



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Date: November 16, 2005
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Meeting Date: November 23, 2005

TO: Vancouver City Council

FROM: City Building Inspector

SUBJECT: 4883, 4889 and 4899 Belmont Avenue
Warning to Prospective Purchasers and Request for Injunctive Proceedings

RECOMMENDATION

- A. THAT the City Clerk be directed to file a 336D Notice against the title to the properties at 4883 Belmont Avenue, 4889 Belmont Avenue and 4899 Belmont Avenue, Lots 1 Except part in explanatory plan 3376 and 2, and 3, Block 1, District Lot 140, Plan 6583, PID numbers 010-858-296 and 010-858-288 and 010-858-300 in order to warn prospective purchasers that there is a contravention of the Vancouver Building By-law related to these sites.
- B. THAT the Director of Legal Services is hereby authorized, in her discretion, to commence a legal action or proceeding in relation to the sites located at 4883, 4889 and 4899 Belmont Avenue and may, in her discretion, seek injunctive relief in that action or proceeding, in order to bring these sites into compliance with City By-laws.

GENERAL MANAGER'S COMMENTS

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

COUNCIL POLICY

Section 336D of the Vancouver Charter provides a mechanism whereby the City of Vancouver can warn prospective purchasers of contraventions of City By-laws relating to land or a building or structure. It provides that if the City Building Inspector observes a condition that he considers to be a contravention of a By-law relating to the construction or safety of buildings; or as a result of that condition, a building or structure is unsafe or unlikely to be usable for its expected purpose; or is of a nature that a purchaser, unaware of the contravention, would suffer a significant loss or expense if the By-law were enforced against him, he may recommend to City Council that a resolution be considered directing the City Clerk to file a notice against the title to the property in the Land Title Office.

Sections 334 and 571 of the Vancouver Charter allow the City to seek injunctive relief for any By-law contravention.

PURPOSE

The purpose of this report is to request approval to file a 336D Notice against the title to the three sites at 4883, 4889 and 4899 Belmont Avenue to warn prospective purchasers of a Building By-law violation and to request approval to seek injunctive relief.

BACKGROUND

The Landscape Inspector for Community Services received a complaint from neighbouring residents that a significant number of trees had been cut and removed from these three vacant sites.

A site inspection was carried out on November 10, 2005 with our Inspection Staff, Survey Staff from Engineering Services and our Environmental Protection Branch. The inspection revealed that sixty five (65) stumps (over 8 inches in diameter) were remaining on these sites. The removal of the 65 trees was recent as evidenced by fresh sawdust at the base of each stump. Most of the wood appeared to have been removed from the sites or piled into slash piles on site. The species of trees that were removed include Cedar, Douglas Fir, Holly, Maple, Weeping Willow and Fruit.

The inspection further revealed that the periphery of the sites has been piled with an accumulation of debris, the site topsoil layers and drainage has been severely impacted and most surface vegetation has been removed leaving bare soils exposed. The northerly slope leads down to Spanish Banks beach and the westerly slope is adjacent to GVRD lands and Spanish Banks Creek (salmon bearing). The Department of Fisheries and Oceans (DFO) is currently investigating the impact that this significant tree removal and remaining debris on site has had or will have on the creek. It is anticipated that they will be issuing orders requiring a sediment and erosion control plan for the sites.

Because of the above site conditions, there are concerns that the stability of the slopes on the north and west sides of the sites has been compromised resulting in a potentially unsafe condition. Accordingly, the owners of the properties were ordered to retain the services of a Geotechnical Engineer to inspect the sites, assess the risk to the north and west slopes and provide a detailed remediation plan to my satisfaction by November 22, 2005.

DISCUSSION

The property owner is a company incorporated in the British Virgin Islands. The three properties are currently up for sale and there is a great deal of interest by potential purchasers. The legal department is currently reviewing options for enforcement of the violations of the Private Property Tree By-law and may seek injunctive relief in order to achieve compliance with the Building By-law.

CONCLUSION

It is recommended that a 336D Notice be filed against the title to all three sites so that any prospective purchasers will be warned that there is a potentially unsafe condition and that a remediation plan and Geotechnical report are required to address that issue and that they could suffer significant expense if the Building By-law were to be enforced against them. Subject to Council approval, I will also be referring this matter to the Director of Legal Services to request that she commence legal action and seek an injunction if, in her opinion, it is appropriate to do so.

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