

CITY OF BURNABY
COMMUNITY HERITAGE COMMISSION

HIS WORSHIP, THE MAYOR
AND COUNCILLORS

SUBJECT: TAX EXEMPTION - 3755 MCGILL STREET

RECOMMENDATIONS:

1. THAT Council receive this report for information purposes.
2. THAT a copy of this report be forwarded to the Board of Directors, Action Line Housing, Seton, Villa.

REPORT

The Community Heritage Commission, at its meeting on 1999 September 09 adopted the attached report and approved the recommendations contained therein. The report was written in response to a delegation in 1998 by Mr. Victor Stusiak, Action Line Housing, owners of Overlynn Mansion at 3755 McGill Street. The delegation had requested that tax exemption for heritage designated buildings be included within Burnaby's policies regarding heritage designation.

Respectfully submitted,

Councillor Doreen Lawson
Chair

Councillor Celest Redman
Vice Chair

<p>:COPY - CITY MANAGER - DIRECTOR FINANCE - DIRECTOR PLNG. & BLDG.</p>

TO: SECRETARY, BURNABY HERITAGE COMMISSION 1999 September 01

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: **Tax Exemption for 3755 McGill Street.**

PURPOSE: To respond to the concerns expressed by Mr. V. Stusiak, Director of Action Line Housing, owners of Overlynn Mansion, 3755 McGill Street.

RECOMMENDATION:

1. **THAT** this report be forwarded to Council for their information.
2. **THAT** Council be requested to forward a copy of this report to the Board of Directors of Action Line Housing, Seton Villa.

REPORT

1.0 Background

At their meeting of 1999 May 13 the Community Heritage Commission received a report regarding "Policies for the Heritage Protection of Private Buildings" and requested that this report be referred back to staff for further information regarding Mr. Stusiak's concerns.

Mr. Stusiak has previously appeared before Council in 1997 and 1998 as a delegation, on behalf of Action Line Housing, a non-profit society which owns and operates Seton Villa and the adjoining designated heritage building known as Overlynn Mansion at 3755 McGill Street. Mr. Stusiak's concern has focused on requesting that a tax exemption for designated heritage buildings be included within Burnaby's policies regarding heritage designation.

2.0 Property Use and Re-zoning History of 3755 McGill Street

The mansion "Overlynn" was originally constructed in 1909 by the Vancouver Heights subdivision promoter Charles J. Peters. It was occupied as a single family residence until 1930 when it was sold to the Sisters of Charity, a Catholic organization that established a convent and school. The use of this property for institutional use was non-conforming after the establishment of single family residential zoning in 1927 and reaffirmed by the 1965 Zoning Bylaw which designated the property R5 single family residential use.

Action Line Housing Society acquired the property known as Seton Academy in 1970 for the purposes of developing a senior citizen's housing complex. A Comprehensive Development (CD) Plan for the site was approved by Council. Acting without the benefit of any modern heritage provisions in the Municipal Act, this Plan incorporated the preservation of the heritage mansion and surrounding gardens. In essence this rezoning compensated the property owner for the retention of these features in exchange for a medium density development.

Much consideration was given to retain these features in order to preserve the character of the site and mitigate the impact of the construction of a 20 storey tower within a well established single-family residential neighborhood. The retention of these features provided an amenity to the senior citizens and some privacy in the form of a landscape buffer for adjacent residences. The mansion was designated for staff accommodation and for the recreational use of the tower residents. This use was never implemented; instead, from 1975 to 1992 the mansion was used as a private staff residence.

In 1992 the Society made application to broaden the scope of uses permitted in the mansion. Council adopted a report providing for limited hospital use as part of an amended CD Plan. The mansion was leased to British Columbia Children's Hospital in 1993 for the purposes of operating an eating disorder clinic. In 1994 March, Action Line, on behalf of its tenant, made application for permissive property tax exemption. British Columbia Children's Hospital, in that it was leasing space for hospital purposes, qualified for permissive property tax exemption under the Municipal Act. Council adopted a recommendation to grant the permissive property tax exemption. The basement of the mansion, which is used as a residence for a caretaker, remained taxable. This hospital use and its associated property tax exemption ended in 1996.

In 1995 a Comprehensive Development rezoning was approved by Council that included further broadening of the uses permitted in the mansion to include office and school uses, in order to further assist the Society to find a tenant or tenants to offset the costs of maintaining the building and grounds. In response to concerns raised by the neighbourhood and the Community Heritage Commission, a formal Heritage Designation through bylaw was made a condition by of the rezoning. This designation used the available bylaw powers of the heritage provision of the Municipal Act to reinforce the original intention of the CD Plan. The intention was to ensure the protection of the unique character of the mansion and the surrounding landscape features which provide an amenity for the seniors tower and to the surrounding neighbourhood.

