

Subject: Tax Relief Request for Years 2011 - 2018 at 185 Northland Drive, Conklin**APPROVALS:****Annette Antoniak**_____
Director_____
Chief Administrative Officer**Recommended Motion:**

THAT the request for tax relief, in the amount of \$22,565.58, for the property located at 185 Northland Drive in Conklin, be denied.

Summary:

The property at 185 Northland Drive, Conklin was purchased from the Municipality by the current owner in 2004.

The property owner is requesting that Council do the following:

- Retract and reassess all property assessments between 2011 and 2016 using the same calculation as the revised property assessment for 2017;
- refund part of the taxes paid between 2011 and 2015 as a result of the new revised assessment; and
- cancel/waive any tax arrears for 2016, 2017 and 2018

Background:

The property has been assessed since 2004 to the same property owner. The zoning of the property is BI Business Industrial. As the property is zoned BI and is not utilized for residential purposes the property has been and continues to be classified and taxed as rural non-residential.

The assessed value for this property was \$24,000 in 2010, due to market activity the 2011 assessment increased to \$145,140. The assessment value peaked at \$582,800 in the years 2015-2017 until it was reduced in 2017 to \$116,500. The property has been valued using non-residential land rates for the Conklin area with an adjustment allowance for restricted use of a portion of the property. The restricted use of the

property is due to a watercourse located on the property. A watercourse is defined as a channel that a flowing body of water follows although in the case of this property the watercourse is dry for parts of the year, Development of this property will be impacted by the watercourse as it is located in the middle of the property and runs the entire length of the property.

From our assessment records, 2011 was the first year that an allowance for the water course through the property was applied; the allowance for the water course from 2011 to 2017 (amended) was 50%.

In 2017, Assessment staff completed a review of the development limitations imposed on the lot, as it currently sits, and determined that an obsolescence of 90% should be applied to this property.

This revision was completed under S 305 of the *Municipal Government Act*. Since the starting year of this request (2011) the property owner has not filed any assessment appeals on this property.

The property owner now requests that the change in 2017 be applied retroactively to the preceding years (back to 2011) for which no assessment appeals were filed. Adjustments to previous year's assessment can only be made if an outstanding appeal has been filed.

The property owner has requested that penalties and arrears on outstanding balances since 2016 which have been applied based on bylaw 95/041 (Tax Penalty), be cancelled.

As per the *Municipal Government Act*, S 203 (2)

A council may not delegate

(d) its power with respect to taxes under section 347

As per the *Municipal Government Act*, S 347(1):

If a Council considers it equitable to do so, it may, generally or with respect to a particular taxable property or business or a class of taxable property or business, do one or more of the following, with or without conditions:

- (a) Cancel or reduce tax arrears;*
- (b) Cancel or refund all or part of a tax;*
- (c) Defer the collection of a tax.*

Budget/Financial Implications:

The budget implications for an acceptance of this request could go far past this request. Successful requests for prior year assessment and tax amendments, which would be

unbudgeted, could result in major revenue reductions based on establishing a precedence.

If the recommendation is approved, the immediate budget implications would result in a reduction in tax revenue of \$ 22,565.58, if all assessments were adjusted and all arrears and penalties were adjusted as requested by the property owner.

Rationale for Recommendation:

The property was first assessed for the 2004 tax year and has been properly classified and taxed as rural non-residential based on the BI zoning in place.

The assessment has been based on mass appraisal principles with an allowance for the water course on the property. The allowance was 50% for the tax years 2011-2017, and after review, the assessment was changed to reflect a 90% allowance for the 2017 tax year.

There have been no assessment appeals filed on the property since 2011 and therefore no legislative method of adjusting the previous year's assessment excluding Section 347 of the *Municipal Government Act* (S 347), request to council.

While council does have the authority under S 347 to cancel or refund part of a tax and cancel or defer tax arrears, administration's recommendation is that this not be done due to the precedent that may be set by this action.

The issue brought before council is, does an adjustment applied in one year apply to previous years in which no appeals were filed.

The governing legislation (The Municipal Government Act) limits both appeals and s 305 changes to the years in which they were either filed or processed in the case of a S. 305.

Section 347 states that council can if it considers it equitable to do so it may cancel or reduce tax arrears, cancel or refund all or part of a tax or defer the collection of a tax. The request from this property owner, if granted, would not be equitable with other property owners in the RMWB as previous tax years are not open for review unless appealed in the tax year.

The effect of granting this request could open tax years on any property account from small accounts to multi-million-dollar oil sands accounts.

To act contrary to the legislation would expose the municipality to potentially costly unbudgeted property tax adjustments. As an example, during the years of industry appeals a property owner missed filing an appeal on a major industrial plant. Even though adjustments were processed on the appealed years, no adjustment was made on this property for the year in which no appeal was filed. In accordance with the

legislation there is no recourse to ask for the adjustment in a year in which no appeal was filed.

Onus on the property owner

The RMWB mails assessment notices to property owners annually. On each and every notice it reads:

Please review the Property Assessment Notice carefully. The assessed value of your property reflects the market value (most probable selling price) of your property on July 1, 20XX including any physical changes up to December 31, 20XX. The assessed value will be used to calculate the amount of tax billed for your property. Your tax bill will be calculated in early June. If you disagree with any of the assessment information on this notice, you have the right to submit an Assessment Complaint with the Clerk of the Assessment Review Board (see reverse for details by 4:30 pm on May XX, 20XX.

COMPLAINTS CANNOT BE SUBMITTED AFTER 4:30pm on May XX, 20XX.

If complaints are filed past the deadline the complaint will proceed to the appropriate board with the Assessor always seeking denial of the appeal as the appeal was filed past the deadline.

The onus to appeal is on the property owner, if they disagree, with the assessment and the procedure for appealing is described in detail on the assessment notice.

The property assessment system is built on predictability in the revenue required to fund the municipality's operations. Prior years' appeals can be accounted for in current budgets, changes in assessments and tax dollars, in the case of prior years in which appeals have not been filed, would be an unbudgeted loss in revenue. Although all S 347 requests stand on their own merit and the change in tax dollars from this request is a small percentage of the annual budget, a precedent may be set if penalties and arrears are cancelled. Revising prior years' assessments through a S 347 when appeals do not exist would set a precedent and add a level of unpredictability in municipal finances in coming years.

Strategic Priorities:

Responsible Government

Attachments:

1. Assessment Notices for 185 Northland Drive 2011-2018 - Redacted