

RE: DAVID B. FAIREY - HIS APPEAL TO THE COURT OF REVISION  
ON THE ASSESSMENT OF THE SHELL OIL REFINERY AND HIS  
REQUEST FOR SUPPORT ON HIS APPEAL TO THE ASSESSMENT  
APPEAL BOARD

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The following is a report from the Municipal Treasurer re the above.

RECOMMENDATION

1. THAT the recommendations of the Municipal Treasurer be adopted.

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1980 March 17

TO: MUNICIPAL MANAGER

FROM: MUNICIPAL TREASURER

RE: DAVID B. FAIREY - HIS APPEAL TO THE COURT OF REVISION  
ON THE ASSESSMENT OF THE SHELL OIL REFINERY AND HIS  
REQUEST FOR SUPPORT ON HIS APPEAL TO THE ASSESSMENT  
APPEAL BOARD

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RECOMMENDATIONS

1. THAT, for reasons outlined in this report, staff do not recommend financial support for Mr. Fairey's appeal to the Assessment Appeal Board; and
2. THAT consideration not be given at this time for an appeal by the Municipality on the Shell Oil Refinery assessment to the 1981 Court of Revision; and
3. THAT a copy of this report be sent to Mr. Fairey.

REPORT

After hearing David B. Fairey's presentation on the above cited subject at the Council meeting of 1980 March 10, Council directed staff to determine if his appeal has merit and whether Council should support same.

BACKGROUND

Mr. Fairey lodged a third party appeal to the Court of Revision against the 1980 values for assessment purposes on the Shellburn Refinery and his hearing was scheduled for 12 noon on 1980 February 26. The Court convened for the hearing at the proper time, with representatives from Shellburn and the Assessment Authority present. Mr. Fairey did not appear at this time; consequently, no evidence was presented to indicate that the assessment was in error, and it was confirmed subject to Assessor's recommendations by the Court. Mr. Fairey arrived ten minutes later and found that the Court had adjourned.

Mr. Fairey has fourteen days from the date of mailing of the notice of the decision of the Court of Revision, on which to file his notice of appeal to the Assessment Board of Appeal, giving the grounds for appeal. We are given to understand that the notice concerning the decision of the Court of Revision will go out in about ten days' time. In prior years, the Board of Appeal has met as early as April and as late as August.

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#### BASIS OF MR. FAIREY'S APPEAL

In his brief, Mr. Fairey bases his case on two major points:

1. His contention that refinery throughput should be used as a basis for realty assessment of a refinery.
2. His contention that the present day value of the land should be much greater than shown on the assessment roll in comparison with comparable industrial tidewater property on the other side of the Inlet, less comparable tidewater land in the City of New Westminster and light industrial land in Burnaby.

This property is zoned M3 and has a total area of 220.21 acres ranging in elevation from sea level to 465 feet at Hastings Street. Development within the site is limited to a total area of approximately 123.17 acres due to severe grades and ravines throughout the site. 97.14 acres are either unsuitable for development or required to maintain buffer zones between industrial and residential property. It would appear that the site as used by the refinery is being put to its best possible use. A sketch of the site is attached.

#### THE POSSIBILITY OF MUNICIPAL SUPPORT FOR MR. FAIREY'S APPEAL

Mr. Fairey's appeal is a private matter between himself and the Assessment Authority, the Court of Revision and the Assessment Appeal Board. While it is of considerable public interest, it is questionable that Burnaby can spend public money in support of his appeal, other than provide data from our records, as we would to other members of the public in similar circumstances. Practical considerations are that time may be short. In previous years, the date of sitting of the Board occurred in months as far apart as April and September. If the former, there would not be time to prepare an adequate appeal.

Burnaby itself cannot appeal to this particular Board at this time. To be able to do so we would have had to make an appeal to the Court of Revision as a prerequisite.

If Council considers that the Corporation should pursue the matter, it would be necessary to engage a firm of consultants to prepare the required data and, as an expert witness, present it to the 1981 Court of Revision and subsequently to the 1981 Assessment Board of Appeal, as the case may be. We have no such person on staff.

Your Treasurer has talked to the senior appraiser of one of the largest industrial appraisal firms in metropolitan Vancouver concerning this matter. The opinion offered was that his firm would not be prepared to make an appraisal of the refinery unless they received full right of access to the refinery and co-operation from refinery officials. The Municipality does not have the right of entry. His company would, though, be prepared to offer an opinion of the value of the refinery site without a physical examination of the property or the records of the company. He stated that this process would be time consuming and expensive.

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Your staff are of the opinion that the valuation for assessment purposes of the refinery lands may be low in comparison with today's market, but then so are the majority of lands in the community, probably due to the time lag between sales and the assessment process. Certainly, sales of residential lands reflect market prices much in advance of the values reflected in the assessment roll. However, the difficulty is that there are only two refineries in Burnaby which are located on lands ridden with ravines, and it could very well be that the value of the land is a reflection of the use to which it is being put.

