

TAX SALES

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I. INTRODUCTION

The power of municipalities under the *Local Government Act* (the “LGA”) to sell private properties for the non-payment of property taxes is an extraordinary remedy. Given the significant consequences of this remedy to owners’ private property interests, the municipal tax sale process involves several important legislative requirements that require strict compliance by municipalities, and may give rise to significant legal consequences for municipalities if not strictly complied with.

This paper will provide an overview of the requirements and obligations of collectors and local governments in British Columbia relating to procedures before the tax sale, during the tax sale, and after the tax sale, including throughout the redemption period. In examining each of these steps, this paper will also outline recent court decisions and practical commentary that may guide municipal collectors through the often-complex mechanics of the tax sale process. We note that this paper is intended to provide general guidance relating to the legislative framework of tax sales, procedure and does not encompass every legal issue that may arise. Collectors are strongly encouraged to seek legal advice in relation to specific questions.

II. BEFORE THE TAX SALE: PROCEDURES AND CONSIDERATIONS

Under the LGA, properties in British Columbia become subject to municipal tax sale as soon as the taxes are delinquent, meaning the taxes, including any penalties or fees owing on those taxes, are unpaid on December 31 two years after the year the tax was imposed. This mandatory requirement is set out in section 254 of the *Community Charter* as follows:

If applicable, a municipality must recover unpaid property taxes, including any interest and penalties owing on those taxes, by tax sale in accordance with Division 7 [*Annual Municipal Tax Sale*] of Part 16 [Municipal Provisions] of the *Local Government Act*.

[emphasis added]

The *Community Charter* refers to the LGA for the procedural requirements relating to the tax sale process.

A. Determining the Date and Time of the Annual Tax Sale

The date of the annual municipal tax sale is automatically established by legislation. Section 645(1) of the LGA provides that at 10 a.m. on the last Monday of each September, at the council chambers, the collector must conduct the annual tax sale by offering for sale by public auction each parcel of real property on which taxes are delinquent. Subsection 645(2) provides that if the last Monday in September is a holiday, the annual tax sale must instead be held the following Monday that is not a holiday.

B. Identifying Eligible and Exempt Properties

A collector has a statutory duty to offer all eligible properties for sale at tax sale. After identifying all properties with delinquent taxes, a collector must determine whether any of the properties with delinquent taxes may be excluded from the tax sale process. A property with delinquent taxes is not subject to tax sale if the property is:

- A manufactured home in a manufactured home park;
- Affected by an order or a stay under federal legislation, such as the *Bankruptcy and Insolvency Act* or the *Companies Creditors Arrangement Act*;
- Subject to a court order that prohibits the tax sale;
- Land vested in the Crown in right of Canada; or
- Owned by, or on behalf of, the Provincial Crown, subject to certain exemptions.

In addition to the above, there are various other circumstances that may impact the eligibility of a property to go to tax sale. We encourage collectors to seek legal advice in each of these circumstances, as these can be very fact-specific.

C. Publishing Notice of Tax Sale

Once all eligible properties have been identified, a collector must publish notice of the tax sale in accordance with the requirements of section 647(1) of the LGA. The notice of tax sale should include only properties that are eligible for tax sale. Pursuant to section 647(1)(b), the notice must set out the legal description and street address of each property that is subject to tax sale. This requirement provides information to the public, including potential bidders who may wish to contact the Land Title Office to obtain land title searches and information about any charges on the properties. Collectors are cautioned against making any statements to potential bidders about the condition of the properties, any charges on title to the property, and even providing title searches, in case this information provided is outdated, inaccurate, or incomplete.

D. New Pre-Tax Sale Notification Requirements

A recent legislative change establishes an important new requirement for collectors during the tax sale process. Until now, there was no legislated requirement for collectors to provide registered property owners with formal *advance* notice that their properties will be offered for tax sale. That being said, in practice, many local governments do provide such notice as a courtesy, and we highly encourage them to continue doing so well in advance of the tax sale.

