

ITEM	2
MANAGER'S REPORT NO.	59
COUNCIL MEETING	1981 11 23

RE: CORRESPONDENCE FROM MR. F. J. OWENS
ACREAGE THAT WAS SUBDIVIDED IN 1959
(ITEM 3g, PAGE 21, COUNCIL AGENDA 1981 JUNE 22)
(ITEM 18, REPORT NO. 31, 1981 JUNE 29)

MUNICIPAL MANAGER'S RECOMMENDATION

1. THAT the recommendation of the Director Planning & Building Inspection be adopted.

* * * * *

TO: MUNICIPAL MANAGER PLANNING DEPARTMENT
FROM: DIRECTOR PLANNING & BUILDING INSPECTION 1981 NOVEMBER 16
SUBJECT: CORRESPONDENCE FROM MR. F. J. OWENS
ACREAGE THAT WAS SUBDIVIDED IN 1959 OUR FILE: 15.306

RECOMMENDATION:

1. THAT a copy of this report be sent to Mr. F. J. Owens, 7122 McBride Street, Burnaby, British Columbia, V5E 1R2.

REPORT

BACKGROUND:

Appearing on the agenda of the Council meeting on 1981 June 22 was a letter from Mr. F.J. Owens in which he alleges that he was unfairly dealt with by the Municipality when some lands were subdivided in the Forglan area in 1959. A further letter from Mr. Owens on this subject was received by the Municipal Clerk (1981 August 10). A copy of this letter, the above noted correspondence and a map showing the existing subdivision pattern in the area is attached.

In a report to Council (1981 June 29), it was indicated that a further report would be forthcoming once a review of the matter had been completed. We contacted Mr. Owens by phone (1981 November 12) and discussed the matter with him, outlining the Municipality's position and indicating that a copy of the report on the subject would be sent to him.

The files on this subject are no longer active, due to the length of time involved (22 years). It is considered, however, that sufficient material has been uncovered to provide a reasonable response to Mr. Owens. A chronological summary has been prepared and, where applicable, our bracketed comments follow relating to the points raised and allegations made by Mr. Owens.

PLANNING DEPARTMENT
RE: CORRESPONDENCE FROM MR. F.J. OWENS
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CHRONOLOGICAL SUMMARY OF PAST ACTIONS:

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1. 1956 August 10 - Council resolved to initiate the Replotting Scheme for the Forest Glen area in accordance with Section 33 of the Town Planning Act. Subsequently, consent forms were received from the owners of 70% of the number of privately held parcels in the area. Among these was Mr. F. J. Owens as the "Agreement Holder" of Lot 9 which was held in the name of the Director of the Veterans' Land Act.
(This would indicate that Mr. Owens was a party to the scheme and in agreement with its proposals - see final paragraph in his letter of 1981 August 06, which is attached.)
2. 1956 December 03 - Council approved the sale of 13 of the 26 Corporation owned lots that were created by the Forest Glen Replotting Scheme. It is noted, however, that Lot 10 was not included in this group. Lot 10, together with a number of other properties, was withheld on the advice of the Sanitation Department that, due to size and physical characteristics, it would not be suitable for sewage control by septic tank and drainage field methods.
(The area was to be serviced by roads and watermains. Sewage, however, was to be handled by septic tank fields. Mr. Owens in his correspondence tends to place the emphasis on the irregular shape of the lot as a reason for making it unbuildable rather than its physical unsuitability for a septic tank.)
3. 1958 April 14 - Council adopted a number of recommendations concerning the Forest Glen Replotting Scheme, including the following:
"That Francis Joseph Owens and Paul Edwin Jones be permitted to purchase Block 9, of Lot 32, Group 1, New Westminster District, Plan 17168 and Block 48, of Lot 32, Group 1, New Westminster District, Plan 17168 from the Municipality at the current market value of each lot respectively.
All of the foregoing recommendations are subject to subdivision plans being presented by the owners for approval before the 31st day of December 1958, except in the case of Francis Joseph Owens who will not have completed his purchase from the Director, The Veterans' Land Act until the end of May 1959. In his case I think the time limit should be extended until this later date."
(This relates to item 7 below.)
4. 1959 March 07 - Letter from Mr. F. J. Owens enquiring about the possibility of purchasing Lot 10 from the Corporation, which was located immediately to the south of Lot 9.
5. 1959 March 17 - Responding letter from Mr. E.W. Grist indicating that the agreement made by the Corporation was for Lot 9 only under which Mr. Owens would be allowed to purchase Lot 9 at a predetermined figure upon completion of his agreement with the Veterans' Land Act authorities. It was also pointed out that the Corporation owned Lot 10 was being withheld from sale, "... and in all probability would be held until such time as sewers are available in the district". (see attached 1959 March 17 letter)
(It was following this that Mr. Owens alleges being told, "... that Lot 10 would have to go in with Lot 9 because of irregular shape of Lot 10 and that Lot 10 could not be sold." - second paragraph in letter of 1981 August 06. Mr. Owens also indicated that Mr. Balfour had, prior to this, verbally agreed to the sale of Lot 10. This is, however, at variance with the information on our files).
6. 1959 April 02 - The sum of \$1,825.00 was received from Mr. F.J. Owens for the servicing of Lot 9 - copy of receipt attached to letter of 1981 August 06.
(Relates to item 3 above.)

