

September 13, 2018

Via Registered Mail

R.M. of McKillop No. 220 Council
103 Ashley Street
P.O. Box 220
Bulyea, SK S0G 0L0

Dear Council:

Re: Revocation of Tax Increase
File No.: 054600-0002

We represent a very large group of ratepayers within the R.M. of McKillop No. 220 who are very concerned about the financial management in the rural municipality. The imposition of an onerous and discriminatory tax on residential property holders magnified the problem. As such, we request the following actions be taken:

Quash the Bylaw and Consult on Alternative Approaches

While we recognize that Council has a broad discretion to manage the financial affairs in the rural municipality and to pass bylaws for tax increases, we believe that the current tax increase is flawed from a procedural and a substantive perspective. We are prepared to seek the assistance of the Minister and the Courts to rectify these mistakes should we not receive the immediate cooperation of Council in quashing the bylaw and coming up with an alternative tax solution such as a one-time special levy that is equally distributed.

With respect to the legal problems from a procedural perspective, the manner in which Council has passed these bylaws and resolutions to increase the taxes have circumvented the democratic process and constitutes an improper manner in which to pass such a bylaw. The bylaw was passed without proper notice and consultation with the rate payers and it defeats the spirit and intent of *The Rural Municipalities Act* to have three readings of the same bylaw on the same day.

Substantively, the tax bylaw is discriminatory and raises a reasonable apprehension of bias. The actions of Council have unfairly favored the agricultural rate payers and leads to the conclusion that the decisions of Council have been biased against the residential rate payers. Increasing the taxes to such an extent and placing the burden primarily on one group of rate payers is contrary to the public interest. The significant increase in taxes will result in a crippling financial burden on some rate payers while, at the same time, destroying the value of their properties.

We believe that the Council may have misapprehended the requirements contained in Section 283(2)(a) of *The Municipalities Act* as that subsection requires that the municipality levy a uniform rate that would be sufficient to satisfy the budgeted expenses and transfers of the municipality with regard for its estimated revenues. We believe that you may have understood this provision to require that last year's deficit be included in calculating the uniform rate for this year. The provision does not require that past years' deficits be included in the calculation. There are other alternatives besides increasing the taxes on the residential rate payers by an average of over 100%.

We are asking that the Council voluntarily quash the bylaw and consider other options in consultation with our office and all concerned rate payers. We believe you can do this directly but it can certainly be done by request to the Minister, and we would ask you to do so. Failing such cooperation, we will be seeking the assistance of the Minister directly and will also be filing an Originating Application with the Court of Queen's Bench to have the Court quash the bylaw.

Appoint Forensic and Management Auditors

The decision of Justice Leurer in *Council of the Rural Municipality of McKillop No. 220 v Schmidt*, 2018 SKQB 206 at para 3 and 71, supports *The Municipalities Act* provisions that provide for direct democracy in municipalities through petitions and referenda. The ratepayers' association has already gathered the support for a petition to appoint an auditor for financial and management audits that was deemed insufficient on technicalities. As such, the support can be gathered again. In an effort to save the time and money of ratepayers within the Rural Municipality of McKillop and to increase the accountability and transparency of the rural municipality Council and administration, a forensic and management auditor or auditors must be appointed by Council. Alternatively, the Council should request that the Minister appoint an auditor pursuant to Section 395 of *The Municipalities Act*.

We believe it would be a sign of good faith from Council to appoint the auditor directly or to request the Minister to appoint such an auditor as the rate payers have some very legitimate concerns about the financial management in the rural municipality, particularly given the circumstances of the recent administrator's departure immediately prior to the tax bylaw being passed. A forensic audit would clear up all of the questions for everybody involved, including the Council and there is no reason to force the rate payers to spend any more time or money to secure such an audit when one is inevitable in any event. Please consider such an appointment immediately and we are prepared to work with you in terms of the execution of the audit.

Conclusion

As set out above, legal remedies are available to the ratepayer's of McKillop. Failure on the part of Council to comply with these requests will result in legal action in the Court of Queen's Bench. We are prepared to discuss cooperative solutions that work for both Council and our clients, but we would need full transparency and cooperation very quickly.

MLT AIKINS

WESTERN CANADA'S LAW FIRM

If a positive response to this letter is not received by Friday, September 21, 2018, we will initiate court proceedings without further notice.

Yours truly,

MLT AIKINS LLP

Per:



Deron A. Kuski, Q.C.

DAK:thp

- cc: Honourable Warren Kaeding,
Minister of Government Relations, minister.gr@gov.sk.ca
- cc: Tammy Kirkland,
Deputy Minister, Government Relations, tammy.kirkland@gov.sk.ca
- cc: Carol Ingham,
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