Bill 3: *Miscellaneous Statutes Amendment Act, 2023*, amends the LGA by adding a new section 647.1, which requires collectors to provide advance notice of the tax sale and redemption period to all registered owners and chargeholders of properties to be offered for tax sale, at least 60 days before the annual tax sale. The advance notice must include the following information:

- The time and place of the annual tax sale;
- The legal description and street address, if any, of the property subject to tax sale;
- The amount of all taxes owing to the municipality on the property and interest to the date of the annual tax sale;
- The tax sale upset price for the property;
- A statement that, if the amounts referred to in section 649(1)(a) and (b) [*upset price for tax sale*] are not paid before the annual tax sale, the collector will offer the property for sale by public auction at the time and place stated in the notice;¹ and
- A statement that, if the property is sold at the annual tax sale, a right of redemption will remain in the owner or holder of the charge until the end of the redemption period.

The collector must serve the notice personally or by registered mail on all registered owners and chargeholders of properties that will be offered for tax sale. If service by registered mail or personal service is not effected, collectors will be authorized by the new section 647.1(2)(c) of the LGA to apply to the BC Supreme Court for an order to serve the advance notice by substituted service. Given that the preparation of substituted service materials takes some time, collectors are encouraged to seek legal advice well in advance.

¹ Collectors should note that on October 31, 2023, the Legislative Assembly introduced Bill 43: *Miscellaneous Statutes Amendment Act (No. 3), 2023*. If passed by the legislature, the new section 647.1(2)(e) of the LGA will be amended by striking out "amounts referred to in section 649 (1) (a) and (b) [*upset price for tax sale*]" and substituting it with "amount of delinquent taxes calculated in accordance with section 246 [delinquent taxes] of the *Community Charter*." We anticipate this legislative change will be adopted prior to the 2024 tax sale cycle.

Collectors should be aware that failure to serve advance notice properly in accordance with the new section 647.1 could result in the tax sale being set aside and declared invalid, and may even require the municipality to indemnify the property owner's losses. To this effect, section 666(2) of the LGA will be amended to allow a registered owner or chargeholder to apply to the Supreme Court for an order to have the tax sale set aside on the grounds that the collector did not properly provide the advance notice.

The new amendments introduced by Bill 3 will come into force by regulation. While this regulation has not yet been adopted as of the date of this paper, we have been advised that these new requirements will come into force for the 2024 tax sale cycle. Collectors should prepare to meet these new legislative requirements next year.

III. DURING THE TAX SALE: PROCESS AND REQUIREMENTS

The tax sale is conducted by public auction for each eligible property in turn. The lowest price for which a property may be sold is its "upset price", which is, for each property, the total of each of the amounts specified under section 649(1) of the LGA:

- The amount of delinquent taxes, taxes in arrear and interest to the first day of the tax sale for which the parcel of land and the improvements are liable for sale;
- The taxes, including penalties incurred, for the current year on the land and improvements;
- 5% of the amounts under paragraphs (a) and (b) of this subsection; and
- The fees prescribed under the *Land Title Act*.

The highest bidder above the upset price for a property is declared the purchaser (s. 650(1)). The purchaser is required to pay the purchase price immediately (meaning before the collector proceeds to auction the next property). If the purchaser fails to pay the full purchase price immediately, the collector must promptly offer the parcel for tax sale again. Once full payment is made, the purchaser must provide the municipality with authority to register the tax sale notice against title to the property, in a form that meets all the requirements in section 651. The collector must preserve this signed statement together with the records of the sale. In turn, the collector must provide the purchaser with a certificate of sale that contains the required content described in section 652 of the LGA.

Municipalities should note that if there is no bid for a property, or no bid equal to the upset price, section 650(1) provides that the municipality must be declared the purchaser. In such circumstances, the collector may decide to offer the property for sale again later that day, on the same conditions as before: s. 650(3).

