

OF GRAND

TAPE - 341 - COUNCIL 22ND NOVEMBER 2004 - FINANCE

EXHIBIT No. 220
CLERK

Cr Crichlow Item 2 - Finance - request for discount allowance.

I would like to move that Council advise the applicant that it cannot allow
A discount on the subject rate notice which was paid late.

Cr Young Seconded -

Mayor Moved: Cr Crichlow - Seconded: Cr Young

Yes Cr Crichlow - you want to speak on that?

Cr Crichlow Thank you very much.

This was a matter where the applicant did not pay their rates on time so
therefore the discount was not allowed.

The rates were sent out on 28th January and they were due for payment on
The 2nd March. The payment was not forthcoming and after a Notice of
Creditors Intentions to Institute Legal Proceedings was sent out.

The rates were then paid.

Now - the actual applicant then came to Council asking for the discount to
be allowed. They stated that they had not paid on time because they had
not received the rates at the address. Council faxed back a copy of Form
24 which clearly showed the rate notice had gone to the correct address so
on that basis the request for discount allowance was declined. It had gone
to the right address.

A second requested for consideration of the discount was received on 1st
June - the applicant claiming the address on the notice was its business
address and not its postal address.

Once again that was faxed out.

A third time the applicant came back after they were told discount could
not be allowed.

And then a request for further consideration of the decision was made to
the Manager Financial Services on 22nd June. The applicant requested that
discount be granted stating the reasons already mentioned and the
applicant stating its involvement with large development projects within
the City and engaging Council for its building certification.

COUNCIL

discount. But in this instance they approved the waiving of the interest penalty up to 6th August 2004 to allow time for payment of the outstanding amount.

(INTEREST)

10/04

A further request was made on 28th July 2004 and the decision was that Council had issued the rate notice to the correct address as advised so therefore – sorry we cannot waive this amount.

Then on the 22nd September the applicant wrote to the Mayor's Office stating that it was now believed the rate notice was delivered to their office but because of an administrative mix up the rate notice was not recognized as one of their own because they did not recognize the company name.

Clearly in that submission they did not recognize the name and now we are saying yes- we did receive the rates but one of our staff did not recognize the company name.

So the Mayor's office requested that a report be presented to Council and that's exactly what happened.

And so at the Finance Committee of 9th September (I was in attendance as part of that Committee) the applicants representatives were there and they gave a presentation. There were no changes, no reasons for allowing the discount.

The fact is that we did not have the grounds to allow this amount to be waived. We did not have the grounds and would be setting a dangerous precedent.

The concerns was in the presentation one person in the presentation actually stated – well look if we have to pay this when organizations ring up and they want a donation (and charities) for example The Mayoral Ball – then we will have to so No.

That to me did not go down very well at all.

As I say this would set a precedent – we have not got any grounds whatsoever to allow this discount.

Over the years we have had pensioners come in and so I have been in Hospital – I missed out on getting my rate notice at home because I was in Hospital or I was looking after my daughter or somebody's daughter was looking after the mother. We have had the most incredible reasons for not do this because we cannot. The minute we allow a precedent like this is

happen where a person gets a rate notice they do not pay on time and they want their discount, if we start allowing this it will open up the floodgates.

The Officers were totally in their right as I say, they have backed up everything with documentation the officers have and we cannot, we cannot allow this precedent to be set in this City. It is a simple as that.

So when you Mr Mayor moved that the discount be granted due to extenuating circumstances I cannot vote for it and we cannot do it to the City. It is a simple as that.

So that is why each an every Councillor should accept this that we cannot waive it and set a precedent. There are no grounds to allow the discount and we should refuse the discount and approve the officer's recommendation.

When have we given a discount when it is not our fault?

???
given

Through you Mr Mayor -- to my knowledge I do not believe we have discount when it is not our fault.

Cr Crichlow Thank you very much -- I now ask everybody to accept this.

Mayor Thank you -- Cr Molhoek

Cr Molhoek Mr Mayor I am going to speak against the motion and I supported you on this occasion. Actually I don't believe that the response to that last question was correct.

I actually visited a pensioner only 3 or 4 weeks ago in the Coombabah District which is Cr Pforr's area but I ended up there by mistake -- who had refused to pay her rates because she was arguing on a matter of principle. She had concerns about the rate notice and she was advised to pay up and argue later and she refused to.

