, the two existing systems for the sale of real property by municipalities for tax arrears pursuant to the Municipal Act and the Municipal Affairs Act will be replaced by a new system under the Municipal Tax Sales Act, 1984.

This new system will also apply to the sale of land for tax arrears owed to school boards in areas without municipal organization.

Essentially, the new system incorporates the following procedure where tax arrears are owing January 1, in the third year following the year real property taxes became payable with respect to improved land, and on January 1, in the second year following the year real property taxes became payable with respect to vacant land.

1. Subsection 3(1) of the Act provides that the treasurer may prepare and register a tax arrears certificate in the prescribed form indicating that the lands described therein will be sold by public sale if the "cancellation price" defined by clause 1(1) (a) is not paid within one year following the date of registration of the tax arrears certificate.
2. Subsection 4(4) of the Act provides that the treasurer shall register a statutory declaration in the prescribed form, stating the names and addresses of the persons to whom the notice of registration of tax arrears certificate was sent.
3. Section 5 of the Act provides that during the one-year period following registration of the tax arrears certificate, any person may have the same cancelled by paying the cancellation price to the municipality, and where this is done, the treasurer shall forthwith register a tax arrears cancellation certificate in the prescribed form. Where the person paying the cancellation price is a person to whom notice of the tax arrears certificate has been sent under subsection 4(1) of the Act or an assignee of such person, other than the owner of the land or the spouse of the owner,

the person paying the cancellation price has a lien on the land for the amount paid in priority over the interest in the land of any person to whom notice was sent under section 4 of the Act. Where such a lien is shown on the cancellation certificate Land Registrars in the Land Titles system must reflect the existence of the lien on the parcel register.

4. Subsection 9(2) of the Act provides that where, at the end of one year following the registration of a tax arrears certificate, the cancellation price remains unpaid and no extension agreement subsists between the municipality and the owner of the land under section 8 of the Act, the land shall be offered for sale by public auction or public tender. Upon there being a successful purchaser, subsection 9(3) of the Act provides that the treasurer shall register a tax deed in the prescribed form in the name of the successful purchaser or in such name as that person directs. Where there is no successful purchaser, the treasurer shall register a notice of vesting in the name of the municipality.

Subsection 9(4) of the Act provides that the treasurer shall also register, at the time of registering the tax deed or notice of vesting, a statutory declaration deposing, in effect, that the provisions of the Act were complied with.

It should be noted that certain tax deeds, notices of vesting and notices of forfeiture must be stamped by the Ministry of Natural Resources to indicate whether the tax deed, notice of vesting or notice of forfeiture affects surface rights only or includes mining rights. The instruments requiring such a stamp will be those in respect of land that is in a local municipality referred in the Schedule to the present section 31a of Regulation 896.

A tax deed or notice of vesting, when registered, vests the land in the person named therein or the municipality, in fee simple, free from all estates and interests except easements and restrictive covenants that run with the land, any estates and interests of the Crown in right of Canada or Ontario and any interest or title acquired by adverse possession by abutting landowners before the registration of the tax deed or notice of vesting.

5. Subsection 23(1) of the Act provides that where a tax arrears certificate is registered under the Municipal Affairs Act or a certificate is given under section 433 of the Municipal Act before the coming into force of the Municipal Tax Sales Act,

1984, the tax arrears proceedings applicable under those Acts continue to apply to the land affected.

6. Subsection 23(2) provides that in the cases set out in paragraph 5, where the land has not been the subject of a tax deed under the Municipal Act and has not been sold or declared necessary for municipal purposes under the Municipal Affairs Act by January 1, 1987, the land shall vest in the municipality on the day that a notice of forfeiture is registered under subsection 23(3) of the Act by the treasurer. The notice of forfeiture has the effect of vesting the land in the municipality, in fee simple, free from all estates and interests subject only to easements and restrictive covenants that run with the land, any estates and interests of the Crown in right of Canada or Ontario and any interest or title acquired by adverse possession by abutting landowners before the registration of the notice of forfeiture.
7. Land Registrars should note that section 13 of the Act provides that, subject to proof of fraud, every tax deed and notice of vesting, when registered, is final, binding and conclusive, and not subject to challenge for any reason including breach of notice or other statutory requirements if the statutory declaration required by subsection 9(4) has been registered. Land Registrars are therefore advised that they need not police any other provisions of the Act to ensure compliance therewith. Subsection 23(5) provides a similar provision for notices of forfeiture. However, the reference to subsection 9(4) is not applicable in this instance.
8. As of January 1, 1985, in both land titles and registry systems, a fee of \$6.00 will apply to all documents registered under the Municipal Tax Sales Act, 1984, except for tax deeds, to which a fee of \$16.00 is applicable. An amendment to the fee schedules of Regulations 551 and 895, R.R.O. 1980 under the Land Titles Act and the Registry Act will be prepared in the near future to reflect the fees.
9. The Regulation under the Municipal Tax Sales Act, 1984 as well as Regulations amending section 31a of Regulation 896, R.R.O. 1980 under the Registry Act, and Section 25a of Ontario Regulation 75/82 under the Land Titles Act will be provided to Land Registrars as soon as they become available.

*Robert S. K. Gibson.*

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