IV. AFTER THE TAX SALE: STATUTORY REQUIREMENTS FOR COLLECTORS

There are two fundamentally important statutory obligations for collectors immediately following the tax sale: a) filing notice of the tax sale in the Land Title Office; and b) giving notice of the tax sale and date the redemption period ends to registered owners and chargeholders. These obligations are governed by strict statutory requirements and could expose a municipality to significant liability if not properly completed. These two requirements will be discussed in turn.

A. Filing Notice of Tax Sale

Section 656 of the LGA provides that, promptly after selling the property for taxes, collectors must file a notice of tax sale in the appropriate Land Title Office. Further details in relation to this requirement are set out in section 272 of the *Land Title Act*, which sets out the required content of the notice of tax sale. When registered in the Land Title Office, notice of tax sale appears as a charge on title and provides notice to third parties that the property has been sold for taxes. As such, collectors should ensure that notices of tax sale are filed as soon as possible after the tax sale.

B. Giving Notice to Registered Owners and Chargeholders

One of the most fundamentally important statutory obligations on collectors after the tax sale is found in section 657(1) of the LGA. To highlight the necessity of strict compliance with this provision, courts have interpreted a municipality's compliance with this statutory notice requirement as a *pre-condition to a valid tax sale*.² Section 657(1) provides:

Not later than 3 months after the sale of property at an annual tax sale, the collector must give written notice of the sale and of the day the redemption period ends, either by serving the notice or by sending it by registered mail, to persons registered in the land title office as

- (a) owner of the fee simple of the property, or
- (b) owner of a charge on the property.

[Emphasis added.]

Collectors must fulfill the notice requirement in section 657(1) in a timely manner, and no later than within three months from the date of the tax sale (this year, by December 25, 2023). For clarity, the section requires that notice of the tax sale and date of the redemption period must be provided to all registered owners of the properties, *and* all owners of any registered charges on the properties. Before proceeding with this statutory requirement, collectors should obtain

² *Morgan v. Spallumcheen (Township of)*, 2022 BCSC 752, at paras 41, 43.

title searches of all properties sold at tax sale to determine the names and addresses of all registered owners and chargeholders. Where the registered owner of a property is a company, collectors should also obtain a company search to obtain the registered company address. In all cases, notice must be provided either by registered mail or by personal service (i.e., a process server or municipal employee delivering the notice to the registered owner by hand).

It is absolutely essential that collectors strictly adhere to statutory requirements in section 657. Failing to do so can leave a municipality with significant liability exposure, and there have been several court decisions in relation to this requirement. For example, in the decision of *521006 B.C. Ltd. v. Pemberton (Village)*, 2019 BCSC 526, the statutory notice provided by the collector to the property owner had inadvertently misstated the date of the redemption period by one day: the notice listed the deadline to redeem the property as September 30, 2015, instead of September 29, 2015. The Court characterized this mistake as a “fundamental defect in the notice”, and held that “the same principles must apply whether the required notice is wholly absent... or is materially non-compliant” (para 127). The Court declared that the tax sale of the properties was invalid and ordered the Village to refund the purchase price of the properties to the owner.

Similarly in the decision of *Morgan v. Spallumcheen (Township of)*, 2022 BCSC 752, the Township did not provide the owner or chargeholder of the property with the required notice of the tax sale or redemption date. The owner was unaware of the tax sale or the redemption period until after the redemption period expired. The Court ordered the Township to pay the owner \$352,316.28 in damages, representing the value of the property as at the date of trial, less the delinquent taxes. The Court provided the following commentary:

[43] Failure on the part of the local government to follow the legislation, including failure to notify the owner/charge holder brings with it, and should bring with it in my view, significant consequences, namely having to fairly compensate (that is, indemnify) the owner/charge holder for any losses and damages resulting from the sale.

In the decision of *Maple Ridge (Re)*, 2020 BCSC 1473, the City sent notices of tax sale to the properties in a number of ways that did not comply with section 657, including mailing the notices by regular mail and by registered mail that was not picked up. The Court held that this constituted “a failure to fulfill an essential procedural requirement that is a condition precedent to a lawful transfer of title under the LGA” (para 38), and declared that the tax sales of the properties were invalid.