I met with her and went through the issues, I then put a memo back to Financial Services and consistent with or inconsistent with (I am not sure which -- I am a bit confused on this) Council Policy we agreed to refund the lady's discount. Now it was only \$84-10 but the fact is that there are precedents where we do do it.

I have a memo which I received from our Organisational Services area on the subject of discount on rates and I will read from the first half of the memo>

*got in
with
Council &
disputed*

"Financial Services provides ??? procedures for ??? officers to extend/allow discount in the following circumstances"

So we do clearly have circumstances where we do provide for some refund of discount where there has been an error or under extreme circumstance.

"The incidents are" – I will read them

If the address quoted is different to the incorrect address being advised by the Ratepayers Solicitors

- A ratepayer advises that the relevant rate notice was not received because of an incorrect addressing issue. ✓
- A ratepayer advises that the payment was late due to sickness ✓
- A ratepayer advises that the payment was late due to a death in the family ✓
- A ratepayer advises that a cheque for the required amount was posted to Council but did not arrive in time. ✓
- A ratepayer advises that a cheque for the required amount was posted in sufficient time for it to reach Council by the relevant date but it did not do so for some extreme reason. ✓

Now there are other circumstances where we do this and on this occasion, and I believe it needs to be pointed out, the rate notice was delivered to the incorrect floor of the building, and the particular ratepayer admits that they had overlooked changing the mailing address and they had only just moved floors within a matter of days. However I think it needs to be said that this particular ratepayer on realizing their error, which was only 14 days after the due date, immediately drew a cheque and Council had the cheque the following day for the correct, for the discount amount. Its not like they dilly dallied on this and sought to take advantage of the Council. This particular ratepayer has an exemplary payment history with this City. It is a tremendous corporate citizen and I believe this is a matter of fairness. You cannot have two sets of rules. If you are going to extend grace and be fair to all ratepayers on all levels then we need to do so regardless of whether they are a property developer, a radio station, a newspaper, a business person or a Councillor. *

It is a matter of fairness. This particular ratepayer sought to do the right thing. Their track record is exemplary and we quite clearly, under Council Policy, do have a number of occasions where we do allow discount and I have been out there fighting for the pensions at \$84-10 and I believe on

this occasion the amount of \$13 is not unreasonable given the circumstances that relate to this particular matter.

Cr Crichlow \$13 ???

Cr Molhoek \$13,000.

Mayor Thank you Councillor Molhoek

I would like to add the fact that it seems a simplistic matter – why didn't they wake up immediately – ~~the new tenants to that particular floor – but~~ the fact was that the particular ratepayer has companies (I think 2,000 or 3,000) different companies that have different properties and registrations – a big organization – it wasn't identified and therefore it wasn't sent on.

This is the first time that they have missed out. They have an exemplary record and the fact of the matter is they feel very strong about the principle that they record they believe should stand and as should anybody's be they a small ratepayer or a big ratepayer. I think that we should not be so rigid if there is a reasonable explanation. I think that they should be accepted no matter what their size.

Councillor Sarroff!

Cr Sarroff Thank you Mr Mayor

Cr Molhoek said we cannot have two sets of rules. We are having exactly two sets of rules because I think those situations and instances that are being mentioned, sickness, wrong address and something or other that was on the list, weren't any of the reasons this particular company wanted a reimbursement of the discount.

Cr Molhoek Point of Order Mr Mayor – it was delivered to the wrong level.

Cr Sarroff Excuse me Mr Mayor –

Mayor It was a point of order – he may – it's valid

Cr Sarroff It was not delivered to the wrong address and that's what we have to make absolutely clear – it was delivered to the address that's ---

Mayor That hadn't been changed – thank you

Cr Sarroff That's on the rate notice – it's the address that we have been given and if you just go to the conclusion on Page 9 it says it is Council's practice to

decline requests made by ratepayers for discount allowance in situations such as those of this case e.g. wrong mailing address. But it didn't go to the wrong mailing address and I think we have to be very careful. I had a look at the file and the history and I can see some inconsistency in the story that we are hearing from the developer and I look to the Director – is there inconsistency with the numerous correspondence we have had in relation to this matter. Mr Director.

???

Through you Mr Mayor – in terms of inconsistency that might be a bit of a judgment call in relation to assessing the file.

Certainly we have received different communications and different responses over time from the developer on this matter including in relation to other property dealings as well where the views have been presented about what has happened with the ratepayer appears to have changed over time.