PLANNING DEPARTMENT
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7. 1959 May 04 - The sum of \$1,975.00 was received from Mr. Owens re purchase of Lot 9 - copy of receipt attached to letter of 1981 August 06.
8. 1970 February 06 - Lot 10 was sold by the Corporation for \$7,170.00. Subsequently, a house was constructed on the property.
(This sale followed the sewerage of the area and, as a consequence, made Lot 10 suitable for development - a situation which did not apply to the property in 1959.)

Mr. Owens feels that he is entitled to compensation from the Municipality - the sum of \$5,000.00 is mentioned - because Lot 10 was sold for a much larger amount in 1970 than its value in 1959.

CONCLUSIONS:

In conclusion, it is quite clear that Lot 10 was unbuildable in 1959 since it was unsuitable for servicing by a septic tank. However, this situation changed following the sewerage of the area and the Municipality was quite within its rights to sell Lot 10 for residential development, which was done under the usual procedures (by public tender).

It seems that Mr. Owens has misinterpreted the intentions of the Municipality with respect to the disposition of Lot 10 and that his contention that the property would be sold to him in 1959 was the result of a misunderstanding. Indeed, all of the available information confirms that the Municipality intended to retain Lot 10 until the area had been seweraged, at which time it would become a developable property.

Finally, it is our view that the evidence which has been provided by Mr. Owens in support of his claim is very sketchy and incomplete, an opinion which is shared by the Municipal Solicitor, whom we have consulted on the matter. This is also supported by our files which, although incomplete, serve to indicate that the Municipality acted properly in its handling of the situation.

The Municipal Solicitor has noted that, in the event that there had been an unlawful action (which there has not been), Section 754 of the Municipal Act would apply. This section, which limits the period of time within which actions may be taken against a Municipality, reads as follows:

"All actions against a Municipality for the unlawful doing of anything purporting to have been done by the Municipality under the powers conferred by an Act of the Legislature, and which might have been lawfully done by the Municipality if acting in the manner prescribed by law, shall be commenced within 6 months after the cause of action shall have first arisen, or within a further period designated by the Council in a particular case, but not afterwards."

This is for the information of Council.



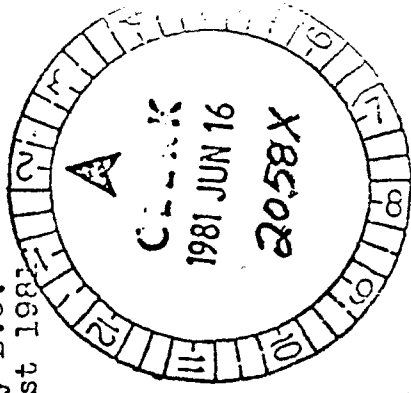
A. L. Parr
Director Planning &
Building Inspection

RBC/tgg
attachments

c.c. Municipal Solicitor
Assistant Director - Long Range
Planning and Research

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7122 McBride St,
V5E-1R2
Burnaby B.C.
June 1st 1981



Corporation of the District of Burnaby
Municiple Council,
4545 Grandview Highway,
Burnaby 2. B.C.

Gentlemen;

I have been following the reports in the local papers and have been quite interested, I do not know Mrs Mann but she has my full sympathy, I had similar experience in 1959 when I sub-divided my property at what was then 4951 Buxton St in the Forest Glen Sub-division, I verbally was promised certain things that was later denied by the people in charge of the land department and refused, this was in regards to on lot which was supposed to be returned to me for the original appraised price in order for me to go along with the proposed plan for sub-division which I was to pay \$1975.00 or give it to the Corporation one dollar, this was all verbal between my wife and my self and the men that called for my approval of the Sub-division and the plans they laid out at that time, I know that too much time has elapsed since 1959 and many changes has been made in the land division of Burnaby but I have always felt that the Municipality done me out of the appraised price of lot NO 10, plan 17168 as we where definatley promised that if we went along with the proposed sub-division at that time we could re purchase the lot at the original appraised price.