C. Applying for Substituted Service under Section 657(2)

If an owner or chargeholder cannot easily be located for the purpose of serving the tax sale notice, collectors will need to take additional steps to search for them. For example, collectors might search the owner’s name on search engines and on social media, contact strata property

management companies (where applicable), search the court registry records, attend the property personally, reach out to known family members, friends, colleagues, and neighbours, or even hire a skip tracer to track the individual down. Collectors should carefully document all their search efforts, including by saving e-mails, key dates, and contact information.

Where a collector has reasonably exhausted its search efforts for the owner and is unable to effect the service as required by section 657(1) of the LGA, section 657(2) permits the collector to apply to the BC Supreme Court for a substituted service order. This step must be taken whenever the collector is unable to successfully serve an owner or chargeholder in person or by registered mail. In other words, even if the collector has been in contact with a family member or other representative of the property, a substituted service order will still be required. The application to the court will require an affidavit to be sworn by the collector and municipal staff that carefully documents the efforts that have been made to locate the property owner (or chargeholder, if applicable).

If a substituted service order is granted by the Supreme Court in accordance with section 657(2), the collector must ensure that all steps of the order (i.e., all methods of alternative service permitted by the order) are completed within three months of the date of the tax sale (i.e., in December). With this statutory deadline in mind, and December holidays, municipalities are encouraged to seek legal advice regarding the preparation of substituted service orders by no later than late October, as the process of putting together the application will take some time.

Below are a few examples of some common scenarios where a substitute service order will be required to fulfill the collector's statutory duty under section 657:

- **Deceased property owner** – if a property owner is deceased, they cannot be served with the notice by the methods required by section 657, and a substituted service order will be required in order to serve the notice on the property owner's heirs and the named executor or executrix in the deceased owner's will, if applicable. For the purpose of the substituted service order, collectors should obtain a copy of the property owner's death certificate, obituaries, wills (if any), and contact the deceased owner's family members. The collector should also consider contacting the Public Guardian and Trustee if there is no administrator or executor of the deceased's estate.
- **Dissolved company or society** – where the property is owned by a company or society that is dissolved (as confirmed through a company summary from the corporate registry), service on the dissolved company cannot be effected. In such cases, collectors should seek a substituted service order seeking to provide the notice to the Province and the directors and officers of the dissolved company as set out in the company search.

According to section 4(1) of the *Escheat Act*, property owned by a dissolved corporation escheats to the Provincial government at the time of the dissolution of the corporation. However, the effect of such an escheat is not absolute; in *Saini v. Grand Forks (City)*, 2011 BCSC 320, the Court observed that the state of a company while dissolved but capable of revival has been characterized more aptly as “one of qualified rather than absolute dissolution”. This is because a corporation has the power to be revived under section 4(4) of the *Escheat Act*, which provides that if a company or society is revived within two years from the date of its dissolution, the revival has effect as if the land of the corporation had not escheated to the Provincial government. In *Saini*, the company was restored pursuant to that section for the purpose of the tax sale of the property owned by the company. The Court held that in that circumstance, the revival retroactively validated the tax sale of the property.

It should be noted that even beyond the two-year period under section 4(4), a company can still apply to the BC Supreme Court under section 4(5) of the *Escheat Act* to vest its escheated land back into the company. As a result, collectors likely still have the duty to offer land owned by a dissolved corporation with delinquent taxes at tax sale.

If the property that is sold at tax sale is not redeemed within the redemption period, a municipality must file a certificate of non-redemption in the Land Title Office, per section 663(2) of the LGA (discussed in further detail below). Where a property has escheated to the Crown under section 4(1) of the *Escheat Act*, the Land Title Office may not allow the filing of a certificate of non-redemption for an escheated property without a letter from the Crown waiving its interest under the *Escheat Act*. Municipalities should seek legal advice well in advance when dealing with the tax sale of land registered in the name of a dissolved corporation.

