



THE CORPORATION OF
THE TOWN OF PERTH

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To Whom it May Concern

The Corporation of the Town of Perth has passed an amendment to By-Law #3675 on August 19, 2008 which has resulted in changes to two aspects of the Utility collection process pertaining to properties that are changing ownership. Upon receiving a request for a Final Reading for a closing date on a property the following will happen 5 working days prior to sale date:

- 1) Any amount shown as owing on the vendor utility account, including an amount not yet due, will be transferred to the Tax Roll, unless the account is on a Pre-Authorized Plan in which case the payment will be collected through that process.
- 2) A \$200.00 Utility Holdback will be credited to the vendor's residential utility account with this amount being added to the Tax Roll to be collected in the same manner as taxes. For Non-Residential properties the amount transferred will be 120% of the estimated Final Bill.

When the vendor's final utility billing is calculated, the amount owing will be deducted from the \$200.00 credit that has been created on the vendor's utility account. In the event the vendor's Utility account is in a refund position the Town will immediately issue a refund cheque. **Therefore it is important for either the Lawyer or Vendor to give a correct forwarding address.**

In the event that there is still an amount owing, a statement of account and request for payment will be sent to the former owner using the most valid address that the Town has for the account. If this balance remains unpaid 45 days after the Final Utility bill has been issued, any amount still outstanding will be automatically transferred to the tax account of the purchaser of the property.

On the closing date, the purchaser will be set up with a utility account with a clear balance.

The changes that you will see on the Tax Certificate will be in the column **Amount Paid**. This will now display the net of the actual tax amounts paid YTD less amounts added to the tax roll to cover the Vendor's Utility Account and utility holdback.

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The Comments section on the Tax Certificate shows the amount of the Utility Holdback and the amount of the Utility Bill, if any, that was transferred to the tax account. The usual comment about Final Billings has been removed as it is already addressed in this letter

How law firms could potentially deal with the above changes:

- The Vendor's lawyer can undertake to hold back from the sale proceeds the amount to cover what was added to the tax roll for the holdback and utility account balance (if any), and issue a cheque to the Town on closing to credit the tax roll. For example the \$200 Holdback plus \$56.00 owing from the Utility account for a total of \$256.00. This takes the tax account back to just being actual tax amounts levied and paid as taxes. You are now in the same position for taxes as you would have been prior to changes to By-law #3675. In this scenario, you would do your tax adjustments leaving out the holdback/utility arrears from the adjustment, and adjust strictly on taxes levied/paid. (in this case you would not rely on the "amount paid" column but the actual amounts paid by the vendor) The vendor's solicitor would likely then provide an undertaking to the purchaser's solicitor to pay the holdback/utility amount on closing, or have funds re-directed accordingly.
- The Vendor's lawyer will incorporate the holdback/utility balance in the statement of adjustments, by giving a credit to the Purchaser for these amounts. The purchaser will be responsible for the remittance of this amount, since the Purchaser will have already received the corresponding credit on their Statement of Adjustments. In this scenario, The purchaser's lawyer would be advised to either arrange to pay this amount from trust funds following closing, or advise their clients to make immediate arrangements with the tax department to pay this so penalties do not accrue on the outstanding balance.

Municipalities have authority under the *Municipal Act* to collect outstanding amounts owing against a property in the same manner as taxes. It is hoped that this process will minimize the exposure of purchasers being saddled by vendor's arrears by having the holdback money available to cover the final utility costs.

If you have any questions, please feel free to call.

Yours truly,



Norah Hall
Tax Collector