

Re: LETTER FROM THE MAYOR OF PRINCE RUPERT WHICH APPEARED ON  
THE AGENDA FOR THE MARCH 28, 1977 MEETING OF COUNCIL  
(Item 4d)  
Business Tax

Appearing on last week's agenda was a letter from P. J. Lester, Mayor of Prince Rupert, regarding a supreme court decision on the definition of the word "resident" as it pertains to business taxes on transportation companies. Following is a report from the Chief Licence Inspector on this matter.

RECOMMENDATIONS:

1. THAT the Honourable Hugh A Curtis, Minister of Municipal Affairs, be requested to examine Section 441 (a) of the Municipal Act and any other section of the Act that may apply, and make amendments as may be required to make it abundantly clear that municipalities have the authority to impose business taxes on premises used by motor and other carriers.
2. THAT a copy of this report be sent to Mayor P. J. Lester.

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TO: MUNICIPAL MANAGER  
FROM: CHIEF LICENCE INSPECTOR  
RE: BUSINESS TAX

At the meeting of 28 March 1977 Council received a letter from Mayor P.J. Lester, City of Prince Rupert, concerning a Supreme Court decision of Mr. Justice Meredith relating to the collection of business tax on the C.P.R.'s New Westminster terminal. Mayor Lester requested Council's support in seeking an amendment to the Municipal Act to make it abundantly clear that municipalities have the right to impose business taxes on premises used by motor and other carriers.

The Municipal Solicitor has looked at the decision and has stated that, in his opinion, it is wrong. No appeal has been made by the City of New Westminster against this decision.

Currently we are licencing and collecting business tax from 29 truck terminals and 20 cartage express facilities. The gross 1977 business tax for these two categories is \$99,167. We are doing so under the provisions of Sections 427, 439 and 440 of the Municipal Act, which appear to be adequate authority to do so. However, Section 441 provides "The following non-resident businesses are not required to hold a licence under this Division:"  
Subsection (a) reads:

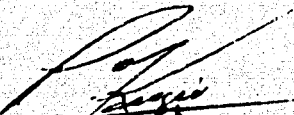
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"Owners or operators of carriers other than taxicabs who either pick up passengers or chattels within the municipality for discharging or delivery outside the municipality or discharge or deliver within the municipality passengers or chattels picked up outside the municipality, or both, unless the municipality forms part of a trading area designated for carriers under Section 457A."

Our interpretation of this Section is that it applies only to carriers using district streets without benefit of business premises within a municipality. Mr. Justice Meredith has ruled otherwise. Therefore, it seems to me that the Department of Municipal Affairs should examine this Section of the Act and effect whatever amendments deemed necessary to ensure that it relates only to carriers using district streets, without benefit of business premises within a municipality.

RECOMMENDATION

1. THAT the Department of Municipal Affairs be requested to examine Section 441 (a1) of the Municipal Act and amend it as necessary to make it abundantly clear that municipalities have the authority to impose business taxes on premises used by motor and other carriers.

  
P. A. Renzle  
CHIEF LICENCE INSPECTOR

PK:gw

cc: Municipal Treasurer  
Municipal Solicitor