

Memo

To: Finance and Performance Committee members
From: Deborah Acott, Head of Rates, Valuations and Data Management
cc: Sue Tindal, Group Chief Financial Officer
Date: 10 March 2017
Subject: Fourth Quarterly Report on Non-Rateable Property Rating Treatment

1. Purpose

The purpose of this memo is to inform the Committee on the progress of the programme of work to review the rating treatment of properties currently non-rateable across Auckland. This quarterly update has previously been presented at the Finance and Performance Committee. However, as we are now on our fourth update, the work is on track and there is particular pressure on the Committee's agenda, the Chair and Deputy Chair agreed that it was appropriate to provide an update via memorandum.

2. Executive Summary

The programme of work to review more than 10,500 non-rateable properties is on track to be completed by February 2018. The Local Government (Rating) Act 2002 (LGRA) defines a range of properties as non-rateable including churches and educational institutions. However, any portion of these properties used for other purposes is liable for rates.

The table below shows the work which needs to be undertaken and what has been completed so far, along with the nett difference in rates after adjustments are made. As at 1 March 2017, 8,986 properties have been reviewed with 24 confirmed as fully rateable. Of the properties reviewed 2,065 require more detailed investigation. The total nett change in rates amounts to an increase of \$397,610.

Legacy	Non-rateable properties	Total reviewed	Confirmed non-rateable	Confirmed rateable	Require more investigation	Balance for review	Nett \$ rates changes
ACC*	3,811	3,011	2,130	10	871	800	12,792
MCC	2,496	2,299	1,820	5	474	197	62,404
NCC	1,666	1,563	1,304	3	256	103	314,717
RDC	1,412	1,083	883	1	199	329	963
WCC	1,123	1,030	760	5	265	93	6,734
Total	10,508	8,986	6,897	24	2,065	1,522	397,610

*ACC includes the former Franklin and Papakura District Councils

3. Progress Update

Since the last report (in December 2016):

- The number of properties reviewed has increased from 8,935 to 8,986.
- Properties confirmed as non-rateable have increased from 6,582 to 6,897.
- The balance to review has decreased from 1,579 to 1,522.
- Properties that are potentially fully rateable have increased from 14 to 24.

This represents a further increase in rates of approximately \$53,030 (taking the nett total to date for the project to \$397,610).

- An initial review of properties used for pre-school, primary and secondary education has been conducted.

The review is increasingly focussed on more complex rating units and issues of non-rateability. The earlier focus on more than 6,000 council owned reserves was largely straightforward. The major effort has been a substantial amount of preparatory work for the review of properties used for religious worship.

4. Religious Worship

At the Finance and Performance Committee meeting in December 2016, a question was raised as to what constitutes a place of religious worship. A copy of advice received from our legal team is attached (Appendix 1). Following this advice, we will continue to treat land where religious services take place as non-rateable. Other areas used for activities like administration, accommodation and commercial activities will continue to be treated as rateable.

Religious organisations were issued a letter explaining our policy and requesting details of the property usage. We received a 60% response rate which will reduce the need for physical inspections. Where the information is inconclusive, or there is evidence of fully rateable activities, valuer inspections will be arranged to confirm the rating of these properties.

5. Commercial Properties

Following discussion on businesses operating at residential properties at the Finance and Performance Committee meeting in May 2016, our contract valuers have specifically been looking for houses with signage indicating a property may be used for purposes other than a residence, whilst performing their inspections. This occurs most frequently in 'mixed use' locations, often on the fringe of commercial town centres and along main arterial roads.

As at 31 December 2016, we had identified a total of 39 properties which fit the above criteria. Due to these changes, we have identified approximately \$19,000 of additional rates revenue.

Over the last quarter, we have identified at least 30 further properties which have a split business and residential use. Our valuers are currently creating split valuations so that both activities can be rated. The value of the increase in rates for these properties is therefore not yet known.

6. Conclusion

The body of work being undertaken to review the treatment of Auckland Council's non-rateable properties is on track to be completed by February 2018. If there are any queries on the subject, please contact me via email on deborah.acott@aucklandcouncil.govt.nz or mobile phone on 021-636-046.

Appendix 1

Memo

Date: 30 September 2016

To: Rhonwen Heath/ Michael Higgins

cc: Helen Wild

From: Kelly Quinn

Subject: Definition of “Religious Worship” in the context of Schedule 1 of the LGRA

Introduction

You have asked for advice about what constitutes “land used solely or principally as a place of religious worship” under clause 9(1) of Schedule 1 to the Local Government (Rating) Act 2002 (**LGRA**).

Definition of “Religious Worship”

We can find no authority that has considered the definition of the term “religious worship” in New Zealand case law. However, the definition has been considered in England recently in the context of whether or not a couple could be married in a Church of Scientology.¹ The case was an appeal from a decision which had held that the Church of Scientology was not a place of worship under the Places of Worship Registration Act 1855.² The Judge in the first instance had held that he was bound by a Court of Appeal decision from 1970 which had found that “religious worship” required an object of veneration to which the worshiper submitted.³

In the *Segerdal* decision Lord Denning said “it connotes to my mind a place of which the principal use is as a place where people come together as a congregation or assembly to do reverence to God. It need not be the God which the Christians worship. It may be another God or an unknown God but it must be reverence to a deity.”

¹ *R (on the application of Hodkin and another) v Registrar General of Births Deaths and Marriages* [2013] UKSC 77

² *R (on the application of Hodkin and another) v Registrar of Births Deaths and Marriages* [2012] EWHC 3635 (Admin), [2013] PTSR 875

³ *R v Registrar General, ex p Segerdal* [1970] 2 QB 697

The Supreme Court in the United Kingdom (formerly the House of Lords) referred to the difficulty in attaching a narrowly circumscribed meaning to “religion”. The Court considered an American case about the teaching of transcendental meditation (as a possible violation of the First Amendment of the US Constitution).⁴ The Court identified three indicia whereby an analogy could be made with existing accepted religions. This approach has been criticised but was referred to in an Australian decision regarding whether or not the Church of Scientology was required to pay pay-roll tax or was exempt because the wages were paid by a religious institution.⁵

The Australian court held that the criteria of religion required a belief in a supernatural Being and the acceptance of canons of conduct in order to give effect to that belief.

Lord Toulson in the *Hodkin* decision went on to describe religion as “a spiritual or non-secular belief system held by a group of adherents, which claims to explain mankind’s place in the universe and relationship with the infinite, and to teach its adherents how they are to live their lives in conformity with the spiritual understanding associated with the belief system. Such a system, he found, may or may not involve belief in a supreme being.

He further considered what was meant by “worship” and referred to the dictionary definition as “the feeling or expression of reverence and adoration of a deity, or to “perform acts of adoration, to take part in a religious service”. He concluded by finding that the chapel of the Church of Scientology was a place or religious worship.

Conclusion

For the purposes of the LGRA Council should consider that places where religious services (of whatever denomination) take place would be considered to be non-rateable.

⁴ *Malnak v Yogi* 592 F.2d 197 (1979)

⁵ *Church of the New Faith v Comr of Pay-Roll Tax (Victoria)* (1983) 154 CLR