



# Corporate Report

NO: R214

COUNCIL DATE: September 19,

2005

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## REGULAR

TO: Mayor & Council DATE: September 15,  
2005

FROM: General Manager,  
Finance, Technology &  
HR FILE: 1970-20

SUBJECT: Tax Sale re: 11650 98A Avenue (Folio 3360-  
50006-4)

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## RECOMMENDATION

That Council:

- Make a finding pursuant to Section 423(2) of the Local Government Act, R.S.B.C 1996,c. as amended (the “Local Government Act”), that there was a manifest error in the tax sale of 11650 - 98A Avenue;
- Order that the tax sale of 11650 - 98A Avenue be set aside pursuant to Section 423(2) of the Local Government Act;
- Order the outstanding taxes be restored as they were before the sale and the outstanding taxes be subject to interest pursuant to Section 423 (2) of the Local Government Act, and
- Instruct Legal Services Division to undertake necessary Court proceedings to have the existing Court Order registered on title varied to allow for future tax sale(s).

## DISCUSSION

Section 403 of the Local Government Act, requires the City to offer for sale, by public auction, each parcel of real property on which taxes are delinquent. On September 27, 2004 the subject property 11650 - 98A Ave., (the “Property”) was included in the Annual Municipal Tax Sale and was a private purchase.

During the redemption period it came to the attention of the Property Tax Section that a registered Court Order was lodged against the property. This prohibits any sale of the Property without the consent of the Public Trustee or further order of the Court.

The registered Court Order states that:

*THIS COURT FURTHER ORDERS that the lands and premises of Robert Glen Grant located at 11650 – 98A Avenue, Surrey, British Columbia, more particularly known and described as:*

*Parcel Identifier: 003-385-922 Lot 51 Block 6 Section 36 Block 5 North Range 3 West New Westminster District Plan 529A,*

*Prior to October 25, 2015, shall not be sold, leased, encumbered, or otherwise disposed of without the written consent of the Public Trustee or further order of this Court, and thereafter shall not be sold, leased, encumbered, or otherwise disposed of without the written consent of the son of the*

deceased, Robert Lakkham Grant, born October 25, 1996, or further order of this Court.

Section 423 of the Local Government Act allows the Council of a municipality to set aside tax sales where a manifest error in the tax sale is discovered:

- (2) *During the period allowed for redemption, if the council finds a manifest error in the tax sale or in the proceedings before the sale, it may order that:*
  - (a) *the purchase price be returned to the purchaser together with interest at the rate prescribed under subsection (3), and*
  - (b) *the taxes be dealt with as the circumstances require, either*
    - (i) *by restoring the taxes as they were before the sale, or*
    - (ii) *otherwise as directed by the council.*
- (3) The Lieutenant Governor in Council may prescribe a rate of interest for the purposes of subsection (2)(a).

In light of the Court Order prohibiting sale, a manifest error has occurred in the sale of the Property. Therefore, pursuant to Section 423(2) of the Local Government Act, it is recommended that Council order that the purchase price be returned to the purchaser together with interest at the prescribed rate. In this case the amount of interest is \$1,565.31.

It is further recommended that Council order the outstanding taxes be restored as they were before the sale with the required interest. The Property Tax Section will also seek the assistance of Legal Services in order to have the existing Court Order registered on title varied to allow for future tax sales.

## CONCLUSION

The Property should not have been included in the 2004 Annual Tax Sale due to a Court Order registered on the title, which prevents the tax sale from completing. As the decision to proceed with the tax sale constitutes a manifest error, the tax sale should be set aside. It is recommended therefore, that Council order that the tax sale of 11650 - 98A Avenue, be set aside and that the purchase price and interest be returned to the purchaser. It is also recommended that Council order the Property Tax Section to reinstate the outstanding taxes with interest and pursue collection with the assistance of Legal Services.

Vivienne Wilke, CGA,  
General Manager, Finance,  
Technology & HR

cc City Solicitor