



## ADMINISTRATIVE REPORT

Report Date: April 29, 2013  
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Meeting Date: May 29, 2013

TO: Standing Committee on Planning, Transportation and Environment  
FROM: Chief Building Official and Director of Licences and Inspections  
SUBJECT: 5895 Boundary Road - Request for Injunctive Relief and Notice on Title

### *RECOMMENDATION \**

- A. THAT Council authorize the Director of Legal Services, in her discretion, to commence a legal action or proceeding in relation to the property located at 5895 Boundary Road (Lot 46, Block 14, Plan VAP4543, District Lot 36, PID 011-500-514) and to seek injunctive relief in that action or proceeding in order to bring this property into compliance with City By-laws.
- B. THAT the City Clerk be directed to file a 336D Notice in the Land Title Office in relation to the building at 5895 Boundary Road located on Lot 46, Block 14, Plan VAP4543, District Lot 36, PID 011-500-514; to inform prospective purchasers that there are contraventions on the property of the Zoning and Development By-law, Electrical By-law and the Building By-law.

### *REPORT SUMMARY \**

This report summarizes the by-law violations and related enforcement history of 5895 Boundary Road. As a result of these violations Council is asked to consider a recommendation to seek a court injunction to bring the building into compliance with City Bylaws as well as the registration of a notice on title. At the time this report was written, the building was non-compliant with the Zoning and Development By-law, Electrical By-law, and the Building By-law. These violations, while serious, do not appear to include imminent threats to health and safety and mostly relate to refusal to comply with City By-laws.

### *COUNCIL AUTHORITY/PREVIOUS DECISIONS \**

Section 334 of the Vancouver Charter allows the City to seek a court order requiring a person to comply with any of the City's By-laws.

Section 336D of the Vancouver Charter provides a mechanism whereby the City of Vancouver can advise prospective purchasers of certain conditions or contraventions of City By-laws with respect to land or a building or structure. It provides that if the City Building Inspector observes an unsafe condition, a by-law contravention related to the construction or safety of buildings or structures or if the contravention is of the nature that a purchaser, unaware of the contravention, would suffer a significant expense if the by-law were enforced against the purchaser, then the City Building Inspector may recommend to City Council that a resolution be considered directing the City Clerk to file a notice on the title of the property in the Land title Office.

#### ***CITY MANAGER'S/GENERAL MANAGER'S COMMENTS \****

The General Manager of Community Services RECOMMENDS approval of the foregoing.

#### ***REPORT***

##### ***Background/Context \****

The building at 5895 Boundary Road is a single family dwelling with an approved secondary suite. In 2009, an Inspector found the owner, Wai Lam Chu, expanding the rear deck without permits. Subsequently the City issued an Order to stop work and remove the alterations. Mr. Chu has since completed the expansion to the rear deck and enclosed additional space underneath, with facilities for a third suite that is also not approved. During the course of the past four years, Mr. Chu has repeatedly ignored multiple City and Provincial Court Orders to stop work and to apply for permits.

Mr. Chu has been prosecuted in Provincial Court and ordered to bring the property into compliance with City By-laws. The Provincial Court also fined the Mr. Chu. The Provincial Court Order dated December 13, 2012, required Mr. Chu to fully comply with the Building By-law and Zoning and Development By-law no later than January 31, 2013.

As of the date of this report, the owner has still not complied with the Provincial Court Order. A Provincial Court Order is different from an injunction (Court Order) that this report is seeking through the BC Supreme Court. A Provincial Court Order expires in one year, and is only enforceable by way of further fines. This report seeks approval for an injunction (BC Supreme Court Order) which is enforceable by contempt of court, and does not automatically expire. Staff considers an injunction to be much more likely to achieve compliance.

Earlier this year, Mr. Chu was taking steps towards by-law compliance. He currently holds a valid Building Permit to remove all of the unapproved work and took steps towards compliance by partially removing the unapproved work. However, an inspection on April 9, 2013, revealed that the previously removed work had been restored to the original state of non-compliance. The deck has been enclosed again and facilities for an unapproved third suite have been restored.

##### ***Strategic Analysis \****

At the time this report was written, the property at 5895 Boundary Road was non-compliant with the Zoning and Development By-law, Electrical By-law, and the Building By-law. The

violations include, but are not limited to: an increase in floor space ratio over the approved plans; additional facilities for a third suite that is not permissible under the current zoning; an increase in impermeable surface area for the property, and work done without safety inspections or involvement of trade professionals.

Staff feel it is important to uphold these bylaws consistently and fairly in order to meet the City's strategic goals of providing a safe and liveable city. In this case, the owner has refused to comply with safety related by-laws (i.e. Building and Electrical By-laws) or liveability standards (i.e. Zoning and Development By-laws). In order to continue to move forward with by-law enforcement, it is recommended that Council approve proceeding to the next stage of enforcement and seek injunctive relief (i.e. a court order requiring compliance) against the Owners.

Subject to Council approval, this matter will be referred to the Director of Legal Services so that she may, at her discretion, commence a legal action or proceeding in relation to 5895 Boundary Road.

In addition, the contraventions of the Zoning and Development By-law, Electrical By-law, and the Building By-law are of the nature that a purchaser, unaware of the contraventions, would suffer a significant loss or expense if the by-laws were enforced against the purchaser. In order to protect prospective purchasers, it is recommended that a notice is placed on the title of the lands, pursuant to section 336D of the Vancouver Charter.

#### *Implications/Related Issues/Risk (if applicable)*

##### *Financial \**

There are no financial implications.

##### *CONCLUSION \**

The property at 5895 Boundary Road is non-compliant with the Zoning and Development By-law, Electrical By-law, and the Building By-law. City Staff have tried to work with Mr. Chu to gain compliance over a considerable period of time. Mr. Chu has been notified of the violations through multiple City and Provincial Court Orders. At this point, it is recommended to seek injunctive relief in the Supreme Court to bring the building into compliance and to place a notice on title to notify prospective purchasers of the by-law violations.

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