

ITEM 4
MANAGER'S REPORT NO. 45
COUNCIL MEETING 1982 07 26

Re: 1981 TAX LEVY ADJUSTMENTS

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Treasurer be adopted.

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TO: MUNICIPAL MANAGER

1982 July 19

FROM: TREASURER

File: G69-1a

RE: 1981 TAX LEVY ADJUSTMENTS

RECOMMENDATION

1. THAT Council, pursuant to Section 288 of the Municipal Act, petition the Minister of Municipal Affairs to authorize:

- (i) That 1981 taxes and penalties in the amount of \$5,365.50 levied due to a conveyancing error against Atonement Lutheran Church, 6344 Sperling Avenue, Burnaby, be written off; and
- (ii) That 1981 overpayment of taxes in the amount of \$388.90, due to a B.C. Assessment Authority error, be refunded to the owner of 4971 Imperial Street, Burnaby.

SUMMARY

The 1981 Assessment Roll contained two errors. One provided assessment against Atonement Lutheran Church, 6344 Sperling Avenue, for the portion of their property that should have been exempt as a church. This resulted from a conveyancing error in transferring title of property. The other relates to an apartment building at 4971 Imperial Street which, through a clerical error, was assessed as 27 two-bedroom suites where 27 one-bedroom suites exist. The B.C. Assessment Authority is not empowered to make adjustments to correct these errors. However, Council may seek a Ministerial order to empower us to make the specific adjustments.

REPORT

1. Atonement Lutheran Church, 6344 Sperling Avenue, Coordinate 6695-6344-0000

By-law No. 7593, Burnaby Taxation Exemption By-law No. 9, 1980, exempted for 1981, land owned by the Evangelical Lutheran Church of Canada occupied by Atonement Lutheran Church, and described as part of Lot 12, D.L. 92, Group 1, Plan 23891, New Westminster District.

Section 398(h) of the Municipal Act grants tax exemption to a building set apart and in use for the public worship of God, the land on which the building stands and such area of land surrounding the building as may be determined by Council. By-law No. 7593 determined total exemption for this property and was adopted by Council on 1980 November 24.

Section 399(1) allows this exemption only if title to the land is registered in the name of the religious organization or trustees for the organization. Title to the said Lot 12 was transferred by the Evangelical Lutheran Church of Canada to Ernest Richard Frank Stout and Phillip Richard Cyr on 1980 November 10. When this transfer came to the attention of the Assessment Authority, the said Lot 12 was placed on the Assessment Roll in the names of Stout and Cyr, and lost the tax exemption. The Assessment Roll was confirmed by the Court of Revision. The transfer of Lot 12 was done in error by the conveyancer. Apparently the transfer should have been of Lot 12, Block 155 of Lot 92, Group 1, Plan 1942, New Westminster District, upon which the church manse was located. When the error was discovered, Lot 12 was retransferred by Stout and Cyr to Atonement Lutheran Church on 1981 January 12.

Taxes levied for 1981 totalled \$5,507.36. The correct levy, based on the portion of the property that does not qualify for exemption, should have been \$639.66. This amount has been paid by the Church. The difference is \$4,867.70, plus applied penalties of \$497.80, bringing the total outstanding to \$5,365.50.

The conveyancer has accepted responsibility for the error and requests that, if possible, an adjustment be made to provide relief from liability for the outstanding amount.

Council is not empowered to forgive taxes which have been levied in accordance with an Assessment Roll confirmed by the Court of Revision; nor shall they enact a retroactive exemption by-law.

The 1982 church exemption has been applied to this property.

2. Apartment, 4971 Imperial Street, Coordinate 3100-4971-0000

The 1980 Assessment Roll correctly identified these premises as comprising 27 one-bedroom suites. On the 1981 Roll they appeared incorrectly as 27 two-bedroom suites. This resulted in an overpayment of \$388.90 in 1981. The error was repeated in 1982; however, it was identified by the owner and it will be corrected in a Supplementary Assessment Roll and the current tax levy will be adjusted accordingly.

The B.C. Assessment Authority advises that pursuant to the Assessment Act, Section 11(3), they cannot correct an error in the 1981 Roll after 1981 December 31.

Council is not empowered to refund taxes which have been levied in accordance with an Assessment Roll confirmed by the Court of Revision.

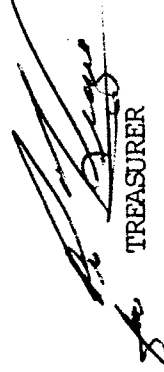
3. Corrective Action

The solution to the two items is Ministerial approval pursuant to Section 288 of the Municipal Act. Section 288 reads:

"In addition to the powers of a Municipal Council under this Act, the Minister may from time to time confer on the Council further powers for the management and disposal of Municipal assets considered by the Minister necessary or advisable."

Both cases have been discussed with members of the office of the Ministry of Municipal Affairs. It was indicated that consideration would be given to a resolution of Council dealing with an adjustment and a refund.

If Ministerial approval is granted, the adjustment and the refund will be treated in the manner that an item on the Supplementary Assessment Roll is handled. This will enable the Corporation to recover those amounts which have been disbursed to the various taxing authorities for which we act as a collection agent.



TREASURER