

ITEM 17  
MANAGER'S REPORT NO. 77  
COUNCIL MEETING 85/12/09

RE: LETTER FROM THE REV. C.A. LENZ, RECTOR, CHURCH OF CHRIST THE KING,  
ANGELICAN CHURCH OF CANADA, 4550 KITCHENER STREET, BURNABY, B.C., V5C 3M7  
PROJECT NO. 85-050 - 1985 LOCAL IMPROVEMENT PROGRAM

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Municipal Clerk be adopted.

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TO: MUNICIPAL MANAGER DATE: 1985 DECEMBER 04  
FROM: MUNICIPAL CLERK FILE:  
SUBJECT: PROJECT NO. 85-050  
1985 LOCAL IMPROVEMENT PROGRAM

RECOMMENDATION:

1. THAT a copy of this report be forwarded to The Reverend C.A. Lenz, Rector, Church of Christ the King, 4550 Kitchener Street, Burnaby, B.C., V5C 3M7.

S U M M A R Y

Appearing on the Council agenda for this evening's meeting is a letter from the Reverend C.A. Lenz, Rector, Church of Christ the King, requesting to appear as a delegation before Council regarding the initiation process in connection with the proposed local improvements to Kitchener Street between Willingdon Avenue and Westlawn Drive. The purpose of this report is to provide Council with related background information and the reason for staff's determination that the petition of the Parish of Christ the King Church (4514, 4550 and 4556 Kitchener Street) and W.E. Fraser (4611 Westlawn Drive) was not sufficient.

R E P O R T

The 1985 Local Improvement Program included, as Project No. 85-050, proposed improvements to Kitchener Street from Willingdon Avenue to Westlawn Drive by constructing the existing road to a standard of 28 feet (8.5 m) with curbs and walks on both sides and the installation of trees as required. The project involved nine (9) parcels of land abutting the proposed work. The nine parcels of land, according to the last authenticated assessment roll are represented by six owners. The Parish of Christ the King is shown as the owners of three parcels of land and The Corporation of the District of Burnaby as owners of two of the nine parcels. In accordance with the Municipal Act, for the purposes of determining the sufficiency of the petition against the construction of the local improvement, the number of owners respecting this project is deemed to be six (6). The Parish of Christ the King is considered to be one owner and the Municipality is considered to be only one owner, even though both own more than one parcel abutting the proposed work.

During the initiation period from September 30 to October 30 a petition against the proposed works in question was received in the office of the Municipal Clerk on 1985 October 29 (see attachment #1) and signed by Mr. David S. Somerford, Warden, Parish of Christ the King representing 4514 and 4550 Kitchener Street, Peter Precesky, Business Administrator, Diocese of New Westminster representing 4556 Kitchener Street and D.E. Fraser representing 4611 Westlawn Drive.

Time permitting, petitions are checked against the assessment roll as they are received in order to determine if an obvious problem may be resolved prior to the deadline for receipt of petitions. However, in this case, the date of receipt of the petition negated any clarification that may have been provided to the petitioners. The petition was deemed to contain the signatures of two owners as appearing on the last authenticated real property assessment roll and therefore the majority requirement with respect to the ownership was not met (four out of six). The petition did meet the assessed value requirement and this matter was reported on separately by the Director Engineering at the time the Certificate of Sufficiency was before Council.

Subsequent to the sending out of letters advising each owner of whether or not the proposed Local Improvement Project would proceed we were contacted by the Parish of Christ the King and were questioned as to why the work was being proceeded with when they had petitioned against it. The two major points put forward by the Church were:

1. That the Municipal Clerk's office initially informed the Wardens of the Church, very early in the initiation process, that each parcel would be entitled to petition against the proposed project and therefore the Church would have three dissenting signatures that would be considered valid.
2. That one of the three properties the Church is shown as owning is in fact owned by the Diocese of New Westminster.


In response to the first point, I would advise that two of the Church Wardens were inadvertently given incorrect information upon their appearance at our office when they were advised each parcel of property the Church owned would be permitted to object to the proposed improvements. However, should each parcel have been entitled to take a position then the denominator (represented by the total number of parcels) would become nine (9) rather than the stated six (6) and therefore five signatures would have been required to defeat the works while the petition only represented four parcels. Irrespective of the misinformation provided the petition would not have been sufficient under either case, whether determined by the number of owners, as required by the Municipal Act, or determined by the number of parcels as the petitioners were led to believe.

With respect to the second point, Section 659(4) of the Municipal Act provides for acceptance of the signature of the Diocese of New Westminster had this matter been brought to our attention prior to the filing of the Certificate of Sufficiency. However should the signature have been accepted and added to the two valid signatures the number of owners would increase to seven and four signatures would be required to defeat the work.

The remaining item of information concerns the two parcels of land owned by The Corporation of the District of Burnaby. It has been the policy of Council, in the past, not to consider municipally owned property as being against its own initiative plan and therefore these properties are deemed to be in favour of the Local Improvement Program.

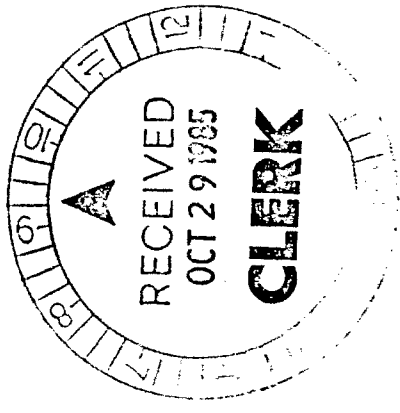
#### C O N C L U S I O N

I wish to sincerely apologize to the members of the Parish of Christ the King Church for the concern that we caused through the misinformation we initially provided. However, under the provisions of the Municipal Act I am unable to certify the petition in question as being sufficient as the status of this project includes three individual property owners plus the municipality being in favour of the Local Improvement Program and three owners (including the Diocese of New Westminster) as being opposed to the program.

  
C. A. Turpin  
MUNICIPAL CLERK

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October 23, 1985



Charles A. Turpin, Municipal Clerk,  
Corporation of the District of Burnaby,  
4949 Canada Way,  
Burnaby, B.C. V5G 1M2

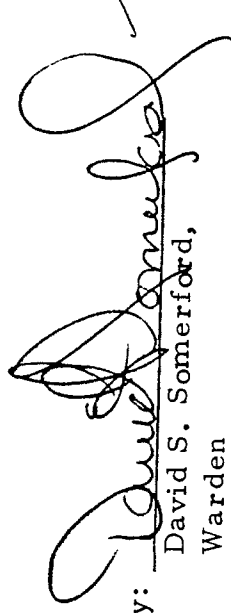
Dear Mr. Turpin:

Re: Proposed local improvements on  
Kitchener Street, Willingdon to  
Westlawn Drive.

We, the undersigned property owners, hereby petition against  
the proposed local improvements for Kitchener Street, from  
Willingdon Avenue to Westlawn Drive.

Parish of Christ the King:  
4514 Kitchener Street  
4550 Kitchener Street

Authorized signatory:

  
David S. Somerford,  
Warden

Diocese of New Westminster: (#302 -814 Richards St. Vancouver)  
4556 Kitchener Street

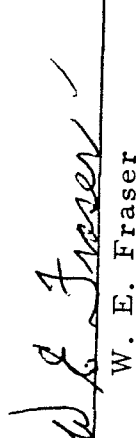
Authorized signatory:

  
Peter Precesky  
Business Administrator

W. E. Fraser:

4611 Westlawn Drive

Authorized signatory:

  
W. E. Fraser

PETITION AGAINST PROPOSED LOCAL IMPROVEMENTS