* I am sending along with letter some of the correspondence I had with the Land Department at that time.
I feel that Burnaby done me out of at least \$5000.00 as you can see from the information I was able to obtain that it was sold later for a far greater than value than what I was supposed to buy it back for.
I am only sending thi letter in support of Mrs Mann, I do not know her at hall but I feel that another injustice is being done to her.

Your Truly,
F. J. Owens
F. J. Owens.

(FRANCIS J. OWENS)

- A GENDA 1981 JUNE 22
- COPY- MANAGER
- SOLICITOR (FOR REPORT)
- APPROVING OFFICER

* THIS WAS NOT APPROVED TO THIS LETTER.

CORRESPONDENCE AND PETITIONS
Regular Council Meeting
1981 June 22

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Resume.

Replotting of what is known as the Forest Glen sub-Division from acreage to finished lots, the year 1959.

After 8 years service with the R.C.A.F. I purchased 1 and $\frac{1}{2}$ acres of land in May 1949 what was known at that time as 3205 Nelson Avenue, Newminister district, later known as 3805 Nelson Avenue S, Burnaby, I recieved a loan from Veterans Land act to help me reestablish myself after the years in the service, this I had to keep for a period of 10 years in order to obtain title for same.

I worked at out side employment and improved this place as it was badly run down when I moved in to it on May 1st 1949 for the period of 10 years as required by my contract with V.L.A.

Along about 1957 two representatives from the Corporation of the District of Burnaby called at my home one day and discussed the proposed Sub-Division with my wife and my self, previous to this the Corporation had engaged a firm of land appraisers and they had appraised all the land and placed a valuation on each lot and the cost of the Sub-division, there where I believe 12 other properties involved.

The two Gentlemen from Corporation from Burnaby laid out the preposed plan as to what moneys that we would have to pay and the land that we would have to give in order to complete their preposed plan, they advised my wife and my self that there was two lots of my property that we would have to give to the Corporation or pay the appraised price which was \$1975.00 for each lot or give it to Burnaby for one dollar, I agreed as well as my wife to the plan provideing that we could purchase both lots back at the appraised price in which they indicated to us would be satisfactory, this being our understanding we went along with their preposed plan.

On May 4th 1959 I went to the Municiple Hall of Burnaby with my money for lot 9-32/82 plen 17168 in the amount of \$1975.00 at first they refused to accept it at the appraised price as had been agreed on and indicated the wanted more money for it, I then went home and they phoned me later that they would accept it. a receipt I have which is attached.

I had written to the municipality on March 7th 1959 that I wanted to purchase the other lot which is known now as lot 10-32/82 plan 17168, Mr Crists letter in reply dated March 17th 1959, attached states that it is his understanding that I was only supposed to be allowed to purchase lot 9 of the plan, he further states that it is not suitable for building on due to the shape and size, after this I went to see A. Mr Belfour who was Municiple Manager, he advised me that this lot would have to go in with lot 10 as there was not enough room to build a house on and that I could not have it back at the appraised price as had been verbally agreed on previous to this.

CORRESPONDENCE AND PETITIONS
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Further in regards to this letter of March 17th 1959 from Mr Crist who is the property manager for the District of Burnaby that lot 9 is held in the name of Municipality of Burnaby, I phoned Department of Veterans Affairs to confirm the termination of my contract with them and they advised me that it was the month of June 1959, I do not understand how this lot could be held before the termination of my contract with D.V.A. this is not done from my experiance with the Government.

I would have not thought any more about this matter out side of the fact that I was treated unfairley and Given the run around, also I could not do any thing else to obtain lot 10 as agreed on, however some time ago I was driveing by this property and it came to my attention that a beautiful new house had been erected on this property much to my suprise after what had been told to me when I request to purchase my own property back in 1959.

I made enquiries from Permit department as to the value of the permit that was taken out for this house, they advised me that the house value was for \$20,500.00 the value of the lot which was sold by the Corporation of Burnaby for \$7,170.00 this was in February 6th 1970. resale of the house from contractor was \$40,000. I wish to point out here that the moneys that was paid in and the land given was only for the development of this Subdivision I gave them the land for the streets and lanes, I paid in cash \$1975.00 on May 4th 1959 and on April 2nd another \$1825.00 for services, receipts attached nos 1769 and 2597. I worked hard on this property as well as holding down a full time job with the B.C. Electric and later the B.C. Hydro, retiring in 1971 with the large pension of \$127.00 per month after 23 years service, I feel that and injustice has been done to me by the Corporation of the District of Burnaby and that I should be entitled to at least \$5000.00. as in my opinion I was given the brush off.