- **Property owner relocated to a different country** – If an owner has relocated to another country or has a new unknown address, it will be challenging to effect personal service, and registered mail may not be effective outside of Canada. In such cases, collectors could seek a substituted service order to serve the tax sale notice to the owner by e-mail, to known family members of the owner who may bring the notice to the attention of the owner, and to the owner’s new address by regular mail.
- **Property owner is intentionally evading service** – In some circumstances, an owner or chargeholder will intentionally evade service or otherwise cannot be found. A substituted service application will be required in such cases.

- **Property owner is mentally ill, lacking capacity, or vulnerable** – There may be circumstances in which a property owner is vulnerable and does not have the capacity required to understand the section 657 notice, even where they are served with the notice by personal service or registered mail. In these cases, collectors are encouraged to undertake more careful investigations of the owner’s circumstances, and apply for a substituted service order to serve the tax sale notice on family members and potentially the Public Guardian and Trustee.

Such a circumstance was addressed in a December 2021 report by the Ombudsperson of British Columbia. The report, titled “A Bid for Fairness: How \$10,000 in Property Tax Debt Led to a Vulnerable Person Losing Their Home”, considered the Ombudsperson’s investigation of the tax sale of a property in the City of Penticton. The property in question was owned by a person with health-related challenges and a designated power of attorney. The Report noted that the owner’s health concerns had made it difficult for the owner to understand the tax notices sent to her, to respond appropriately, and to seek assistance.

The Report was highly critical of the manner in which the City carried out the tax sale of the property in question. First, the Ombudsperson’s investigations revealed that the City’s tax sale notices contained multiple errors. The City’s errors were characterized “not a mere technicality” but rather “central to the tax sale process”. Second, the Report suggested that the City should have taken further steps to consider, to the extent possible, the owner’s personal circumstances, including her capacity to understand the consequences of the tax sale. Accordingly, the Report recommended that the owner be compensated appropriately for a portion of her financial losses, and suggested various statutory reforms to the tax sale process in the LGA.

V. REDEMPTION PERIOD

Following the tax sale, there is a partial transfer of ownership rights in the property to the purchaser. As per section 665(1) of the LGA, all rights held in the property by the owner of the property and the owner of a registered charge on the property cease to exist, with some exceptions. These exceptions include that the property is subject to redemption and the right to possession of the property. What this usually means on a practical level is that, following the tax sale, the registered owner continues to possess the property and there is an open question as to whether the property will be redeemed.

There is a one-year redemption period following the tax sale during which time the property owner or a chargeholder may redeem the property. The exception to the one-year period is that, if the municipality has been declared the purchaser and the property has not been subsequently sold at a tax sale, then section 660(6) of the LGA allows the municipality's council to adopt a bylaw to extend the redemption period by an additional year. A municipality may wish to extend the redemption period to allow the owner more time to redeem the property.

During the redemption period, per section 660(1) of the LGA, the property may be redeemed by:

- An owner or registered owner in fee simple of the parcel;
- An owner of a registered charge against the parcel; or
- Another person on behalf of a person referred to in paragraph (a) or (b).

If the property is redeemed, the redemption is often done by the owner. However, other parties that may choose to redeem the property could include, but are not limited to, a bank that is the owner of a mortgage registered against the parcel and the holder of a lease of the property.

To redeem the property, a person must pay the collector the total of the amounts owed as per section 660(3) of the LGA. Simply put, this means a person must pay the collector all amounts that were paid by the purchaser, plus interest.

When payment for redemption is made to the collector, the collector must not accept payment in instalments and must instead receive the full amount. The one exception to this is provided by section 661 of the LGA. This section allows a person who is redeeming property that is improved and in respect of which the municipality is declared tax sale purchaser, to pay the collector 50% of the upset purchase price, plus interest, which will then extend the redemption period by 11 months and 21 days. The person redeeming the property must then pay the remainder of the amount owed to the collector by the end of the extended redemption period.

If a redemption is made, then the purchaser is entitled to receive from the municipality all amounts that were paid by the purchaser, plus interest.

