

TO: CITY MANAGER 2000 April 26

FROM: DIRECTOR FINANCE File: T5-5-2

SUBJECT: BC ASSESSMENT COURT OF APPEAL DECISION REGARDING FUNERAL HOMES

PURPOSE: To obtain Council's endorsement of recommended changes to the Municipal Act in order to provide consistent property tax treatment of Burnaby businesses.

RECOMMENDATIONS:

1. THAT the Ministry of Municipal Affairs be requested to initiate immediate legislative change to the Municipal Act to provide for consistent property tax treatment of Burnaby businesses.
2. THAT a copy of this report be sent to the Minister of Municipal Affairs, Deputy Minister of Municipal Affairs, Policy Section Ministry of Municipal Affairs and B.C. Assessment.

REPORT

Cemeteries are provided general exemption from property tax under the Municipal Act Section 339(1)(f):

Unless otherwise provided in this Act, the following property is exempt from taxation to the extent indicated:

- (f) *a cemetery under the Cemetery and Funeral Services Act actually used and occupied for the interment of the dead or designated an approved interment area by the registrar under the Act;*

The tax exemption is intended to apply to the property used for the "interment of the dead", there are several businesses on cemetery property that should not be exempt from taxation. For example, the business offices of the funeral homes on cemetery property are exempt from taxation while offices with the same function located off cemetery property pay regular business property taxes.

This issue was recently in front of the Assessment Appeal Board; on March 29 a decision was rendered based on the interpretation of a cemetery under the Cemetery and Funeral Services Act (“...*land that is set apart or used as a place of interment, together with any incidental or ancillary buildings;*”). The Appeal Court decision held that the business section of the cemetery property is also exempt from taxation regardless of the fact that if it stood alone would be fully taxable. The Court considers the business section to be “incidental or ancillary buildings” and therefore exempt.

This has created a significant inconsistency in the property tax treatment of businesses based on their location on or off cemetery grounds. It is recommended that the Ministry of Municipal Affairs be requested to bring forward legislative changes to the Municipal Act to correct this inconsistency.



Rick Earle
DIRECTOR FINANCE