Francis J. Owens
Rose Owens (Wife)

CORRESPONDENCE AND PETITIONS
Regular Council Meeting
1981 June 22

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7122 McBride Street
Burnaby 1 B.C. V5B 1R2.

May 30th 1981.

Mr C. Woodward,
Inspector of Municipalities,
Victoria B.C.

Dear Mr Woodward;

I have followed the news on Mrs L. Mann with her trouble with the Municipality of Burnaby in their expropriation of her property at 9637 Cameron Street, I do not know this person at all but I am in full sympathy with her in regards to keep in her home, the Municipal Council used similar treatment to me when I subdivided my property in 1959, I am enclosing a resume that I had prepared at the time the property was subdivided in 1959.

I am absolutely done me out of the value of one lot, the appraised value of the lot was at that time was \$1875.60 which I was willing to pay and was part of my original property and which the people from Burnaby had agreed on, this had been all agreed on at this time with the people from Burnaby, when I went to pay them the appraised price the Municipal manager told me that this lot would have to go in with the one beside another beside it as it was unsuitable for a single family building lot as it was pie shaped and was not suitable for a house to be built on.

A couple years later I was driven by them and a beautiful home had been built on it, I am enclosing some of the correspondence I had with Burnaby at that time, so will understand my feelings about the unfair dealings with Corporation of Burnaby and I wish Mrs Mann good luck after my unfair treatment with them, I feel that they absolutely stole the lot from me through their lies, I would assure that most of the people involved in 1959 are no longer working for justice.

I thought I would pass this information on to you as I have always felt that I had been unfairly treated and I certainly hope that Mrs Mann will be treated fairly, I know that there is not many of the people that was in the council now that was there when I had my trouble, one time when I was in the Municipal Hall on business regarding my property a man from the department called me aside and told me that the people involved should get legal advice and that we would not be treated fairly otherwise, I am sending a copy of this letter to Burnaby Municipal for their information and I am enclosing a resume of this information for you to have this information.

Yours Sincerely,

Francis J. Owens

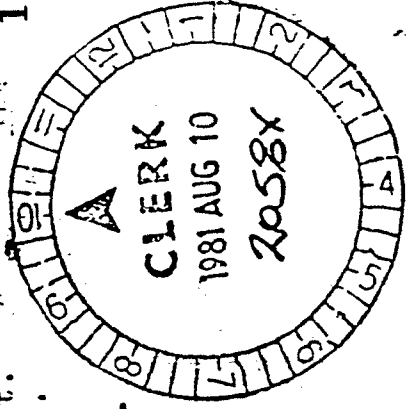
CC Burnaby Municipal Council.

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F.J. Owens
7112 McBride St.
Burnaby 1, B.C.

August 6, 1981

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Corporation of the District of Burnaby
4949 Canada Way
Burnaby, B.C.

Attention: Mr. B.D. Leche

Re: File 2258 Land Transaction Lot #10
Forest Glen Subdivision

Dear Sirs:

Thank you for your letter of July 2, 1981 regarding my dispute with the District of Burnaby.

I was told in 1959, that lot #10 would have to go in with lot #9 because of lot #10 irregular shape and that lot #10 could not be sold. I found out later that lot #10 had been sold and that there is a house built on it.

I wish to point out that I gave the land for streets and lanes and paid for all services on this property, including surveying costs. I also paid for electric and water services at the time of subdivision. I still have the receipts for \$1,825.00 and \$1,975.00 and shall enclose copies.

I am adding this information as I had overlooked those charges when I first contacted the Municipality regarding this injustice. I feel that the Municipal Representatives were not truthful with me as since that time, a house has been built on that property. I was told that the property could not be used for a house.

What I have said in previous correspondence are the true facts of this case. A question I would like to know is "Why the Municipality did not give the people in this subdivision a written agreement on their proposed intentions"?

Yours Sincerely

MANAGER
PLANNER

A handwritten signature in dark ink, appearing to read "F.J. Owens".

