

Manitoba mbudsman

REPORT UNDER

THE OMBUDSMAN ACT

CASE 2010-0526 (web version)

**CITY OF WINNIPEG
WATER AND WASTE DEPARTMENT**

REPORT ISSUED ON APRIL 8, 2014

CASE SUMMARY:

The complainant believes the City of Winnipeg's practice of adding the unpaid water bills of tenants to the property taxes of the owner of the real property (the landlord) is unfair.

The complainant states landlords of residential property should not be held responsible for a service (water) they did not request or benefit from.

In investigating this complaint, our office found that the city has the legislative authority to recover the unpaid water service charge of a tenant by adding the unpaid amount to the real property taxes of the property to which the service was supplied. We also acknowledge that the city has implemented many new practices aimed at reducing a landlord's risk of being held liable for a tenant's unpaid water charges.

The Manitoba Ombudsman, however, identified two administrative improvements for the City of Winnipeg to consider:

- **monthly budget billing option for consumers**
- **collecting a water deposit from individuals with a poor credit history**

We believe these changes will enhance fairness for all parties and reduce the amount of delinquent accounts.

OMBUDSMAN JURISDICTION

Manitoba Ombudsman is an independent office of the Legislative Assembly of Manitoba, reporting to the assembly through the office of the speaker. The responsibilities and authority of the ombudsman are set out in *The Ombudsman Act*, *The Freedom of Information and Protection of Privacy Act*, *The Personal Health Information Act*, and *The Public Interest Disclosure (Whistleblower Protection) Act*.

Under *The Ombudsman Act (the Act)*, Manitoba Ombudsman investigates administrative actions and decisions made by government departments and agencies, municipalities, and their officers and employees. Investigations may be undertaken on the basis of a written complaint from a member of the public, or upon the ombudsman's own initiative.

This complaint involves matters that are of an administrative nature arising from the City of Winnipeg's practice of adding the unpaid water bills of tenants to the property taxes of the owners of the real property (the landlord).

Ombudsman investigations typically assess actions taken or decisions made against a benchmark established by government. Sometimes that benchmark is provincial legislation or a municipal by-law. On other occasions, it is written policy or established procedures implemented to give effect to legislative purpose. In cases concerning an impact on individual rights or benefits, we also examine the fairness of the action or decision. A complaint can raise questions of procedural fairness, substantive fairness or relational fairness. Procedural fairness relates to how decisions are reached, the steps followed before, during and after decisions are made. Substantive fairness relates to the fairness of the decision itself and relational fairness relates to how people are treated during the decision making process.

While our office has a mandate to investigate complaints, the investigative process we follow is non-adversarial. We carefully and independently consider the information provided by the complainant, the decision maker, and any witnesses we determine to be relevant to the case. Administrative investigations can involve an analysis of statute or by-law provisions, document reviews, interviews and site visits.

The goal of administrative investigations is to determine the validity of complaints and to identify areas requiring improvement. If a complaint is supported by a finding of maladministration, the ombudsman may make recommendations pursuant to section 36 of *The Ombudsman Act*.

Administrative investigations can also identify areas where improvements may be suggested to a government body without a finding of maladministration. Such suggestions are made to support and help government bodies achieve better administration, often through the adoption of best practices. Improved administrative practices can enhance the relationship between government and the public, and reduce administrative complaints.

THE COMPLAINT

On December 14, 2010, our office received a complaint from the Inner City Landlords Association, who claimed that the City of Winnipeg's practice of requiring landlords to pay the delinquent water bills of their tenants is unfair. The association is of the view that the tenants should be responsible for paying for the water they use and the City of Winnipeg should collect any monies owed from those individuals.

