



City of Gold Coast

Councillor Dawn Crichlow

DIVISION 6

CRIME & MISCONDUCT COMMISSION
No. 2005-5 Date 14 Nov 05

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IN THE MATTER OF:

OP GRAND

EXHIBIT No. 216

CLERK

CRIME AND MISCONDUCT
RECEIVED
2 MAR 2005 <i>MC</i>
COMMISSION

1st March 2005

The Director
Complaints Section
CMC
P O Box 3123
BRISBANE 4001

Attention : Mr Mark Docwra

CMC CLASSIFICATION	
<input type="checkbox"/>	Highly Protected
<input type="checkbox"/>	Protected
<input type="checkbox"/>	In-Confidence
<input type="checkbox"/>	Unclassified
Initials:.....	
Date:...../...../.....	
Ref No. 0105/03403	

Dear Sir

Re: Sunland - Rates Discount Issue

Yesterday 28th February 2005 at the 305th Meeting of Council, although not shown on the agenda under presentations, Mr Soheil Abedian (Sunland) attended the meeting along with Mr Simon Bennett from the Gold Coast Community Benefits Fund at the invitation of the Mayor.

Mr Abedian had with him a cheque which he said was the full amount of the refund given on his rates. He stated that the rates were sent to the wrong address (even though they had informed Council of the right address) but that he was now going to give this money to the Gold Coast Community Benefits Fund. With that the presentation was made to Mr Bennett.

On leaving the Chamber Mr Abedian came to me and made the statement "see I have paid back the money in full". I told him that he should really get a copy of the agenda item because the officers had reported that the rates were in fact sent to the correct address.

Kind Regards

DAWN CRICHLLOW



1111-04-3739 (MCD)

Address all correspondence to:
Gold Coast City Council
PO Box 5042
Gold Coast MC QLD 9729 AUSTRALIA

City of Gold Coast

Councillor Dawn Crichlow

DIVISION 6

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Mobile: 0414 180 677
Email: dcrichlow@goldcoast.qld.gov.au

2nd December 2004

The Director
Complaints Section
CMC
P O Box 3123
BRISBANE 4001

CRIME AND MISCONDUCT
RECEIVED
- 7 DEC 2004 <i>AK</i>
COMMISSION

9 **RECFIND PENDING**

Dear Sir

Attached for your information please find a copy of a memo I have received in reply to my query in relation to discount allowed on a rates issue raised through Cr Molhoek. This rates discount was mentioned in the article in yesterday's local paper a copy of which has already been forwarded to you.

Kind Regards

DAWN CRICHLOW

MCD
11/12/04

CMC CLASSIFICATION	
<input type="checkbox"/>	Highly Protected
<input type="checkbox"/>	Protected
<input checked="" type="checkbox"/>	In-Confidence
<input type="checkbox"/>	Unclassified
Initials: <i>DC</i>	
Date: <i>7/12/04</i>	
Ref No: <i>0.mca/2351a</i>	

Memorandum



To: Cr Dawn Crichlow
From: Graeme Finlayson, Director Organisational Services
Subject: Request for Information: Rate Payer Discount CR 108453
Date: 1 December 2004

Dawn

Thank you for your request today for information regarding the background to the ratepayer discount Cr Molhoek referred to at a recent Council meeting.

I wish to provide the following information in relation to that request:

BACKGROUND

Organisational Services received CR 108543 on 13 October 2004 from Cr Molhoek that consideration be given to crediting a discount against the ratepayer's next rate notice, even though payment of the account was received after the discount period. This request followed resolution of a dispute the ratepayer had over water charges assessed against her property.

The ratepayer wrote to the Mayor's office on or about 2 August disputing the water charges on her property. The ratepayer indicated she would 'finalise [her] account' when the dispute was resolved. This letter arrived in the Mayor's office before the discount period expired.

Through no fault of the ratepayer, it appears that the first response from Council to the ratepayer issued on or after 19 August 2004, a week after the discount period expired. After this correspondence issued, the ratepayer (through Cr Molhoek) raised some further issues with Gold Coast Water about the water meter reading for the property and these issues were subsequently resolved.

The ratepayer subsequently paid the amount of her rate account but after the discount date.

CONSIDERATION OF REQUEST FOR ALLOWANCE OF DISCOUNT:

Due to the fact that Organisational Services was unable to determine if there were any responses to the ratepayer advising what investigations were occurring during the discount period, and that the Mayor's office verbally advised the original request was received within discount period, the discount was granted.

As you are aware, Council has a broad discretion under section 1021 of the Local Government Act 1993 in relation to 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.

Generally speaking, if an enquiry is received within the discount period, the rate account is placed on hold until the enquiry is completed and discount is extended to allow the ratepayer to pay their account once their enquiry has been completed - whether the response is in their favour or not.

It should also be noted that in the circumstances of this case had the matter been referred by the customer to the Rates Call Centre or via the Mayor's office during the discount period, an alternative approach would have been for us to contact the ratepayer, place a levy hold in relation to the water charges in dispute, extend the discount period for the charges in dispute until that issue was resolved and seek payment of the balance not in dispute at the time the levy hold is put in place.