F.J. Owens

Enclosed are copies of receipts

NOTE:

1981 August 10

Staff is obligated to submit a report to Council on this matter (see attached Report Item 18 dated 1981 June 29)

ITEM 18
MANAGER'S REPORT NO. 31
COUNCIL MEETING 1981 06 29

ITEM 2
MANAGER'S REPORT NO. 59
COUNCIL MEETING 1981 11 23

RE: LETTER FROM MR. FRANCIS J. OWENS WHICH APPEARED ON LAST WEEK'S AGENDA
(ITEM 3(g))
ACREAGE THAT WAS SUBDIVIDED IN 1959

RECOMMENDATION:

1. THAT a copy of this report be sent to Mr. Francis J. Owens,
7122 McBride Street, Burnaby, B.C. V5E 1R2.

REPORT

Appearing on last week's agenda was a letter from Mr. Francis J. Owens regarding his feeling that he was not fairly dealt with when some land was subdivided 22 years ago.

Mr. Owens in his letter advised that he was attaching some correspondence that he had received in 1959 from the Municipal Land Department. A telephone conversation with him disclosed that he had forgotten to attach the correspondence, and he subsequently delivered this to the Municipal Manager's office on Thursday afternoon, June 25.

It is not known if this matter can now be properly investigated because: (a) the files appear to be incomplete; (b) with one exception, the persons on staff with whom Mr. Owens interacted in 1959 have retired; and (c) Mr. Owens bases his case on a verbal commitment that he says he received from the previous Municipal Manager.

Council will receive a further report when the review, which has been started, is completed.

* * * * *

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CORPORATION OF
 THE DISTRICT OF BURNABY
 4000 GRANDVIEW HIGHWAY
 Burnaby 2, B.C. *Apr 21 1982*

Received from *Mrs. J. J. Owens*
 5485 - Millon Ave Burn.
 the sum of *one thousand eight hundred & 25/100* Dollars

	Sewer System No.
	Sewer Inspection No.
	Colvert, Feet
	Gravel, Yards
	Misc. in kind for services to
<i>AF 20</i>	<i>Red line of Bk 5 A 9</i>
	<i>D.I. 32/82</i>
	Amount Tendered $\$1,825$

BART McCAFFERTY, Collector

No 2597

[Signature]
 Per. Clerk

RECEIPT

CORPORATION OF THE DISTRICT OF BURNABY
 4545 Grandview-Douglas Highway

Received FROM *Mrs. J. Owens*
 Burnaby 2, B.C. *May 4 1982*

	MAY-11-82
	2 3 1 2
	9 - 32/82 for 17168
	<i>E purchase of</i>
	<i>as per agreement on</i>
	<i>Single - 1975.00</i>
	1975.00
	(<i>Balance from other Bk's</i>)

No 1769 J

BART McCAFFERTY, Collector

[Signature]
 Per.

the total of the following sums:

1975.00

10X082194



THE CORPORATION OF THE DISTRICT OF BURNABY
PROPERTY DEPARTMENT

MUNICIPAL HALL
4545 E. GRANDVIEW-DOUGLAS HIGHWAY
BURNABY 2, B. C.

TELEPHONE
HEMLOCK 1-1411

March 17, 1959.

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ITEM 2
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Mr. F. J. Owens,
5488 Nelson Avenue,
Burnaby 1, B. C.

Dear Sir:

In reply to your letter of March 7th regarding the lot located on the north-west corner of Buxton Street and Forglen Drive, please be advised that this property is presently held in the name of the Municipality of Burnaby. The description of the subject property is Lot 10 of District Lots 32 and 82, Plan 17168.

Lot 9 which lies to the north of Lot 10 is registered in the name of The Director of the Veterans Land Act and it is my understanding that the agreement made by the Corporation is for Lot 9 only. Under this agreement you would be allowed to purchase Lot 9 at a predetermined figure upon completion of your agreement with the Veterans Land Act Authorities.

Lot 10 is at the present time withheld from sale and in all probability will be held until such time as sewers are available in the district. This is occasioned by a report received from our Sanitation Department that in their opinion the subject property does not contain enough area for the construction of a dwelling and at the same time obtain land sufficient for an adequate sewerage disposal plant by septic tank and drainage field methods.

This property as you are probably aware is almost triangular in shape having a frontage of approximately 54 feet on Forglen Drive and tapering down to 35 feet on the lane at the rear. Owing to the fall of the land it would be necessary to observe a major building line set back on this property thus forcing any dwelling to be built on the narrow part of the lot. For these reasons it has been deemed advisable to withhold this property from sale.

Yours truly,

E. W. Crist,
PROPERTY MANAGER.

ENC: J1

Printed copy sent to Mr. Owens