KEY ISSUES

Shortly after making a complaint with our office the Inner City Landlords Association met with the director and staff of the City of Winnipeg Water and Waste Department in February 2011 to discuss their concerns. The parties were unable to resolve the matter and our office proceeded with our investigation. Following discussions with the city and the association we identified a number of key issues to be investigated with respect to the complaint. They are as follows:

- 1. Unpaid water bills of tenants added to the property tax of the landlord**
- 2. Disconnect service if the unpaid bill is over \$100**
- 3. Monthly bills may be easier for some people to manage than quarterly bills**
- 4. Proof of identification when opening a water account**
- 5. Collection of accounts in tenant's name**
- 6. Water deposit**
- 7. Credit history of tenant and landlords**
- 8. Administrative cost added to property taxes and withdrawn from landlord's account**
- 9. Unpaid water bill to be included in the landlord's Tax Installment Payment Plan (TIPP) payment before they were notified that a bill was added to their property tax.**

SCOPE OF INVESTIGATION

As part of our investigation, we made enquiries and requested information from the City of Winnipeg Water and Waste Department. We also reviewed *The City of Winnipeg Charter*, the Water Works By-law 504/73, and information on the City of Winnipeg website. Additionally, we reviewed similar policies in other Canadian jurisdictions.

Issue 1: Unpaid water bills of tenants added to the property tax of the landlord

It is the current practice of the City of Winnipeg to hold landlords financially responsible for the unpaid water bills of their tenants. If the landlord refuses to pay, that amount is added to the property tax of the landlord and automatically taken from the landlord's bank account if registered under the property Tax Installment Payment Plan (TIPP).

City of Winnipeg Response:

Although tenants may be the “consumers of the water”, landlords benefit from the water service being provided to the property. In many cases the landlord does contact the Department requesting that service be provided and billed to their tenant. In all cases the landlord benefits from the service. Landlords are required under section 41 of the Neighborhood Liveability By-Law to ensure that running water is available to residential properties. Without the services provided by the Department, landlords would not be able to earn income from their rental property.

The City expends significant resources assisting landlords in the management of their business. Many landlords are actively engaged in their business and have implemented our recommendations to reduce the risk of unpaid water bills being added to property taxes including:

- Performing credit checks on prospective tenants. The Water and Waste Department will release credit information about prospective tenants when the landlord receives their written permission.
- Ensuring that regular meter readings are provided by tenants or obtaining readings themselves each time they attend the property to collect rent or inspect the property. The City will estimate a tenant’s water bill at any time with a current meter reading. Landlords are not required to wait for quarterly bills to be issued.
- Contacting the Water and Waste Department to ensure tenant bills are paid on a timely basis and to inquire if the customer has requested payment arrangements.
- Ensuring the property is properly maintained including repairing leaking fixtures promptly so that large water bills are avoided. Leaks result in unexpectedly large water bills which are often unpaid by tenants who feel it should not be their responsibility. Landlords put themselves at risk when they rely on the tenants to advise them of leaks at the property. The City does have programs to assist customers (including landlords) who receive an unusually large bill as the result of a leak.

Landlords may find it beneficial to place the water bill in their name and collect the water charges from their tenant as a condition of their lease agreement. This would ensure landlords know on a more timely basis whether the tenant is meeting this obligation of their tenancy.

The complainant is asking the City of Winnipeg to give up its rights to collections given to it under Provincial law. However, it is the City's position that adding unpaid water charges to property taxes ensures fairness to all rate payers by reducing bad debts.

Our Findings:

As part of our investigation, we reviewed the legislation that allows the City of Winnipeg to add a tenant's unpaid water bill to a landlord's property taxes.

Subclause 210(4)(c)(iii) of *The City of Winnipeg Charter* states:

Collection of fees and charges

210(4) A price, rate, fee, deposit or other charge established under this section for the use or consumption of any commodity or service supplied by the city to any person, and any respective penalty or interest prescribed by by-law, is a debt due to the city by the person and

(c) may be recovered

(iii) in the case of any such amounts for water supplied or services in connection with water works or wastewater, by adding the amount thereof to real property taxes imposed by the city on the real property to which the water was supplied, and collected in the same manner and with the same priorities as those real property taxes.

We also reviewed the following relevant sections of *The Municipal Act*:

Powers respecting works, services, utilities

252(1) A municipality exercising powers in the nature of those referred to in clauses 250(2)(b), (c) and (e) may set terms and conditions in respect of users, including

(a) setting the rates or amounts of deposits, fees and other charges, and charging and collecting them;

(b) providing for a right of entry onto private property to determine compliance with other terms and conditions, to determine the amount of deposits, fees or other charges, or to disconnect a service; and

(c) discontinuing or disconnecting a service and refusing to provide the service to users who fail to comply with the terms and conditions.

