

ITEM 1

MANAGER'S REPORT NO. 25

COUNCIL MEETING April 1/74

Re: Request for Exemption of Federal Taxes
Central Park Branch Library

The Municipality has not been successful in obtaining an affirmative ruling on Section 46(b) of the Excise Tax Act, and as a result, cannot request a refund of Federal taxes on the purchase of materials that will be used for the interior construction of the Central Park Branch Library. Following is a report from the Purchasing Agent on this matter.

RECOMMENDATION:

THAT Council appeal to the Honourable Mr. Robert Stanbury, Minister of the Department of National Revenue, for a ruling on Section 46(b) of the Excise Tax Act that will permit an exemption of applicable taxes on materials that are being purchased by the Municipality of Burnaby for the interior construction of the Central Park Branch Library that will be operated on a non-commercial basis in a leased building at 4221 Kingsway, Burnaby 1, B.C.

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TO: MUNICIPAL MANAGER

DATE: March 25, 1974

FROM: PURCHASING AGENT

RE: Federal Taxability - Construction of Central
Park Library

Under section 46 (b) of the Excise Tax Act there is provision for the refund of Federal tax paid for the construction of public libraries.

As you are aware, this Municipality is currently finishing construction of a new branch library (Central Park) under a contract with Double V Contracting Ltd. for \$164,954.00.

We feel that this project meets the criteria called for to obtain this federal sales tax refund. Using the formula allowed under the act this would amount to 2.85% of the total contract cost of \$164,954.00 which is \$4,701.19.

Therefor two written inquiries have been forwarded to the local values and classifications branches, initially to the New Westminster district manager and later to the Regional Chief for review. In both instances the ruling was negative, in the first place because it was "a portion of a leased building", and in the final review that the building "must be owned by the organization that operates the library".

Section 46 (b) of the act is worded as follows:

Where materials have been purchased by or on behalf of

"... any organization for use exclusively in the construction of a building for that organization that is to be used exclusively or mainly as a public library operated by or on behalf of that organization on a non-commercial basis..."

and the tax imposed by Part V has been paid in respect of those materials, the Minister may upon application pay to that Corporation an amount equal to that tax.

When this department sought clarification from our Legal Department of the meaning of the act in regard to the definitions of "ownership" and "building", the Municipal Solicitor suggested that it did not really matter since any refunds were "in the discretion of the Minister. It is not a refund as a right."

In this context direct intervention to the Minister is the only recourse left to us.

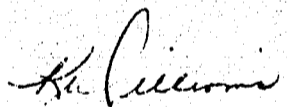
We would recommend this approach for several reasons.

- 1) The intent of section 46 (b) of the Excise Tax act is to grant exemption from Federal Sales tax for the construction of public libraries.
- 2) The concept of leasing is a relatively new approach in library siting. It is being done to guarantee maximum public use and service because of utilization of the very high density that the privately owned Burnaby Centre will provide.

The project was developed during a period of excessive high costs wherein leasing met the two important aims of maximum service to the public with a minimum of capital outlay. For this we should not be penalized.

RECOMMENDATION:

That the Municipal Council approach the Minister and endeavor to have the previous decision reversed.


PURCHASING AGENT

JRH/jk