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Audit & Finance
Committee
February 13, 2013

TO: Councillor Bill Karsten, Chair, and Members of Audit & Finance
Committee

Original Signed

SUBMITTED BY: _____
Greg Keefe, CMA Director of Finance & ICT, CFO

DATE: January 24, 2013

SUBJECT: Internal Title Review and Deed Replacement Fee

ORIGIN

Re-alignment in Legal Services, Insurance & Risk Management

LEGISLATIVE AUTHORITY

HRM Charter section 162 (1), (2) & (5)

162 (1) After the time set out in the tax sale preliminary notice has expired, a title search shall be conducted for each property on the list for which the taxes have not been paid.

(2) The cost of the title search, from the date it is ordered, is part of the expenses of the sale and a lien on the property for which it is ordered.

(5) Where the title search or survey is done by an employee of the Municipality, the cost included in the expenses of the sale is the amount determined by the Treasurer to be the reasonable cost of having the same work performed by a solicitor or surveyor in private practice.

179 (1) At the request of the purchaser at a tax sale and upon payment of the fee determined by the Council, by resolution, the Municipality shall deliver a deed to the land in Form E in the Schedule, or to like effect, to the purchaser, or as directed by the purchaser, at any time after the

(a) sale if, at the time of the sale, taxes on the land were unpaid for more than six years before the sale; or

(b) expiration of six months from the sale, if the land has not been redeemed.

(2) The deed must

(a) fully describe the land conveyed;

(b) be signed by the Mayor and the Clerk; and

(c) be under the seal of the Municipality.

RECOMMENDATION

It is recommended that

- 1) The Audit and Finance Standing Committee forward this report to HRM Regional Council for approval;
- 2) Council approve an internal title review and report fee of \$125.00 for registry of deed title searches;
- 3) Council approve an internal title review and report fee of \$25.00 for migrated property title searches;
- 4) Council approve a tax sale deed replacement fee of \$250.00;
- 5) Council approve the proposed amendment/additions to Administrative Order 18, The Revenue and Collections Policy, Schedule 1; per Appendix A of this report;

BACKGROUND

When staff initiate tax sale action on a property for tax arrears, a “60 Day Notice of Intention to Sell,” must be issued to the owners of the property as well as any other lienholders. Part of staff’s due diligence process is to order a title search prior to issuing the 60 day notice. A title search can be described as an examination of public property records to confirm a property’s legal ownership, determine what liens on the property, and whom the lienholders are. Title search fees are deemed to be a recoverable expense of the tax sale process under the authority of the HRM Charter.

Traditionally, title searches were ordered by Legal Services to external real estate lawyers, and the charge for a title search, under an RFP process, was \$225.00 plus HST whether the property had been migrated or not. The external legal counsel would either outsource the title search to a title searching company or have an internal title searcher search the title, then the lawyer would review the search and forward a report to HRM Legal Services. HRM’s Legal Services would forward the report on title and attend to the payment of the fees.

Upon the conclusion of a tax sale, staff provide the purchaser of the property with a tax sale deed. The current fee for deed preparation upon the conclusion of a tax sale is \$100.00 as approved by Council in Administrative Order 18.

DISCUSSION

With the reorganization of Legal Services, Insurance & Risk Management in 2012, one of the key proposed changes of identified service areas was real estate conveyancing for the purpose of creating internal expertise and for revenue generation. Legal Services has since created an internal team that is focused on real estate acquisitions and disposals, and oversight and advice with respect to the title work in support of tax sales.

From this re-organization it was decided to not outsource the review of title searches to external lawyers, but to manage title searches and the report of title internally through Legal Services. Legal Services now deals directly with the title searchers, through an RFQ process, and reviews and produces reports on the title searches to Finance staff administrating the tax sale process. Also, Legal Services real estate team is sub-searching properties just prior to sales to ensure no intervening interests against the lands have been recorded, all of which will contribute to a better internal service level to finance, risk mitigation on tax sales, and provide a modest new internal revenue stream for Legal Services.

The Legal Services Real Estate Team has conducted a Request for Quotations for title searches, and have selected two successful candidates, Heather Salsman Title Research Limited and Russell Piggot Jones. Both charge \$150.00 plus HST for the actual title search for Registry of Deeds searches and \$50 for migrated titles.

Legal services has advised that where property owners from time-to-time have lost deeds given to them, and request a replacement of their tax sale deed, the work involved to recall and review the tax sale file, and subsequent legal due diligence to provide a replacement deed to the appropriate individual, warrants a fee of \$250.00, to recover the staff time involved. Requests of this nature would be approximately 10 or less per year.

FINANCIAL IMPLICATIONS

The costs for title searches, either for Registry of Deeds searches or migrated titles, are considered a direct cost recovery through monies realized on the tax sales. If the internal title review and report fee is approved, it would be a new revenue stream of approximately \$30,000 to Legal Services, Insurance and Risk Management in fiscal 2013-14. The revenue stream would support the internal legal time on each file as well as sub-searches.

The deed replacement fee would also be a new revenue stream of approximately \$1,250.00 for legal services.

If approved, combined revenue of the internal title review and deed replacement fees would be approximately \$31,250.

COMMUNITY ENGAGEMENT

N/A

ENVIRONMENTAL IMPLICATIONS

N/A

ALTERNATIVES

- Council could choose to approve a lower deed replacement and internal title review and report fee;
- Council could choose to not approve a deed replacement and internal title review and report fee;

Staff does not recommend any of the above alternatives because title search fees, deed preparation fees and other actual costs of tax sales are intended to be recoverable from the sales of lands with outstanding taxes under the provisions of the HRM Charter. If these fees are not paid from the proceeds of the sales then the fees will be paid through the general operating

revenues of the municipality, which effectively puts the burden of the costs on taxpayers instead of the non-taxpayers.

ATTACHMENTS

Appendix A: Amended Administrative Order 18, Schedule 1

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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Financial Approval by:

Greg Keefe, CMA, Director of Finance and Information Technology/CFO, 490-6308

APPENDIX A: Amended Administrative Order 18, Schedule 1

Schedule 1: Tax Sale Administration Fees

Description of Fee	Amount
Title Search Fee - External (per current RFQ)	Actual
Title Review Fee – Internal (Migrated Properties)	\$25.00
Title Review Fee – Internal (Registry of Deeds Titles)	\$125.00
Deed Replacement Fee	\$250.00