
City of Kelowna MEMORANDUM

Date: March 21, 2007
File No.: 1970-30, 1640-01
To: City Manager
From: Financial Systems and Investments Manager
Subject: Uncollectible Property Taxes Receivable

RECOMMENDATION:

THAT Council approve the write-off of the property taxes receivable as outlined in Appendix A;

AND THAT Council apply to the Minister under Section 315.3 of the Local Government Act to manage and dispose of such assets;

AND THAT the 2007 Financial Plan be amended to fund the write-off of the municipal share of taxes, interest and penalties in the amount of \$332,348.00 from the Tax Appeals Reserve;

AND FURTHER THAT outstanding amounts from other taxing authorities be deducted from their 2007 tax requisitions and each of these taxing authorities be advised.

BACKGROUND:

There are two properties with outstanding property taxes receivable which the City has deemed uncollectible. Both of these properties are on Native Land and are therefore not subject to the normal remedy of tax sale.

The first property is commonly referred to as either Water's Edge Resort or Turtle Lodges Resort. It is located at 7841 Highway 97 North on Indian Reserve #7 at Duck Lake. There are one hundred and thirty-nine property tax rolls located at this address. Sixty-one of these tax rolls have property taxes outstanding but are now exempt because title to the parent property is held by a Native.

The resort was set-up in 1989 by two principal interests. In the fall of 2001 the Head lease was broken, apparently due to financial difficulties and the resort not making its lease payments. This resulted in the locatee (Native gifted the property) as remaining principal and with invalid sub-leases the residents did not have rights to occupy their homes.

Around this time, the name of the resort was changed to Turtle Lodges and the litigation began between the sub-leaseholders, the locatees and the Department of Justice on behalf of Indian Affairs. Over the past five years, residents have come and gone and because of the lack of continuous occupation has resulted in many of the properties reverting to Native title ownership.

A new Head Lease was signed in 2005. The City of Kelowna and BC Assessment Authority have been working together throughout this process to ensure accuracy of the property taxation roll in order to facilitate procedure for communication and collections with the residents. At this time, both the City and BC Assessment are confident that the 2007 property tax roll and ownership

information is complete and accurate and ask that Council approve the write-off of uncollectible property taxes receivable that are attached to rolls held by Native title.

The second property with property taxes receivable is located at 8945 Highway 97 North on Indian Reserve #7. It is commonly referred to as Park Estates Manufactured Home Park owned by Braunfel Engineering & Construction Ltd.

In 1994 BC Assessment added this newly constructed mobile home park property to the City's assessment roll. A dispute occurred between Braunfel and the locatee resulting in a court injunction where no further development or occupation could occur. The Park at that time was constructed with fifty mobile home pads however not all of the pads were occupied. BC Assessment continued to assess the parent property on its full size and business potential and the City continued issuing property tax notices. The City has never received a property tax payment for the parent property.

After discussions with the City of Kelowna, BC Assessment issued a 2005 supplementary assessment that considered the actual land available for use by Braunfel Engineering, the mobile home park owner. This reduced the land assessment of the parent property roll by over eighty-five percent. However, in the meanwhile the company of Braunfel Engineering was struck from the record and is no longer operating. Effective on the 2007 Assessment Roll title to this parent property is now registered under the Native locatees. This results in the property being exempt from taxation.

After consultation with the City's Solicitor, it is recommended that we not proceed with any further action and ask that the City approve the write-off of property taxes receivable attached to this roll.

Considerations that were not applicable to this report:

INTERNAL CIRCULATION TO:
 LEGAL/STATUTORY AUTHORITY:
 LEGAL/STATUTORY PROCEDURAL REQUIREMENTS:
 EXISTING POLICY:
 FINANCIAL/BUDGETARY CONSIDERATIONS:
 PERSONNEL IMPLICATIONS:
 TECHNICAL REQUIREMENTS:
 EXTERNAL AGENCY/PUBLIC COMMENTS:
 ALTERNATE RECOMMENDATION:

Submitted by:

G. Davidson, Financial Systems and Investments Manager

Approved for inclusion:



Cc: George King, Revenue Manager