After the mansion was vacated by Children's Hospital in 1996, a portion of the building was tenanted by the McCreary Centre Society, a non-profit youth health association. Under the Municipal Act and Burnaby's guidelines, this group was not eligible for permissive property tax exemption. In 1998 a private English language school known as Seton College moved in to share the tenancy of the building.

3.0 Request for Permissive Property Tax Exemption

In 1997 Action Line Housing Society requested, through a delegation to Council, tax exempt status

for Overlynn Mansion pursuant to the provisions of the Municipal Act pertaining to permissive property tax exemptions. This provision was part of the Heritage Conservation Statutes Amendment Act 1994, which created a process to enable local government to grant tax exemptions for heritage properties and to detail the process for granting such an exemption. Council referred this request to the Executive Committee of Council which asked the Finance Department to provide a detailed report on the request. After consideration of this report the Executive Committee, at its meeting held on 1998 February 16, completed its review of this matter.

The Committee's report stated that all residential property tax exemptions are contrary to Council's adopted guidelines. In 1987, Council reaffirmed a 1974 policy that "*adopted the principal of phasing out tax exemptions and grants to defray taxes on elderly citizens' projects so that commencing in 1979 full taxation within the power of Council shall apply to all such projects.*" Despite amendments to the CD Plan that have changed the permitted uses of the mansion, the primary use of the property remains residential. The Committee concluded that it did not recommend a change to the current practice. Council on 1998 March 02 adopted the report and conclusion of the Executive Committee.

4.0 Policy for Designated Heritage Buildings

4.1 Background

In 1998 March 23 on behalf of Action Line Housing Society, Mr. V. Stusiak, Chairman, presented a brief to Council outlining their opinions regarding the Provincial heritage statutes contained in the Municipal Act and Burnaby's heritage management policies and practices. Council referred this letter to the Community Heritage Commission for their information. The Commission received Mr. Stusiak as a delegation and further requested staff to provide a report which addressed Mr. Stusiak's concerns outlined in his brief. This report was presented to the Commission in 1998 May 14.

Following the receipt of this report the Commission resolved to direct that staff report on the issues related to the development of a policy for heritage designation. In 1999 April the Commission further directed staff to "*...separate the query from Mr. Stusiak regarding development of policies related to heritage designation in order that the Commission may respond to the concern expressed by the delegation.*" A report was prepared on the Policies for the Heritage Protection of Private Buildings and presented to the commission 1999 May. After consideration of the report the Commission directed: "*THAT this report be referred back to staff for further information responding to Mr. Stusiak's concerns.*"

This report has been compiled to address Mr. Stusiak's specific concerns regarding tax exemptions and the issues related to developing further civic policies regarding heritage buildings. As a policy for designated heritage buildings must be considered as an integral part of an overall heritage management plan there remains constraints on developing one policy in isolation from the larger plan or strategy.


4.2 Burnaby's Heritage Policy Strategy

In 1998 Burnaby City Council adopted as part of the Official Community Plan a framework for the development of a comprehensive Heritage Policy. One of the four goals of this strategy is the "Conservation Incentive Program". This goal outlines the need to establish a policy of financial incentives to encourage the conservation of significant heritage buildings owned by private groups and individuals. In the past Burnaby has conserved a number of heritage sites through providing financial incentives to developers through the use of various provisions of the Municipal Act. Any additional granting programs and financial incentives for the maintenance and restoration of designated buildings should be developed as an integral part of this planning policy.

The request by a single owner of a designated heritage site for financial compensation through tax exemption has already been reviewed by city staff and Council. As the use of this financial incentive violates a long standing civic policy not to provide permissive tax exemptions for residential property, its use for heritage conservation purposes has been denied. This clear direction from Council not to support the development of a permissive tax exemption for heritage buildings, following their consideration of a specific request on behalf of the Overlynn Mansion, precludes this option being developed by staff on an ad hoc basis or as part any civic heritage policy without their prior policy reconsideration and direction.

5.0 Conclusion

The protection of Overlynn mansion and its surrounding garden as a heritage feature was initiated at the time of the property's rezoning in 1970 which saw a significant increase to the site's density despite its location within a homogeneous single-family residential neighbourhood. The protection of these features at the time of rezoning was an effort to mitigate the effects of additional density and height to surrounding residences and provide an on-site amenity. Council has supported several amendments to the original plan to assist in ensuring the continued use and care of the mansion. Finally, the requests of the property owner for tax exemption have been given due consideration and Council has concluded that agreeing to a request for tax exempt status is not warranted given the current situation.


D. G. Stenson
Director Planning and Building

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cc: Director Finance

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