Collection of fees

252(2) A charge referred to in clause (1)(a) may be collected by the municipality in the same manner as a tax may be collected or enforced under this Act.

We noted that other jurisdictions have also adopted the practice of applying unpaid tenant water bills to the property owner tax bill. This includes the cities of Toronto, Victoria, Kelowna and several others in Ontario and Saskatchewan. Some jurisdictions also state that the provision of

water is considered a service to the property and therefore owners of property are responsible for any water bills related to the property.

We understand that most tenants pay their water bills; however, in cases where the tenant does not make the payment, the city can legally apply the unpaid bill to the landlord's property taxes. Although it is legal, the practice of having landlords pay the debt of a tenant who requested and received the benefits of the service but avoided financial responsibility, raises questions concerning fairness to the landlord. It is understandable why, under these circumstances, some landlords may have the perception they are treated unfairly when being made responsible for another's debt.

The city is of the view that as it is landlords who select the tenant(s) for their rental properties, it is unfair for the entire customer base to be responsible for unpaid tenant bills as the city has to collect for water consumed. As a result, the city assigns a tenant's delinquent account to the tax bill of the owner of the property to prevent these unpaid debts from affecting all water consumers.

The city advised our office that over the past two years, the average amount and number of delinquent water accounts added to property taxes has declined. The city has implemented a number of changes in order to reduce the risk of landlords being held accountable for the unpaid bills of tenants.

The city indicated that landlords are informed immediately when an unpaid water bill is added to their property taxes, enabling the landlord to cancel their TIPP payment prior to it being withdrawn from their bank account. We were advised that the city's Water and Waste Department extended its hours of operation in 2012, enabling landlords requiring assistance or information concerning the status of their tenant's water account to contact the city between 8:30 am and 7:00 pm Monday to Thursday and from 8:30 am to 4:30 pm Friday and Saturday.

Landlords are also encouraged to register with the city, and ensure that first and final water meter readings are taken during a tenancy. If a landlord is registered with the city, he or she will also receive a reminder letter on day 40 and again on day 60 about a tenant's unpaid water bill, affording a greater opportunity to encourage payment from their tenant.

Issue 2: Disconnect service if the unpaid bill is over \$100

We were advised that the Water and Waste Department's policy is to disconnect service if the unpaid bill is over \$100. The association is of the opinion, however, that tenants should automatically have their water service disconnected if delinquent after the first month of each billing cycle, based on the expectation that after one month their water consumption would be more than \$100. The association notes that according to information it received from the city, the average consumption of a five-member household during a three month period is \$400.

City of Winnipeg Response:

The Public Utilities Board does not permit disconnection of water customers sooner than 59 days after the billing date.

Water bills issued by the City of Winnipeg are due 30 days from the billing date. The City makes several attempts to contact the tenant and the landlord before disconnecting service:

- 40 days from the billing date a reminder notice is sent to the customer
- 40 days from the billing date a letter is sent to the landlord advising them that the tenant's water bill is in arrears
- 60 days from the billing date a turn off notice is sent to the customer
- 60 days from the billing date a letter is sent to the landlord advising them that the tenant's water bill is in arrears and the water service may be shut off
- 60 – 70 days from the billing date a telephone call is attempted to the customer. Only half of these calls reach the customer as some customers have changed phone numbers or a phone number has not been provided to the City.

The majority of customers make payment following one of the communications above or when the landlord contacts them after receiving a letter from the Water and Waste Department. The City feels this process benefits both tenants and landlords. Tenants benefit from uninterrupted water service if they are encouraged to make payment before water is disconnected. Landlords benefit because most tenants do make payment.

The City does not want to disconnect someone who is genuinely trying to make payments. The City will enter into pay plans with tenants. However, in order to protect the landlord, the City requires the following before a payment plan will be made with a tenant:

- A current meter reading to ensure all unpaid charges are taken into account
- Landlord approval if the pay plan will extend past the eligible disconnection date

When water service is disconnected, a reconnection fee of \$100 is also due by the tenant. This fee reduces the amount available by the tenant to pay the original water bill. When unpaid water charges become unmanageable, tenants may vacate the property leaving the entire amount unpaid and eligible to be added to property taxes.

