

FACSIMILE



CRIME & MISCONDUCT COMMISSION
 No. 2005-5 Date 7/11/05
 IN THE MATTER OF:
 OP GRAND

EXHIBIT No. 203
 Clerk
 From: Cassandra Kenyon
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To: ATTENTION: GARY RADCLIFF
 Barrister at Law
 Via: MS ANNA MCDONALD
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REMARKS: Urgent For your review Reply ASAP Please comment

The following memo, issued to Councillor Molheok on 3 December 2004, was requested by Councillor Shepherd at 3:40 pm this afternoon.

It should be noted that certain officers within the Financial Services Branch have delegated authority to allow/extend discount for special circumstances. These circumstances are determined by the officer's exercising their delegation of Section 1021 of the Local Government Act 1993, for discount if special circumstances prevent prompt payment. Discount is allowed if Council "is satisfied that a person liable to pay the rate has been prevented, by circumstances beyond the person's control, from paying the rate in time to benefit from the discount." Specific procedures have been developed and implemented to ensure fairness and consistency when allowing/extending discount.

While there have been a number of instances where discount for late payment has been granted due to special circumstances, Council officers are unable to identify any situations in the past where the circumstances identified by the ratepayer in the Carnriver case warranted the discount being awarded pursuant to section 1021 of the Local Government Act.

In fact, past practice and procedure had indicated that Council would decline the request where the ratepayer had supplied the wrong information about their mailing address (in this case, due to incorrect or out-of-date information being included on the Carnriver transfer documentation).

Similarly, previous payment history is not considered relevant to assessing whether a person liable to pay rates has been prevented, by circumstances beyond that person's control, from paying the rates in time to benefit from the discount.

If you do not receive all of this transmission please telephone (07) 5581 6342

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If you have received this facsimile in error, please notify this Office immediately by telephone, as shown and return same to the Council of the City of Gold Coast.

Council will only accept responsibility for information contained under official letterhead and duly signed by, or on behalf of, the Chief Executive Officer.

Recent examples of discount allowed/extended due to 'special circumstances' include:

- Cheque dishonoured in error by the ratepayer's financial institution, and Council receives written confirmation of this from the relevant financial institution;
- Incorrect loading of postal address into Council's property system by either Council staff or Department of Natural Resources;
- Personal incident that required police involvement;
- Evidence of failure by Australia Post to deliver rate notice where a re-direction notice was in place;
- Multi-period notices have been issued by Council;
- Receipting error or system error at Council's end (e.g. Council payment agent applies payment for account for 2 properties across one for the same ratepayer).

Further, rate notices are issued to the owner of the land. Section 1008.(1)(b) of the Local Government Act states:

"A local government may levy a rate only by a rate notice given to.... the person recorded in the local government's land record as the owner of the land on which the rate is levied."

Council obtains land ownership records from the Department of Natural Resources (DNR). The rate notice in question for the Carnriver case was issued to the address recorded with DNR. The address for service of notices after possession recorded with DNR, and as shown on the Form 24 property transfer documentation dated 03.10.03, advised 'Level 18/50 Cavill Avenue, Surfers Paradise'.

Council acts on the address for service of notices as advised by the property owner or their agent and does not change that address unless specifically advised to do so by the property owner or their agent.

I hope the above details provide sufficient information to assist you.

Kind Regards
Cassandra Kenyon
A/Manager Financial Services

Memorandum



To: Cr Rob Molhoek
From: Graeme Finlayson, Director Organisational Services
Subject: DISCOUNT REQUESTS - RATES
Date: 3 December 2004

Rob

Thank you for your recent information request regarding rate discounts allowed by Council pursuant to section 1021 of the Local Government Act 1993.

As you are aware, section 1021 provides Council with a broad discretion in allowing discounts for rates where Council is satisfied that a person has been prevented from paying on time due to circumstances beyond the person's control.

Dealing with each of your specific queries in turn, I comment as follows:

Q: How many requests would we have received for special consideration of a refund/credit in relation to rates?:

Answer:

It is not possible to identify the total number of special consideration requests for discount received as verbal requests that are declined are not recorded.

In relation to written requests for special consideration for discount, 1034 requests have been received since 1 July 2004. Eighty-one (81) requests have been declined and 953 requests were granted.

Of the 953 requests granted, 246 were for special circumstances and 708 fell into the specific categories Council has identified (e.g. sickness, death in the family etc).

It should be noted that the total number of rate accounts on Council's system is over 218,000.

Q: What grace period do we factor into the system for cheques and payments received on or around the cut of date for the discount?

Answer:

A grace period of one-two days is allowed, depending on method of payment.

Q: How many and what is the dollar value of discounts/credits we would have granted in the past five months since July 1st 2004?

Answer:

The value of the discounts granted for the 953 requests approved totalled \$99,113.21. This figure excludes the discount relating to the Carnriver property.

The 246 special circumstances approvals totalled \$41,060.58. Of these, three properties had discount granted totalling \$19,766.61.

If you have any queries regarding the above, please do not hesitate to contact me.

Regards

Graeme Finlayson
Director Organisational Services