

## COUNCIL REPORT

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**TO:** CITY MANAGER **DATE:** 2005 July 29  
**FROM:** DIRECTOR FINANCE **FILE:** 7820-1  
*Reference:* RTP2000  
**SUBJECT: ROAD RIGHT-OF-WAY: 9835 GATINEAU PLACE**  
**PURPOSE:** To obtain authorization to seek additional authority from the Province.

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**RECOMMENDATIONS:**

1. **THAT** the Province's authorization be sought to obtain special authority to write off the property taxes on the road right-of-way designated as 9835 Gatineau Place, and
2. **THAT** a copy of this report, formalizing our request, upon approval of Burnaby City Council, be sent to the Honourable Ida Chong, Minister of Community Services; with copies to Dale Wall, Inspector of Municipalities and Colin Smith of RTP 2000 Limited.

**REPORT**

This report constitutes our request under Section 315.3 of the Local Government Act to obtain the authority to write off the property taxes billed on:

9835 Gatineau Place  
Road right-of-way  
Lot 101, District lot 2 & 4, Plan 43016  
Land title PID 025-397-036  
Burnaby roll number: 9901-9835-0000

This application is being presented at the request of Rapid Transit Project 2000 Ltd. (RTP 2000 Ltd.) in an effort to relieve B.C. Transit from the property taxes billed on the property which was procured for city road right-of-way, has had a public road constructed on it and has been operating as a public road during the period in question (up to and including the 2005 taxation year).

To: City Manager  
From: Director Finance  
Re: Road right-of-way: 9835 Gatineau Place  
2005 July 29 ..... Page 2

## BACKGROUND

RTP2000 Ltd. was formed to undertake the work of constructing the SkyTrain Millennium line from New Westminster to Broadway station in Vancouver. As part of this work a station at the intersection of Lougheed Highway and Austin Avenue was constructed, in Burnaby, along with vehicular access to the station as required under the terms of the *Burnaby Access Agreement*. A portion of the work involved the creation of a short section of public road way from property owned by RTP2000 (see *attached* map – **Figure 1**). The roadway, as with all road rights-of-way, was intended to be dedicated as public road at the completion of the project and upon all parties fulfilling their respective commitments under the project agreement.

The property in question (9835 Gatineau Place) and all other property purchased/owned by RTP2000 were exempt from property taxation under BC Reg 30-91. In April 2002, in conjunction with the beginning of the project wrap-up phase, RTP2000 transferred the parcel to B.C. Transit (Victoria), pending the ultimate dedication of it as a public road. An unintended result of the transfer was the loss of property tax exemption status under the B.C. Regulation. Since that time B.C. Assessment, and consequently the City of Burnaby, have been assessing and billing property taxes against the parcel of open and operating public road right-of-way. The Community Charter had not anticipated this scenario; therefore there is no legislative category to allow the granting of permissive exemption from taxation, leaving our only possibility for correcting the unintended taxation of the land, being the write off of the tax liability through “further power” grantable by the Minister of Community Services under Section 315.3 of the Local Government Act.

It is intended that the property title will be dedicated as road allowance prior to the end of this year and this will exempt it from taxation for the future.

We are seeking the authorization to write-off the tax liability (at time of writing being \$62,802.53 inclusive of the 2005 tax assessment and penalty (to 2005 July 14)) for the property known as 9835 Gatineau Place, Burnaby, B.C.



Rick Earle  
DIRECTOR FINANCE

Copied to: Director Planning and Building  
Director Engineering  
City Solicitor

Figure 1

**9835 Gateau Place  
road right-of-way**