Our Findings:

The City of Winnipeg's practice to disconnect water service when unpaid water bills are in excess of \$100 is longstanding policy. There was a time when a landlord could request that a tenant's water service be disconnected after the account was a minimum of \$25 overdue. This

practice, however, was discontinued, as the Residential Tenancies Branch expressed concern that some landlords may be using the \$25 cutoff as a way to evict tenants for other reasons.

The city advised our office that it would be rare for a typical quarterly water bill to be \$400, as claimed by the association. In fact, the city indicates that water consumption has significantly dropped in the past ten years and research indicates that a typical residential quarterly bill was less than \$250 based on 2013 rates.

The city also indicates that most tenants make payment on overdue bills when contacted either by mail or telephone by the city, thus avoiding a disconnection of their water service.

We note that in some circumstances water service cannot be disconnected regardless of the amount of the unpaid water bill. The city indicates that disconnection of water to a rental property would not occur if other households within the rental unit were connected to the water supply or if the shut-off valve was on private property. Other restrictions also exist as the Public Utilities Board does not permit disconnection of water customers sooner than 59 days after the billing date.

Finally, it is noted, that a \$100 fee must be paid by a tenant to reconnect water service after it has been turned off. The city indicates this additional charge would add to the debt load of the tenant and reduce the means available to make good on the original unpaid water bill.

Based on the evidence we have reviewed, we are unable to conclude that the \$100 threshold established by the city is unreasonable.

Issue 3: Monthly bills may be easier for some people to manage than quarterly bills

The landlords' position is that monthly bills may be easier for some people to manage than quarterly bills. The complainants explained that many of the house renters in the inner city receive income assistance and do not have sufficient income to pay a large quarterly bill.

City of Winnipeg Response:

The City of Winnipeg periodically surveys its customers on various issues. The most recent survey confirmed that the majority of customers prefer quarterly water bills. The City is aware that some customers would find a monthly bill easier to manage and is investigating ways to provide this option to its customers. Some City of Winnipeg customers choose to make monthly or weekly payments prior to the bill being issued. This is suggested to customers who find a quarterly bill difficult to manage.

Our Findings:

We note that the City of Winnipeg has done polling on this issue and has responded to the request of the majority of customers who prefer quarterly billings. Further, it is our understanding that individuals in receipt of income assistance can contact Employment and

Income Assistance and request their utilities be paid directly and/or seek to effectively manage their allotted monthly budget.

In the course of researching utility payment options in other Manitoba cities, we noted Brandon and Portage la Prairie offer customers a monthly payment plan whereby pre-authorized withdrawals of equal amounts are made from the customer's financial institution, based on an average monthly consumption calculation. Although the City of Winnipeg offers a pre-authorized payment for its quarterly bills, it does not provide the option of a monthly budget payment plan.

While billings based on monthly readings may incur additional administrative costs, it might assist in monitoring the water consumption habits and payment history of tenants before the bill becomes excessive and less likely to be paid. Additionally, although electronic banking may not be an option for customers without computer access, this may be a viable option for others and help prevent unpaid bills through regular monthly payments versus a larger quarterly bill.

Implementing a water services budget payment plan similar to those in Brandon and Portage la Prairie, could assist customers in managing their financial obligation to the City of Winnipeg. Consideration could also be given to allow a monthly budget payment plan contribution to be paid in person or by another acceptable payment method, rather than solely by electronic banking. Although we understand that implementing a budget plan may discourage some customers from taking regular meter readings, regular readings could be a mandatory step in qualifying for a budget plan.

We further note that many utility companies, such as Manitoba Hydro and Centra Gas, choose to bill customers on a monthly basis.

Issue 4: Proof of identification when opening a water account

The complainants explained that no personal identification and verification or credit check is required to apply for water service connection. It was noted that anyone with a mailing address can apply by telephone for water connection. It was suggested that a five-member household can apply for water connections five times under different account holder names, either in the same or different service locations. It was also stated that a delinquent tenant can apply for new water connection in a different service location by simply changing the spelling of his or her first or last name.

City of Winnipeg Response:

The City of Winnipeg's practice is consistent with other Manitoba utilities. The City cooperates with landlords who seek its assistance in reducing the risk of unpaid water bills being added to property taxes. Landlords are encouraged to:

- Contact Water and Waste Department to ensure the water account is set up in the appropriate name.