In this instance, no holds were placed on the rate account as Organisational Services was not aware of a dispute of the charges until CR 108543 was received from Cr Molhoek on 13 October 2004.

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

Regards

Graeme Finlayson
Director Organisational Services



City of Gold Coast

Councillor Dawn Crichlow

DIVISION 6

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55108 (1)

ml-04-3739

16th November 2004

The Director
Complaints Section
CMC
P o Box 3123
BRISBANE 4001

CRIME AND MISCONDUCT
RECEIVED
19 NOV 2004
COMMISSION

Meghly

RECEIVED
19 NOV 2004
COMMISSION

... ..

... ..

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Dear Sir

Attached please find comments on an issue relating to rates discount which arose in Council this past week.

I believe this is worth investigating.

Kind Regards

DAWN CRICHLOW

CMC CLASSIFICATION	
()	Highly Protected
()	Protected
(✓)	In-Confidence
()	Unclassified
Initials: <i>ABrod</i>	
Date: <i>19</i> / <i>11</i> / <i>04</i>	
Reg No: <i>0.MC4/222.44</i>	

Arrived at 10 to 1 on Tuesday 9th Nov into a finance meeting of which I am a member

I recognised David Brown who works for Sunland because he had done a presentation that morning at Planning to change part of the Q1 Tower. There was also a lady who I recognised as Anne Jamieson who also worked for Sunland.

I asked David what he was doing at Finance. He said Ray Stevens had told him to come in.

The Committee of Finance consists of Myself, Cr Sarroff, Cr Molhoek, Cr Power.

Even though the mayor is ex officio on all committees He would not have attended half a dozen committees since he was elected mayor.

The agenda item was to do with disallowed discount on payment of rates.

Attached herewith a copy of the item.

Mr Brown did a presentation and queried a couple of the dates shown on the agenda.

The officer who wrote the item assured us the details on the agenda were 100% correct.

And then Ms Jamieson spoke how Sunland as a public company had to be accountable and if they were forced to pay this amount \$13,882 then when community groups rang up or charities or say "the Mayoral Ball" asking for donations they would not be able to say yes.

The questions was asked of the officers - would this set a precedent.

The officers said yes - I was not surprised with their reply because all the time I have been in Council and requests like this have been made - and in times in my memory of pensioners that were in hospital and didn't get their rates and others gone away for family reasons - they were never ever granted.

So I moved the officers recommendation that the debt remain.

This was seconded by Cr Sarroff . The Mayor then moved an amendment that the amount be waived due to extenuating circumstances.

This was seconded by Cr Power and the Chairman, Cr Molhoek, took the vote and the waiving of the fee was granted.

The Committee will refer their recommendation to full council on Monday 22nd November 2004 where I will try to have this overturned.

Attachment 1

Copy of Agenda Item with the Officers
Recommendation

Attachment 2

Copy from the Minutes of the Changed
Recommendation to go to Council

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

*address given to
Council*

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

18 days

** 16th March
18th March cheque*

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.

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

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

CONFIDENTIAL ATTACHMENT

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 (Camriver 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

12 TIMING

Not Applicable

13 STAKEHOLDER IMPACTS

Not Applicable

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

CONFIDENTIAL ATTACHMENT

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

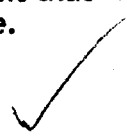
*First time -
(on previous payment)*

It is recommended that Council resolves as follows:

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

Paid

Author:
Author's Name Paula Deveson
Author's Title Supervisor CSO Group
Date 29 October 2004



Authorised by:
Graeme Finlayson
Director Organisational Services

*That the discount
be granted
due to
extenuating
circumstances*

*If we have to pay this
then when people ring up
and ask for money - (say
Mayoral Ball) etc.
we will have to say no.*

ITEM 1 **PLANNING ENVIRONMENT & TRANSPORT**
CONSULTANCY SERVICES- WILLIAM OWEN (CORE ECONOMICS PTY LTD)
PD113/106/05-01(P4)

Changed Recommendation

COMMITTEE RECOMMENDATION FI04.1109.001
moved Cr Crichlow **seconded Cr Sarroff**

- 1 That in accordance with Section 486(2)(b) of the Local Government Act, Council is satisfied that the services to be supplied by Mr William Owen of the firm Core Economics Pty Ltd, are of such a specialised nature it is considered to be impractical and disadvantageous to invite tenders or quotes for the provision of economic and strategic infrastructure services advice for a period of 12 months effective from 4 October 2004.
- 2 It be noted that the anticipated expenditure for the 12 month period is approximately \$50,000. All charges to be debited to Budget Number B0267500.

CARRIED

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

ORGANISATIONAL SERVICES
CONFIDENTIAL ATTACHMENT

Changed Recommendation

MOTION
moved Cr Crichlow **seconded Cr Sarroff**

That the officer's recommendation as printed be adopted.

THE MOTION WAS LOST

MOTION
moved Cr Clarke **seconded Cr Power**

That the discount on the subject rate notice be granted due to the special circumstances.

THE MOTION WAS CARRIED

COMMITTEE RECOMMENDATION FI04.1109.002