

13

14-4 (6) 70

THE CORPORATION OF THE DISTRICT OF BLADBY

INTER-OFFICE COMMUNICATION

TO: MANAGER

DEPARTMENT:

SEP - 1 1970

DATE: Sept. 3, 1970.

FROM: SOLICITOR

DEPARTMENT:

MUNICIPAL MANAGER'S
OFFICE

OUR FILE #

SUBJECT: INTER-CITY EXPRESS (1955) LTD. ET AL.

YOUR FILE #

By his letter of August 25, 1970, the Clerk has asked me to report to you my opinion on the following questions:

- (a) whether the use being made of the subject property at 7976 Winston Street by the three Companies, Inter-City Express (1955) Ltd., British Pacific Transport Limited and Overland Freight Lines Ltd., is a legal use within an M1 District, and
- (b) whether the Companies' operations should be classed as a truck terminal or a cartage and express service.

Unfortunately, the expressions "truck terminal" and "cartage, delivery and express facilities" are not defined in the by-law, and the dictionary definitions, if they exist, are of little help. Further, little help may be derived from considering the by-law provisions dealing with M1 and M2 zones. The M1 zone provides for the accommodation of light manufacturing uses under conditions designed to minimize conflict with surrounding uses. Certain specified commercial and service uses are permitted, including "cartage, delivery and express facilities". The M2 District provides for the accommodation of general industrial activities under conditions designed to minimize conflicts with surrounding uses and also permits certain commercial and service uses, including truck terminals.

It appears that application was first made for use of this particular site by Inter-City Express (1955) Ltd., which was described to municipal officials as a cartage and express service whose trucks were dispatched to points within the city area for delivery of goods and that goods were only and infrequently handled on the premises and under exceptional circumstances only. It now appears, however, that two other Companies are using the site and that these Companies are exclusively highway hauling contractors. I have noted that the License Inspector has interpreted "truck terminal" to mean a place where goods are loaded and unloaded and transferred from one vehicle to another. This interpretation may be correct, and if it is, there is little of this activity done at 7976 Winston Street at the present time, although a representative of the property-owners has pointed out to Council that such activities have taken

Item 21
Manager's Report No. 49, 1970

..... 2

THE CORPORATION OF THE DISTRICT OF BURNABY

INTER-OFFICE COMMUNICATION

TO: MANAGER

DEPARTMENT:

DATE: Sept. 3, 1970.

FROM: SOLICITOR

DEPARTMENT:

OUR FILE #

SUBJECT: INTER-CITY EXPRESS (1955) LTD. ET AL.

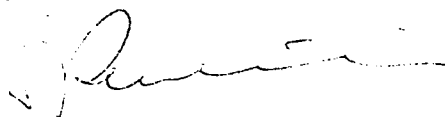
YOUR FILE #

Page 2.

place and that trucks enter and leave the premises some-times during the night and early morning. Today I inspected the premises and found thereon some trucks which properly could be described as vehicles for inter-city cartage, but also some oil tankers and other units which would more likely be used for long-distance hauling. My impression was that these premises were not simply being used for "cartage and express facilities". However, in no sense could the operation at 7976 Winston Street presently be compared with the nearby operation of Chapman Transport, which is certainly a full-scale truck terminal with facilities for trans-shipment of goods.

The present controversy arises because the by-law uses terms which have no exact definition in ordinary usage and are not defined in the by-law, and I have to point out that no matter what one's opinion may be, a zoning by-law is always construed in favour of the land-owner on the principle that a land-owner is entitled to do what he wants on his own property unless clearly restricted by law. If there is any ambiguity, it is always resolved in favour of the land-owner.

At the last Council meeting, a motion was passed to strike a committee comprising of representatives of the Companies, adjacent property-owners and staff to attempt to work out some acceptable solution. In my opinion, this is the course which should be pursued, and hopefully some agreement should be reached.



W.L. Stirling,
MUNICIPAL SOLICITOR

WLS:mc