- Include the name of all adults living at the home on the lease agreement. Ensure the Water and Waste Department also has all names on the water account.
- Contact the Water and Waste Department to obtain credit information on prospective tenants. Landlords must have the tenant's written permission.
- Provide the Water and Waste Department with a forwarding address when a tenant moves out. Landlords should include authorization to provide this information in their lease agreement.

Our Findings:

The City of Winnipeg advised our office that it has considered a requirement whereby applicants for water service provide proof of identification. The city has determined that it is more convenient for customers to apply for new service by telephone rather than creating delays by requiring individuals to attend in person.

In the course of our research regarding the requirements for opening a utility account in Manitoba, we note that Manitoba Hydro (Hydro) requires only basic information such as an applicant's name, address, phone number, email address, and previous account number if one exists. We also confirmed that Hydro does not perform or require a credit check or security deposit for new applications. In situations where an individual may have bad credit associated with a previous Hydro account, the application may be referred to the "credit department" to assess if a deposit is required for the individual to receive service.

We note that there are options available to landlords to protect their interests. For example, the City of Winnipeg allows landlords to access information concerning a tenant's water account once the tenant's written permission has been obtained. Landlords also have the option of entering into detailed lease agreements with tenants to address the matter of utility expenses connected to the rental property.

Issue 5: Collection of accounts in tenant's name

We were advised that landlords are expected to be responsible for the collection of delinquent accounts in a tenant's name even if a forwarding address of the tenant is provided to the City of Winnipeg's Water and Waste Department.

City of Winnipeg Response:

The Consumer Protection Act amendments in 2006 (s.98) made it illegal to collect on a debt from more than one person. The Department will disconnect a customer's service at their new address if this information is received prior to the amount being added to property taxes. Once an amount is added to property taxes, the Department cannot continue to try to collect it from someone else.

The City of Winnipeg had made efforts to reduce the time between a tenant moving out and the unpaid water account being added to property taxes. Landlords have a greater chance of locating tenants and securing repayment if this is done on a timely basis.

Our Findings:

Subclause 98(a) of *The Consumer Protection Act* states:

Part XII
COLLECTION PRACTISES
Prohibitions

98 No person, whether on his own behalf or on behalf of another, directly, or through others, shall with respect to any loan of money to which this Act applies, or to any hire-purchase or sale of goods or services, or both

(a) collect or attempt to collect from a debtor a greater amount than the sum of the amount actually owing by the debtor to the credit grantor and the amount of fees allowed by any statute or regulation made thereunder.

The city's position regarding collection of the unpaid water bill of the tenant once it has been added to the property tax bill of the landlord is consistent with the above noted legislation; the city cannot collect the debt from both the tenant and the landlord. The city did confirm, however, that it will disconnect a tenant's service at their new address if information is received prior to the amount being added to the landlord's property taxes.

Section 15(1) of By-law No. 504/73 does allow the city to forward overdue accounts to a private collection agency for collection prior to the debt being added to taxes. The city advised our office, however, the costs of utilizing agency would likely be in excess of the unpaid debts that they could reasonably be expected to collect.

There are other jurisdictions that do send unpaid tenant accounts to a collection agency in certain circumstances. The City of Brandon, for example, will send accounts out for collection if they remain overdue after the tenant moves out. This practice, however, has had limited success in collecting the unpaid debt.

It is our opinion that using a collection agency to secure payment from tenants for unpaid water bills would not result in a significant decline in bad debts.

Issue 6: Water deposit

We were asked if landlords could charge tenants a water deposit.

City of Winnipeg Response:

The City of Winnipeg's practice is consistent with other Manitoba utilities. The City of Winnipeg will cooperate with proposals by the complainant for changes to The Residential Tenancies Act.

The City of Winnipeg Water Works By-law does permit the City to charge a deposit based on an estimate of the water to be consumed quarterly. The City feels that the requirement to pay a water deposit would have a disproportionate impact on low and fixed income consumers. These are the very consumers that the complainant purports to advocate for in Issue 3.