Cr Sarroff

Mr Mayor I certainly don't form the view that there has been some inconsistency. I have spoken to the officers who have the file and there would be a concern that this would create a precedent and it would be a terrible precedent. And during my term as Chairman of Finance I don't recall where we have reimbursed funds to any of our ratepayers because of similar circumstances and I feel that we should be consistent and the policy needs to be upheld and I would be very disappointed if this motion of Councillor Crichlow's is not supported.

Mayor

Any other speakers – we put – sorry Cr Young.

Cr Young

Mr Mayor you only have to read the report. The last paragraph – page 9 of the agenda.

"In this instance Council correctly discharged its responsibility by issuing the rate notice to the correct address as advised at the time. The failure on behalf of the applicant not recognizing the rate notice as belonging to them is not considered to be a circumstance beyond a person's control and of course the rate notice had the correct address on it and the description of the property.

Should we determine as a Council now to permit this discount then I will encourage everyone in my community, all those old folk especially, to pay late and just indicate that they didn't think the rate notice was there.

We have to be consistent ---

Mayor

I think they have to prove it Councillor –

Cr Young We have got to refuse this request unfortunately and support Councillor Crichlow's motion.

Mayor Those in favour of the motion – okay – please –

Cr Crichlow Thank you very much. Clearly only part was ready out – the only thing that is relevant as far as this was concerned, as I have said before this would set an absolute precedent.

Councillor Molhoek read the first part – “as ratepayer advises the relevant rate notice was not received.”

He didn't read the rest – “if the address quoted is different to the incorrect address being advised by the ratepayers' solicitors”

Now it's as simple as that.

The Council covered themselves to the letter and they did all that they had to and as was said the stories changed every time a request was made. This would set a massive precedent and cannot be allowed by this Council after all these years of me having to say to people the policy of Council is I am sorry but you did not pay on time so you won't get relaxation.

How do you think I felt over the years? How do you think the former Mayor felt over the years having these battlers sitting right opposite him and saying no that's Council Policy - The Council did the right thing. They sent the rates out to the correct address and I am sorry you cannot do a thing about it.

I'm sorry but if you are going to set this dangerous precedent for the first time after Mayors before you have had to put up with this kind of hardship by their ratepayers this is an absolutely disgraceful thing.

Mayor Cr Crichlow I am not voting on this along ~~g~~ it's for Council to vote.

Cr Crichlow Mr Mayor - --- Fine

Mayor Cr Crichlow I said --- Thank you Cr Crichlow

Cr Crichlow -- You deliberately came in ---- only two items on the agenda ---

Mayor Cr Crichlow have been to other Finance Committees

Cr Crichlow If you look at the Annual Report it must be wrong – it reports you as not going to any Committee meetings.

Mayor Well --- it's wrong - I have been to other Finance Meetings.

*Seconded
at Finance*

Those in favour of the motion -

CEO Cr Young, Cr Crichlow, Cr Douglas, Cr Sarroff, Cr Pforr, Cr Power

Against

6

CEO Cr Molhoek, Cr LaCastra, Cr Shepherd, Cr Grew, Cr Betts, Cr Clarke, Cr Hackwood.

7

Mayor The Motion is Lost. Move On -

You want to move it - Okay

Shen Betts left the room + so Power + Pforr changed their vote. (otherwise the ~~div~~ vote would have been 6/6)

Moved: Cr Shepherd

Seconded: Cr LaCastra

Cr Crichlow May I ask if anybody has got any material interest in this matter.

Mayor No one I don't think

(McDonald apology - Div. 14 vacant)

Cr Young Well I will just address this. I certainly won't be supporting it. There are some people in this room that believe that this company has an unblemished record. I certainly don't believe that to be the case and without getting too particular because it might reveal who this applicant is, but as Divisional Councillor for Division 5 I deal with issues day to day that exist in reality in an area that was developed by this particular company.

Mayor We are talking about the discount allowance councillor - Councillor Young

Cr Young There's a significant precedent being set here.

Cr Crichlow Absolutely

Cr Young And one wonders if this particular applicant provided financial support for any of the elected members here at the table.

Mayor I don't think it has anything to do with it. It's got nothing to do with it. A motion has been put that Item 2 has been moved.

Those in favour of Item 2 as it stands

CEO Cr Hackwood, Cr Power, Cr Pforr, Cr Molhoek, Cr Lacastra, Cr Shepherd,
Cr Grew, Cr Clarke

Mayor Those against.

CEO Cr Young, Cr Crichlow, Cr Douglas, Cr Sarroff

Mayor Item 2 has been passed.