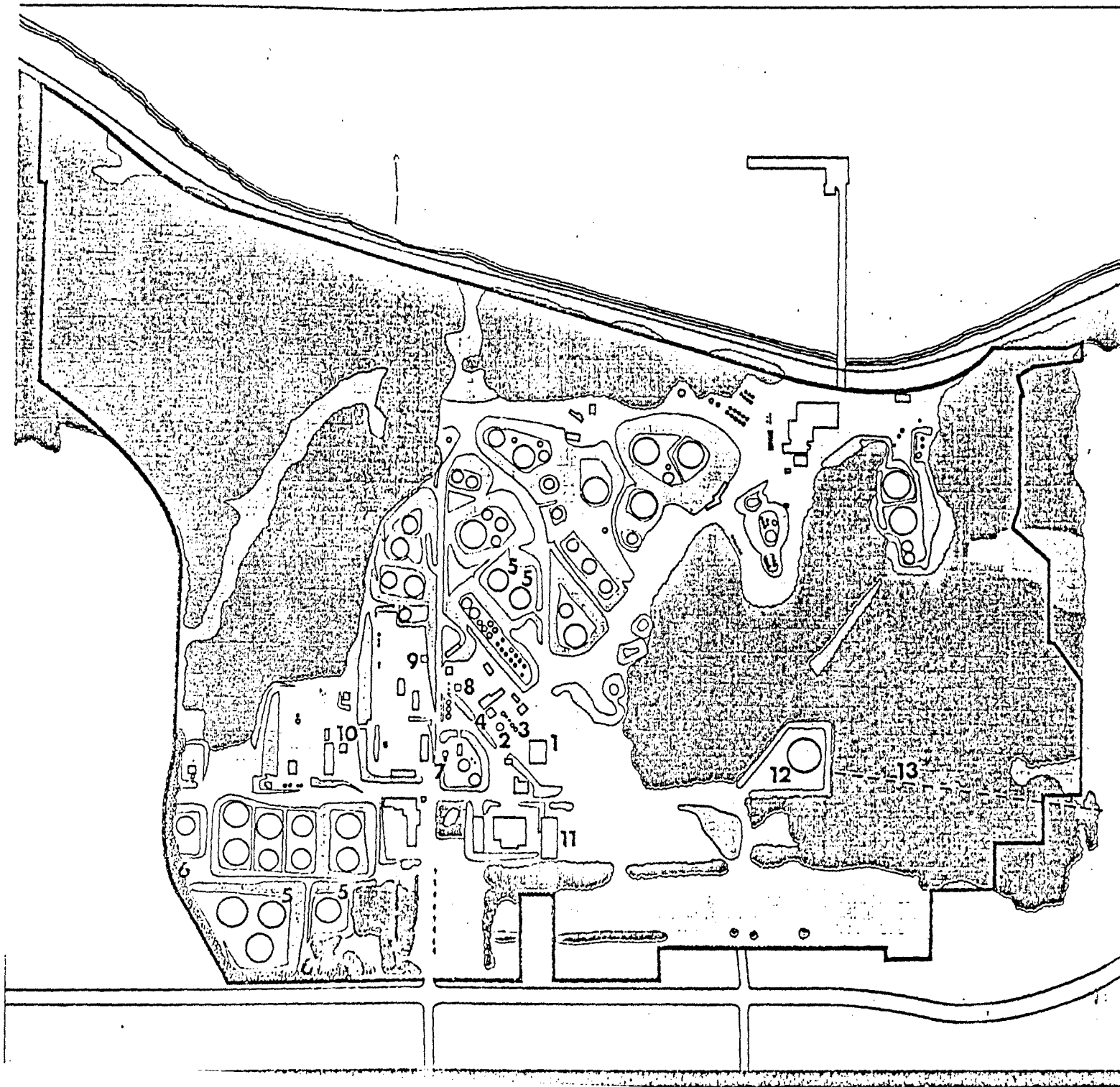
Staff have not been able to determine that Mr. Fairey's brief has merit and must advise Council that any support given to Mr. Fairey's appeal must be moral in nature or an offer to provide him with assessment data in the manner that it would do for other citizens in like circumstances.

  
MUNICIPAL TREASURER

BM:gw  
Attach.

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**Legend**

1. New Separation Column Facility
2. New Distillation Furnace  
replaces five old Distillation Unit  
Furnaces
3. Five old Distillation Unit Furnaces
4. New Asphalt Oxidizer
5. New Finished Product Tanks
6. New Tree Screening
7. Additional Sulphur Recovery  
System & New Boilerhouse  
Stack
8. New Cooling Tower
9. New Waste Heat Boiler
10. New Platformer Furnace &  
Reactor
11. Relocated Purchasing/  
Stores Building
12. New Product Mix Tank
13. New Product Mix Pipeline