

IN THE MATTER OF:

I, Paula Deveson, Supervisor, Customer Services Obligations Group,
Organisational Services Directorate of the Gold Coast City Council stat

OF GRAND

1. I am a supervisor in the Customer Services Obligations Group Branch of the Organisational Services Directorate of the Gold Coast City Council.
2. On 29 October 2004 I submitted an Agenda Item to Council Allowance. Under the heading "5 DISCUSSION" in the reference is made as follows

EXHIBIT No. 312
Paula Deveson CLERK

"On the 22 September 2004, 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 recognised as one of their own because they did not recognise the company name (Carnriver Pty Ltd) on the rate notice."

3. The letter referred to is in fact a letter dated 21 September 2004 from The Falcon Group who, due to the nature of the contents of the letter and referral of this letter to my area by the Mayor's office, appeared to be making representations on behalf of the Sunland Group. I am not aware of any letter dated 22 September 2004 from Sunland Group or any representative of the group. A Confidential Attachment to the Agenda Item to Council listed under the heading "Property Owner and Details" as follows:

Applicant: Falcon Group on behalf of the Sunland Group of Companies
Current Owner: Carnriver Pty Ltd

4. The date of 22 September 2004 is shown in the "Summary of Activity" annexed to the Agenda Item to Council where I noted:

22/09/04	Letter received advising why Sunland group did not make payment by the due date Discount Request Reason: "The rates notice was addressed to Carnriver Pty Ltd, Level 18/50 Cavill Avenue, Surfers Paradise. We believe the rates notice was delivered to our office but we did not recognise the name Carnriver".
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5. The letter quoted by me in paragraph 4 and referred to in paragraph 2 above is in fact dated 21 September 2004 and came from The Falcon Group.
6. Previous correspondence from the Sunland Group dated 18 June 2004 confirmed that the original rate notice was sent to and received at the address notified on the Form 24 and registered with the Department of Natural Resources for the relevant property.
7. Based on the contents and wording of the letter I assumed (wrongly as it now turns out) that The Falcon Group was a representative of the Sunland Group.
8. Whether The Falcon Group were or were not representing the Sunland Group would have not have been regarded by me as relevant to the decision made by me to reject the request for the discount. The Falcon Group letter further confirmed what the earlier letter from the Sunland Group dated 18 June 2004 had confirmed, namely that the rate notice had been sent to the registered address.
9. I attach a copy of the Agenda Item to Council including the Confidential Attachment as PD1 and a copy of the letter from The Falcon Group dated 21 September 2004, which I noted in the agenda item as being received by Council on 22 September 2004 as PD2 and a copy of the correspondence from the Sunland Group dated 18 June 2004 as PD3.

Dated this 24th day of November 2005.

Paula Deveson
Paula Deveson

**ITEM 2
REQUEST FOR DISCOUNT ALLOWANCE
PN67889/36 (P1)**

**ORGANISATIONAL SERVICES
CONFIDENTIAL ATTACHMENT**

Refer 2 page confidential attachment

1 BASIS FOR CONFIDENTIALITY

I recommend that the attachment be deemed a confidential document pursuant to sections 250 (2) and 1143 (4) of the Local Government Act and remain so unless Council decides otherwise by resolution.

2 EXECUTIVE SUMMARY

Not Applicable

3 PURPOSE OF REPORT

To consider a request from the applicant to allow discount on the late payment of rate notice issued on 28 January 2004.

4 PREVIOUS RESOLUTIONS

Not Applicable

5 DISCUSSION

The Mayor's Office has received a request from the applicant to consider allowing discount on the late payment of the rate notice that was issued on 28 January 2004 because of extenuating circumstances. The rate notice was due for payment on the 2 March 2004 to qualify for the discount.

The discounted amount to pay on the rate notice was \$86,045.94. This amount was paid on the 25 March 2004 following the issue of a "Notice of Creditors Intention to Instigate Legal Proceedings" on the 19 March 2004. Because payment was received after the due date it left an amount outstanding of \$13,822.45 representing lost discount. Both the rate notice and the aforementioned recovery notice had been sent to the same postal address.

Upon receiving the "Notice of Creditors Intention to Instigate Legal Proceedings" and making payment the applicant wrote to Council seeking consideration for allowance of discount on the basis that the subject rate notice was received 15 days after the due date.

Council undertook a check of the rating records which confirmed that the postal address for service of notices recorded in Council's rating system was the address provided for this purpose on the documentation received when the owner purchased the property back in October 2003.

On the basis Council had issued the rate notice to the address nominated, the request for discount allowance was declined.

A second request to consider the discount allowance was received on the 1 June 2004. The applicant claiming the address on the notice was its business address and not its postal address and that previous payment history for its other properties would indicate payment being made by the due date.

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**ITEM 2 (CONTINUED)
REQUEST FOR DISCOUNT ALLOWANCE
PN67889/36 (P1)**

CONFIDENTIAL ATTACHMENT

The applicant was again advised that discount could not be allowed and that they could request for further consideration of the decision to the Manager Financial Services. On the 22 June 2004 the applicant requested for discount to be granted to the Manager Financial Services, stating the reasons already mentioned and the applicant stating its involvement

with large development projects within the City and engaging Council for its building certifications.

