



## ADMINISTRATIVE REPORT

Report Date: May 1, 2013  
Contact: Will Johnston  
Contact No.: 604.873.7515  
RTS No.: 10083  
VanRIMS No.: 08-2000-20  
Meeting Date: May 29, 2013

TO: Standing Committee on Planning, Transportation and Environment  
FROM: Chief Building Official and Director of Licences and Inspections  
SUBJECT: 8160 St. George Street - 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 8160 St. George Street (Parcel Identifier: 008-484-244; Legal Description: Lot A, Block 31, Plan VAP14166, District Lot 313, NWD of Block B) 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 8160 St. George Street ((Parcel Identifier: 008-484-244; Legal Description: Lot A, Block 31, Plan VAP14166, District Lot 313, NWD of Block B)) to inform prospective purchasers that there are contraventions on the property of the Zoning and Development By-law, the Electrical By-law and the Building By-law.

### *REPORT SUMMARY \**

This report summarizes the by-law violations and related enforcement history of 8160 St. George Street. As a result of these violations Council is asked to consider a recommendation to seek a court ordered injunction to bring the building into compliance with City Bylaws as well as the registration of a notice on title. The building is currently non-compliant with the Zoning and Development By-law, the Electrical By-law and the Building By-law. These violations, while serious, do not apparently include imminent threats to health and safety; rather, they 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 8160 St. George is a one-family dwelling constructed in 1980.

In April 2008, the district building inspector found construction work being carried out without permits at the rear elevation of the building. This work entailed a two-storey addition to the back of the house that included an approximately 20' x 10' enclosed addition to the ground floor and an approximately 16' x 10' enclosed addition to the 2<sup>nd</sup> floor.

The owners at the time did not comply with any City orders to either obtain the necessary permits or remove the unauthorized additions. Consequently, the owners were prosecuted in Provincial Court and were fined. In addition to the fine, the Provincial Court ordered the owners to bring the building into compliance by removing the unapproved additions by June 13, 2010. During the time between the Provincial Court ruling and the expiry of the court order, staff discovered that the property had been sold to the current owners, Gurdip Bheela and Tirath Bheela.

In May 2010 with the unauthorized additions still in place, staff initiated enforcement action against the current owners. By mid-October 2010, after having received two extensions of time to comply with the City's order, the owners did not remove the unauthorized rear additions nor did they apply for any permits. Consequently, the Bheelas were prosecuted in Provincial Court.

The Bheelas did not appear in Court on the date of the trial. After an ex-parte hearing (i.e. a hearing carried out in the absence of the owners), the Court found the Bheelas guilty and fined them. In its Order dated April 25, 2012, the Court also required the Bheelas to either obtain the necessary permits or remove the unapproved additions no later than August 31, 2012. The owners did not comply with the Provincial Court order. Further to this, on February 20, 2013, the City Prosecutor filed charges against the Bheelas for breach of a Provincial Court Order. The trial date is to be determined.

A Provincial Court order is different from an injunction issued by the Supreme Court. Provincial orders expire after one year and non-compliance of the orders results in fines. By comparison, injunctions issued in the Supreme Court do not ordinarily expire (i.e. compliance is required at all times in the future) and non-compliance with the order puts individual(s) in contempt of court. This report seeks Council approval for an injunction through the Supreme Court.

---

### *Strategic Analysis \**

At the time this report was written, the property at 8160 St. George Street contained a 2-storey addition constructed to the rear of the house without permits or approvals. This is a violation of the Zoning and Development By-law, the Building By-law and the Electrical By-law. The violations include, but are not limited to: an increase in floor space ratio over the approved plans; an increase in impermeable surface area for the property; and trade and building work done without City inspections.

Staff feel it is important to uphold our by-laws consistently and fairly in order to meet the City's strategic goals of providing a safe and liveable city. In this case, the owners have refused to comply with either safety-related by-laws (i.e. Building and Electrical By-laws) or liveability standards (i.e. Zoning and Development By-law). In addition, they also failed to comply with a Provincial Court Order. 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 issued by the BC Supreme Court) 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 legal action or proceeding in relation to 8160 St. George Street.

In addition, the contraventions of the Zoning and Development By-law, the Building By-law, and the Electrical By-law are of the nature that a purchaser, unaware of the contraventions, could suffer a significant loss or expense if the by-laws were enforced against the purchaser. This is evident in the case of the Bheelas. Therefore, 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 8160 St. George Street is non-compliant with the Zoning and Development By-law, Building By-law and Electrical By-law. The owners, Gurdip Bheela and Tirath Bheela, have been notified of the violations and been given two separate extensions of time to apply for the required permits or remove the unauthorized two-storey rear addition from the house. They have also been found guilty in Provincial Court. The owners not only failed to comply with the City's Order, but also with the Provincial Court Order. At this point, it is recommended to seek injunctive relief to bring the building into compliance and to place a notice on title to notify prospective purchasers of the by-law violations.

\* \* \* \* \*