Our Findings:

Our research indicates that in some situations Manitoba Hydro (Hydro) utilizes a security deposit for both electricity and gas services. With respect to residential customers, Hydro's credit guarantee policy applies only to customers who are deemed a credit risk due to a poor credit history with Manitoba Hydro. The focus of the credit guarantee policy is to obtain complete customer information from all customers plus a credit guarantee alternative, such as signing up for Hydro's Pre-Authorized Payment Plan if there is a credit risk. In the event that this information is unavailable or not provided, a monetary security deposit is charged. The security deposit is refunded to the customer after 12 months of good payment history, including an interest payment. Manitoba Hydro's security deposit process is approved by the Public Utilities Board.

Our research also indicated that some cities in Ontario have implemented residential tenant water security deposits including the cities of Niagara Falls, Cambridge, Waterloo and London. Additionally, a deposit may be assessed for individuals requiring water and electric service in communities located in British Columbia and Alberta, utilizing EPCOR Water Services Inc.

Section 3 of the Water Works By-Law No. 504/73 provides authority for the department to charge a deposit for the supply of water based on an estimate of the water to be consumed quarterly or over another period. Given that Manitoba Hydro requires a deposit or credit guarantee from individuals who are deemed a credit risk prior to receiving utility services, there may be merit to introducing a credit guarantee and security deposit from customers who are considered a high risk of payment avoidance.

It is further noted that, although section 210(5) of *The City of Winnipeg Charter* states the city may establish deposits for any commodity or service it supplies without obtaining approval of the Public Utilities Board. The board advised our office it would not take issue with the implementation of a security deposit for customers deemed a credit risk due to poor credit history with the Water and Waste Department.

Another option available would be the introduction of a new deposit pursuant to *The Residential Tenancies Act* whereby the deposit is strictly for protection of the landlord from tenants' non-payment of water bills (where applicable). We understand that the association has requested that the province of Manitoba pass a legislative amendment to the act to allow this to occur.

Issue 7: Credit history of tenant and landlords

We were advised that if a landlord pays a tenant's outstanding water bill to prevent the amount from being added to their property taxes, there is no process in place to allow for the recovery of

those monies from the tenant, even if that same tenant applies for a water connection in the future.

The association says there are no repercussions for a tenant who fails to pay his or her water bill whereas if the landlord refuses to pay the outstanding bill, the landlord's credit rating is negatively impacted.

City of Winnipeg Response:

The City of Winnipeg maintains a credit rating on all accounts. A tenant whose unpaid water charges are paid by the landlord will still have a poor credit rating. The tenant's water account and credit rating will follow them to any future address where they apply for service. This credit rating will impact the tenant's ability to enter into payment plans in the future.

The credit rating of landlords who pay unpaid water charges on behalf of their tenants is not affected.

Our Findings:

The city keeps track of tenants who fail to pay their water bills through a credit rating system. Tenants with poor credit scores are less likely to be granted a payment arrangement request by the city.

The city also advised our office that a tenant's unpaid water charges from one address follow the tenant to their new address. While tenants with a poor credit history or with unpaid charges of less than \$100 are still entitled to service at a new location, once the amount owed at the new address exceeds \$100, the tenant's service may be disconnected.

We also note that unpaid water and sewer charges from one address will not be added to the property taxes of a landlord at another address. Moreover, amounts under \$100 are not added to property taxes.

Finally, if a landlord contacts the city for a credit rating on a tenant, the city will provide this information with a signed release from the tenant.

While the landlord's credit rating may be affected if the landlord refused to pay the outstanding bill of a tenant, there are negative consequences for tenants who fail to pay their water bill.

Issue 8: Administrative cost added to property taxes and withdrawn from landlord's account

The association indicated that landlords who pay a tenant's outstanding water bill before the due date are in some instances, due to errors in billing, being charged a \$30 administrative cost. The association claims that the city should reverse the erroneous \$30 charge instead of applying it as a credit against future taxes.

City of Winnipeg Response:

Outstanding water bills are not added to property tax until a minimum of 20 days past the due date. If it is determined that an administrative error was made, the Department has a mechanism to charge the \$30 administration fee back to the Water and Waste Department. Occasionally, they will reverse an amount added to tax as a customer service gesture in which case the Department may not reimburse the customer for this cost. So, if an error is made, the administrative fee can be removed from a landlord's account, but if a bill added to taxes is removed for the landlord's convenience, the administrative charge remains on the tax roll.