Upon redemption, per section 662 of the LGA, the collector must file a notice of redemption with the Land Title Office.

A. Taxes During the Redemption Period

During the redemption period, according to section 658 of the LGA, the property that was sold at the tax sale must continue to be assessed and taxed in the name of the person who appeared on the assessment roll as owner at the time of the tax sale, and that person is the one

liable for the accruing taxes. The purchaser of the property may pay these accruing taxes, and any amount paid by the purchaser must be added to the amount required to be paid to redeem the property.

B. Waste

If an owner expects to lose title to their property at the end of the redemption period, they might allow improvements on the land to fall into disrepair that results in “waste” to the property. If this occurs, then the purchaser may enter onto the property to maintain it in an attempt to avoid such waste. By giving notice to the collector, the purchaser may add their costs associated in performing this maintenance to the total that a person must pay to redeem property.

If a person who wishes to redeem a property reaches out to the collector to ask for the amount they must pay to redeem, the collector should make reasonable enquiries of the purchaser respecting costs which the purchaser may have incurred, and may want to claim, before providing a redemption figure to the person wishing to redeem. In fact, in the case of *Waytowich v. District of Kitimat et al*, 2012 BCPC 400, the BC Provincial Court referred to this as one of the “fiduciary obligations” that a collector owes a tax sale purchaser. *Waytowich* also informs us that, if there is a dispute over the redemption amount, which may arise if there is disagreement over what appropriately constitutes costs that the purchaser incurred in an attempt to prevent waste as in that case, the collector should refer the issue to a court rather than make its own determination as to what is reasonable. A collector should be mindful that there is no statutory authority empowering the collector to determine what is a reasonable expense incurred by the purchaser to prevent waste.

C. Municipality as Purchaser

If the municipality is the purchaser of the property that was sold at a tax sale, then section 655 of the LGA allows the municipality to sell the property to any person for a price that must be not less than the upset price, plus interest. This section only allows a municipality to perform such a sale, and it must be done within nine months of the tax sale.

D. Cancellation by Council due to Manifest Error

Section 668(1) of the LGA allows a council to cancel a tax sale during the redemption period if there was a manifest error. The section states:

During the period allowed for redemption, if the council finds a manifest error in the tax sale or in the proceedings before the sale, it may order that

- (a) the purchase price be returned to the purchaser together with interest at the rate prescribed under subsection (2), and

- (b) the taxes be dealt with as the circumstances require, either
 - (i) by restoring the taxes as they were before the sale, or
 - (ii) otherwise as directed by the council.

Section 668 does not provide a list of what constitutes a manifest error, but the wording of the section does specify that such an error must be one that was “in the tax sale or in the proceedings before the sale”.

In the case of *McCready v. Nanaimo (City)*, 2005 BCSC 762, the municipal council used this section to attempt to cancel a tax sale due to failure to give a notice of tax sale and redemption period under what used to be section 657 of the LGA. The court determined that this was not a basis on which the council could have cancelled the tax sale, which confirmed that section 668 does not apply to an error made after the tax sale.

VI. NON-REDEMPTION

If the redemption period ends with the owner having not redeemed the property, then the collector, as per section 663 of the LGA, must file a notice of the non-redemption in the Land Title Office.

A. Notice of Non-Redemption

Section 663(1) states:

If a parcel of land sold for taxes is not redeemed as provided in this Act, at the end of the redemption period, the collector must forward a notice to that effect to the registrar of land titles.

Section 663(2) states that this notice must set out the full name, occupation, and address of the purchaser. This section also states that it is this notice that causes the Land Title Office to register the purchaser as the owner of the property. The collector should be mindful that, if it fails to register a notice of non-redemption as required, then the purchaser may bring a court action that would compel the filing of this notice, as was the case in *McCready v. Nanaimo*.