The Acting Manager Financial Services considered the request and the decision was that grounds did not exist to allow the discount, but in this instance, approved the waiving of interest penalty up to 6 August 2004 to allow time for payment of the outstanding amount. A further request was made on the 28 July 2004 and the decision was that Council had issued the rate notice to the correct address as advised and therefore, could not assist in this matter.

On the 22 September 2004, 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 recognised as one of their own because they did not recognise the company name (Carnriver Pty Ltd) on the rate notice.

The Mayor's Office requested a report be presented to Council for consideration.

6 STATUTORY MATTERS

Section 1021 of the Local Government Act 1993 - Discount if special circumstances prevent prompt payment.

7 CORPORATE/OPERATIONAL PLAN

2.1.3 Healthy Economy, Well Managed City, Services

8 COUNCIL POLICIES

Revenue Policy - Appendix D Revenue Statement:

(d) Discount: "That discount of 10% of the current rates and charges shall be granted to ratepayers who pay the whole of a rate or charge within 31 days after the date of issue of each notice."

(e) Due Date: "All rates and utility charges must be paid within 31 days after the date of issue of the initial rate notice that includes a rate or utility charge."

9 DELEGATIONS

Not Applicable

10 BUDGET/FUNDING

Not Applicable

11 COORDINATION & CONSULTATION

Not Applicable

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ITEM 2 (CONTINUED)
REQUEST FOR DISCOUNT ALLOWANCE
PN67889/36 (P1)

CONFIDENTIAL ATTACHMENT

12 TIMING

Not Applicable

13 STAKEHOLDER IMPACTS

Not Applicable

14 CONCLUSION

It is Council's practice to decline requests made by ratepayers for discount allowance in situations such as those of this case i.e. wrong mailing address because of incorrect information supplied on transfer documentation or the taking into consideration of previous payment history of the applicant. If Council was to "open up" the ability for allowance of discount based on these circumstances, the precedent such a decision would set for other ratepayers in the City to apply to Council for discount on the grounds of error (e.g. forgot to pay, misread the due date etc) would negatively impact on Council's revenue budget and negate the incentive for the ratepayer to pay their rates on time.

The other important issue to consider in this matter is Council's legislative power. Section 1021 of the Local Government Act permits Council to allow discount if it "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."

In this instance Council correctly discharged its responsibility by issuing the rates notice to the correct address as advised at the time. The failure on behalf of the applicant in not recognising the rate notice as belonging to them is not considered to be a circumstance beyond the person's control. The other factor is that the rate notice contains other identifying information such as the address of the property and the description of the property or properties being rated.

15 RECOMMENDATION

It is recommended that Council resolves as follows:

That Council advises the applicant that it cannot allow the discount on the subject rate notice, which was paid late.

Author:
Paula Deveson
Supervisor CSO Group
29 October 2004

Authorised by:
Graeme Finlayson
Director Organisational Services

RF

"PDI" (page 4)

CONFIDENTIAL ATTACHMENT

Property Owner & Details

Applicant: Falcon Group on behalf of the Sunland Group of Companies

Current Owner: Carnriver Pty Ltd

Property Location: 3216 Surfers Paradise Boulevard, Surfers Paradise

Property Description: L102 L111, L115-116 RP21839; L2 RP54244; L1 RP73577;
L3 RP78025; L9 RP802556; L1-2 RP85531; L1-2 RP87950;
L1-6 RP90703; L3 RP90910; L1 RP98831; L163-171 SP129420

File Number: PN 67889/36 (P1)

Rate Account: RA1036954

UNAUTHORISED RELEASE OF CONFIDENTIAL REPORTS OR INFORMATION may be an offence under the Local Government Act 1993 and other statutory provisions, Policy (Meetings), Code of Conduct or other policies, and a breach of a Council decision or

CONFIDENTIAL

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"PD: (page 5 of 5 pages)"

Summary of Activity

Date	Details
28/01/04	Rate Notice number 2 1036954 5 issued and due for payment on 2/03/04. Gross amount \$107,215.39 Discounted amount \$ 86,045.94 (if paid by due date)
19/03/04	Notice of Creditors Intention to Instigate Legal Proceedings issued to Carnriver Pty Ltd (registered owner).
25/03/04	Payment received \$86,045.94.
26/03/04	Letter received requesting discount allowance. Discount Request Reason: "Rate Notice for the property in question was not received until 16 March 2004".
31/03/04	Interim discount acknowledgement letter sent.
06/05/04	Discount decline letter sent. Discount Decline Reason: Address on rate notice was the "Address for Service of Notices" as advised on property ownership transfer documentation.
01/06/04	Fax received requesting a review of the discount decline decision and advising of the correct postal address. Discount Request Reason: Postal address issue and history of paying on time
10/06/04	Copy of the transfer documentation faxed to the applicant for verification with advice a request for further consideration would need to be lodged with the Manager Financial Services.
22/06/04	Letter received requesting the discount decline decision. Discount Request Reason: Postal address issues, history of making payment on time and reputation as a developer of large projects in the City and using Council for all building certifications
23/07/04	Letter sent advising that in this instance discount cannot be allowed however, all interest charges that had accrued (\$667.44) were withdrawn and payment of the outstanding (discount) amount of \$13,822.45 was required by 06/08/04.
22/09/04	Letter received advising why Sunland Group did not make payment by the due date. Discount Request Reason: "The rates notice was addressed to Carnriver Pty Ltd, Level 18/50 Cavill Avenue, Surfers Paradise. We believe the rates notice was delivered to our office but we did not recognise the name Carnriver".