Our Findings:

The city has a mechanism whereby the \$30 administration fee can be reversed if it was mistakenly applied due to an administrative error on its part. If landlords experience problems with this administrative practice in the future, they have the option of bringing it to the city's attention.

Issue 9: Unpaid water bill to be included in the landlord's Tax Installment Payment Plan (TIPP) payment before they were notified that a bill was added to their property tax.

The association questioned the appropriateness of including an unpaid water bill in a landlord's TIPP payment before being notified that the bill would be added to their property tax.

City of Winnipeg Response:

The Department confirmed with the Tax and Assessment Department that any water bills added to the tax roll between the 1st and 15th of the month come out of the next month's TIPP payment. Anything added between the 16th and the end of the month comes out of the following month's TIPP payment. For example, a tax addition processed on March 12th would come out April 1st while a tax add processed on March 22nd would come out May 1st. A letter is sent to the property owner the same day that the water bill is added. Therefore, unless there are issues with Canada Post, the customer should receive notification in time.

Our Findings:

When an unpaid water bill is added to the property taxes of a landlord, the landlord is immediately advised by letter.

The Assessment and Taxation Department website also provides detailed information regarding their TIPP program, including information on additional charges, such as outstanding water accounts, that may be added to the tax roll and how it affects the TIPP monthly payment.

The city's response indicates the notification period prior to a monthly TIPP adjustment is between 15 and 45 days which is consistent with the Public Utility Board's policy which states

that the due date for a billing statement should not be less than 14 days after the billing/notification date. As such we find the city's notification process and timelines to be reasonable.

ANALYSIS

During the course of our review, we carefully weighed all evidence provided by the complainant and the City of Winnipeg. Additionally, our office investigated practices in jurisdictions across Canada with respect to unpaid water bill policies.

The majority of jurisdictions, including the City of Winnipeg, have policies in place and provide customer support in order to assist landlords in mitigating their business risks and avoiding unpaid tenant water bills. While some Canadian cities differ from the City of Winnipeg in that they require a deposit for water service, and/or provide a monthly budget payment plan, the practice to add a tenant's unpaid water charges to a landlord's property taxes is consistent with the practice in Manitoba and the majority of provinces in Canada.

There are risks associated with many business ventures, including the business of property rentals. We acknowledge the city's position that landlords have a responsibility and some control over the selection of tenants who reside at their properties.

While the City of Winnipeg has the legal authority to add a tenant's unpaid water charges to a landlord's property taxes, it would appear that landlords are treated differently with respect to other Manitoba utilities, in the manner by which the collection of unpaid tenant bills are enforced.

The City of Brandon provides a monthly budget payment option whereas the City of Winnipeg bills customers on a quarterly basis. Given that one of the concerns of landlords is the impact of a large quarterly water bill on their tenants, the City of Winnipeg may want to consider a monthly budget payment plan similar to the City of Brandon's practice.

We also reviewed Manitoba Hydro's credit guarantee policy for residential tenants deemed to be of high risk due to a poor credit history with their utility. We believed this comparison was important due to the similarity of both utilities (Water and Hydro) providing services to the same customer at the same physical location.

Manitoba Hydro requires a deposit or credit guarantee from individuals who are deemed a credit risk prior to receiving utility services. As such, the City of Winnipeg may want to review the merits of introducing a credit guarantee and security deposit from customers who are considered a high risk of payment avoidance.

CONCLUSION

Based on our review of all the information provided, the City of Winnipeg has the legislative authority pursuant to subclause 210(4)(c)(iii) of *The City of Winnipeg Charter*, to add a tenant's unpaid water bill to a landlord's property taxes.

Achieving a balance between a public body's statutory authority, public interest, and the principles of fairness can prove difficult. This particular case is a good example. Our office has reviewed the responses provided by the City of Winnipeg to the issues raised. While we have identified some areas of administrative improvements for the city to consider, we are of the view that the city has taken steps to reduce any elements of unfairness that landlords may experience. As such our office is unable to conclude that the City of Winnipeg's actions/decisions are unreasonable.

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