
OCTOBER 5, 2016

CLIENT BULLETIN

REMINDER – ANNUAL TAX SALE SERVICE DEADLINE

Now that the leaves have turned, Halloween is in the air and annual tax sales have been completed, it is time for municipal tax collectors to turn their minds to the official requirement to serve tax sale notices.

Once a property has been sold for taxes, the *Local Government Act* requires that, within 3 months of the sale, the local government collector give written notice of the tax sale and the day the redemption period ends to the registered owner and all registered chargeholders, either by serving the notice or by registered mail. This requirement must be observed even where the registered owner or chargeholder cannot be found, is living abroad, is a dissolved corporation or is deceased!

If an owner or chargeholder cannot be served in person or by registered mail, then in order to effectively serve the notice, the collector must obtain a Supreme Court order permitting service on another person or by other means. Such an order must be obtained even if the collector has been in contact with another representative regarding the property – e.g., a relative or the Public Guardian and Trustee. Also, in order to be successful in obtaining such a court order, the collector will need to show that he or she has made significant efforts to find and serve the owner or chargeholder, and that a substituted service is appropriate.

Importantly, a failure to properly serve an owner or chargeholder (i.e. in person, by registered mail or pursuant to a substituted service order) within that 3 month period may leave the municipality with significant potential liability exposure. Conversely, the cost of a substituted service order is relatively low.

Furthermore, the three month time frame leaves relatively little time to take all of the steps that may be required to obtain a substituted service order. For 2016, the statutory time-period expires in late December, when courts and other service providers are closed for the holiday season, so service must be completed before then.

As a result of this tight time-frame and potential liability exposure, it is important for collectors to try to serve registered owners and chargeholders promptly following the tax sale. Where a person cannot be served by registered mail or in person, then other steps, investigations and preparations should promptly be taken, with a view to obtaining an order for substituted

service should this prove necessary. These steps could include obtaining death certificates and copies of wills, conducting skip traces and publishing newspaper advertisements, all of which take time to order and complete. In this context, it will also be prudent to contact your lawyer as soon as possible, who can then guide you through the steps required to obtain a court order and prepare and make the court application. Such assistance should be requested by the end of October at the very latest, to ensure sufficient time to complete all necessary requirements. In some cases, a lawyer may also be able to with finding a new means of locating someone who needs to be served, that can avoid the need for a court order altogether.

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