UNAUTHORISED RELEASE OF CONFIDENTIAL REPORTS OR INFORMATION may be an offence under the Local Government Act 1993 and other statutes, a breach of the Local Law Policy (Meetings), Code of Conduct or other policies, and a breach of a Council decision or

Received Time: 15 Nov 2007 10:01
 RECEIVED BY SPURNEY AUCHELA BURDISILLIAMS, P/LC CARNRIVER P/L (SUNLAND GROUP)

CONFIDENTIAL

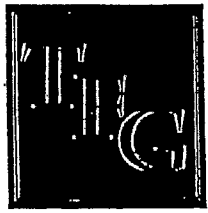
EX 204

"PJ2"

CRIME & MISCONDUCT COMMISSION
No. 2005-5 Date 10 Nov 05
IN THE MATTER OF:

OP GRAND

EXHIBIT No. 204
.....
..... CLERK



The Falcon Group

21st September 2004

Gold Coast City Council
PO Box 5042
GCMC QLD 9726

Attn: Ray Stevens
Mayor's Office

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Dear Sir

RE: CARNRIVER PTY LTD
RATES NOTICE

We understand that the Sunland Group have written to Council regarding their late payment of the January 2004 Rates Notice for the Circle site in Cavill Avenue, Surfers Paradise.

We would like to advise an explanation as to why Sunland did not receive the rates notice within the time to enable them to qualify for the discounted rates value.

The rates notice was addressed to Carnriver Pty Ltd, Level 18/50 Cavill Avenue, Surfers Paradise. We believe the rates notice was delivered to our office but we did not recognise the name Carnriver. Unfortunately, by the time the letter was redirected to Sunland through the internal Building Management, it arrived too late for Sunland to pay by the discount rate.

We apologise for any inconvenience this may have caused.

Yours Sincerely

Lloyd Ross
Managing Director
The Falcon Group Pty Ltd.

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COPIED TO
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"PD 3"

SUNLAND GROUP

18 June 2004

Manager
Financial Services
Gold Coast City Council
Po Box 1301
SURFERS PARADISE QLD 4217

Attach. Type / Doc Name
✓ (2) CHERYANN GIBSON
File No. PNL61883/36
Received at Records Services 22 JUN 2004 AM/PM
Refer S.N. <input type="checkbox"/> Major Corresp. <input type="checkbox"/> Vital Record
Est. Ref. <input type="checkbox"/> Security <input type="checkbox"/> <input type="checkbox"/>
Add Instruction
Retention

www.sunlandgroup.com.au
office@sunlandgroup.com.au

Level 14 Fifty Cavill Ave Surfers Paradise
PO Box 1301 Surfers Paradise Qld 4217
T 07 5592 0042 F 07 5592 1470

Attn: Cassandra Kenyan

Dear Cassandra

RE: **CARNRIVER PTY LTD**
3216 SURFERS PARADISE BLVD, SURFERS PARADISE

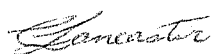
I refer to Council's letter of 6 May 2004, and our response on 31 May 2004, and our subsequent telephone conversation with Cheryl Gibson on this matter. I also note that Pauline Deveson has spoken to Andrew Conochie of our office in relation to a Survey Plan currently bring sealed by Council.

We are asking for your consideration, to allow the additional \$14,489.89 rates amount be waived on the following grounds -

1. Sunland (Carnriver) did not receive Council's rates notice until after the discount period, as it was delivered to Level 18, 50 Cavill Avenue Surfers Paradise and not our postal address of PO Box 1301 Surfers Paradise. We relocated from Level 18 to Level 14 in February 2003, which unfortunately made it even more difficult to obtain the notice.
2. We normally receive Council correspondence to our PO Box address, including rates notices for all other properties.
3. The Sunland Group have always paid their rates notice prior to the discount date.
4. The Sunland Group currently undertake a large number of projects on the Gold Coast and have done so over the last ten plus years, which would have equated to hundreds of thousands of dollars over the years. We have never asked the rates section for a consideration like this before as we have always paid on time.
5. The Sunland Group use Council for all our building certification of highrise and houses which adds to quite a large sum of money each year.

We therefore request that you reconsider our previous decision and waiver the outstanding amount of \$14,489.89 plus any interest incurred to date.

Yours faithfully
Sunland Group Ltd

per 

David Brown
Development Executive Manager

