

TO: CITY MANAGER 1997 October 21
FROM: DIRECTOR FINANCE
SUBJECT: Correspondence from Mr. Keith Peacock regarding property tax penalties
PURPOSE: For the information of Council

RECOMMENDATION:

1. THAT a copy of this report be sent to Mr. Keith Peacock

BACKGROUND:

Appearing elsewhere on this agenda is a letter from Mr. Keith Peacock regarding penalties on late property tax payments. Mr. Peacock is requesting that Council set aside the penalty that he was charged as a result of his Provincial Home Owner Grant application being lost in the mail.

REPORT

The Municipal Act is definitive about the application of penalties; the Act states (Section 394) that after the due date the collector must add an amount to the property owner's outstanding tax bill. The amount is based on the unpaid taxes at the due date and is specified by Municipal bylaw; 5% after 1997 July 03, and a further 5% 1997 September 04. The Provincial Home Owner Grant application is considered a form of tax payment and is therefore subject to penalty if not received by the tax due date.

The Act does not provide criteria for the acceptance of taxes, after the due date, without penalty. Therefore there are no reasons provided in the Act under which Council can waive the payment of the penalty. The Act reinforces this point through Section 224 which states that "a council may not give an exemption from a tax ...".

Mr. Peacock also inquires about the possibility that some taxpayers may have their tax notices lost in the mail and if they would then be penalized? The Act states that the collector must mail a tax notice (Section 378) and that the requirement to give the taxpayer notice about the taxes is satisfied if the collector has made a reasonable effort to mail the tax notice. This has been interpreted by the courts to mean that the taxpayer is responsible for the taxes even if the notice is not received. If the taxes were, then, not paid by the due date, penalties would be required to be added to the amount outstanding.

Although Mr. Peacock's aggravation is understandable, Council has not been provided with the authority, under the Municipal Act, to waive property tax penalties in these, or other, circumstances.



Rick Earle
DIRECTOR FINANCE

RAE:sa

cc: City Solicitor