B. Surplus

The surplus is the amount received by the collector that is above the upset price. Section 659 of the LGA sets out the procedure of how a collector must deal with the surplus. Section 659(1) states that the collector should pay this amount to the (former) owner of the property, but only

after the owner makes a written application to the municipal council. If, however, another party submits a written application also claiming entitlement to the surplus, the surplus should then be paid into the BC Supreme Court, pursuant to section 659(3). Once paid into court, a party claiming entitlement to the surplus can apply seeking a court order for the surplus.

If six months have passed since the end of the redemption period and the surplus has still not been paid, then the municipal council must publish a notice in a newspaper stating the name of the owner to whom the surplus is payable, the date it became payable, and the amount of the surplus. If this surplus is still unclaimed three months after this notice, then the surplus must be transferred to the administrator under the *Unclaimed Property Act*.

VII. OWNER'S ABILITY TO SET ASIDE TAX SALE OR SEEK INDEMNIFICATION

Municipalities should be aware that an owner of the property subject to a tax sale, or a registered chargeholder of the property, may be able to set aside a tax sale or seek compensation in relation to a tax sale. The LGA allows for two general actions that may be brought: the first may be brought only prior to the end of the redemption period, and the second may be brought only after the redemption period.

A. Section 666 Action

An action under the grounds listed in section 666 of the LGA may be brought only prior to the end of the redemption period. Section 666(1) of the LGA allows the owner or a chargeholder to bring an action in the BC Supreme Court "to have the sale set aside and declared invalid." Such an action may be brought only on one or more of the following grounds listed in section 666(2):

- The property was not liable to taxation during the years in which the taxes for which the property was sold were imposed;
- The taxes for which the property was sold were fully paid;
- The collector did not give to that person the notice required by section 657;³
- Irregularities existed in connection with the imposition of the taxes for which the property was sold; and
- The sale was not fairly and openly conducted.

Section 666(3) requires the person bringing an action under this section to give at least one month of written notice to the municipal council, in which the person must state in detail the grounds of their complaint.

³ The text "section 657" in section 666(2)(c) of the LGA is set to be substituted with the text "section 647.1 or 657" as one of the changes in Bill 3 discussed earlier in this paper.

B. Section 669 Action

In contrast to a tax sale challenge allowed by section 666 of the LGA, an action for compensation under section 669 may be brought only after the end of the redemption period. Section 669(1) states that no action may be brought to recover the property sold or to set aside its sale after the end of the redemption period. Section 669 only permits an action for indemnity or compensation, and only in specific circumstances. Sections 669(3) and (4) state:

- (3) A person who at the time of the tax sale was an owner of, a registered owner in fee simple of or an owner of a registered charge on the property must be indemnified by the municipality for any loss or damage sustained by the person on account of the sale of the property if the circumstances referred to in section 666 (2) (a), (b) or (c) existed.
- (4) As limits on subsection (3),
 - (a) no action may be brought to recover indemnity or compensation under this section after the end of one year from the time allowed by this Act for redemption of the real property, and
 - (b) there is no right to indemnity or compensation under subsection (3) if it is shown that the person claiming indemnity or compensation was aware at the time of tax sale that the property was offered for sale, or was aware during the period allowed for redemption that it had been sold.

An action under this section can only be brought within one year of the end of the redemption period, and such an action cannot be brought if the person claiming the indemnity or compensation was aware at the time of the tax sale that the property was offered for sale or was aware during the redemption period that the property had been sold.

Although section 666 of the LGA precludes a person from setting aside a tax sale after the end of the redemption period, the case of *521006 B.C. Ltd. v. Pemberton (Village)* discussed earlier in this paper shows that the court has been willing to make an exception. In that case, the owner brought an action to set aside a tax sale after the end of the redemption period despite section 666; the Court allowed the owner's action and declared the tax sale invalid after taking into account the circumstances of that case.

VIII. CONCLUSION

Despite the effectiveness of the tax sale remedy, municipalities should be mindful of the significant powers they exercise during the tax sale process. It is important that municipalities ensure they strictly comply with the legislation surrounding tax sales, and that they seek legal advice when in doubt.

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