

Supports Item No. 5
CS&B Committee Agenda
May 4, 2006



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Date: April 3, 2006
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CC File No.: 11-4400-10
Meeting Date: May 4, 2006

TO: Standing Committee on City Services and Budgets

FROM: City Building Inspector

SUBJECT: 4564 Belmont Avenue
Warning to Prospective Purchasers

RECOMMENDATION

- A. THAT the City Clerk be directed to file a 336D Notice against the title to the property at 4564 Belmont Avenue (Lot 7 of A of 1 & 4, Block 134, District Lot 540, Plan 2516) PID 013-688-944 in order to warn prospective purchasers that there are contraventions of the Zoning and Development and Vancouver Building By-laws related to this building.
- B. THAT the Director of Legal Services is hereby authorized, in her discretion, to commence a legal action or proceeding in relation to the premises located at 4564 Belmont Avenue (Lot 7 of A of 1 & 4, Block 134, District Lot 540, Plan 2516) PID 013-688-944 and may, in her discretion, seek injunctive relief in that action or proceeding, in order to bring this building 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 4564 Belmont Avenue to warn prospective purchasers of By-law violations and to request approval to seek injunctive relief.

BACKGROUND

The property addressed as 4564 Belmont Avenue is approved as a one family dwelling and is located in an RS-1(One Family Dwelling) District. This building was constructed in June of 1938.

As a result of a complaint in 1997, our inspection services investigated and reported that an approximate 7 ½' X 11' concrete deck structure (including concrete retaining walls and stairs) was constructed at the rear and also the grades were being altered without permit or approval in contravention of the Zoning and Development and Vancouver Building By-laws.

The owner was ordered to stop work in April of 1997 and make application for the required permits or remove the unapproved work. As no applications had been submitted, and the unapproved work was still existing, in June of 1997 the owner was ordered to remove the concrete deck addition and restore the grades.

In follow-up to a further complaint, our inspection services reported that an overheight fence was erected in the east side yard of the property, a second fence was constructed along the rear property line (which does not allow for the required off-street parking to be provided), an area of the basement which was approved as storage only is now being used as living quarters, a further area under the front porch approved as dead space is now being used as storage with a newly constructed access door with all of this done without permits or approvals. Further correspondence was sent to the owner to comply with the approved development and building permit plans for this building. As compliance was not obtained the matter was then referred to the City Prosecutor for charges in 2001.

A Development Permit was then applied for and was refused in 2004. A subsequent appeal to the Board of Variance was heard May of 2005 and was also disallowed. The owner was found guilty in Provincial Court and was fined in 2005.

A follow-up inspection was carried out after the guilty plea, and it was reported that the off-street parking was not provided, the fence in the side yard remained overheight and the concrete deck, retaining wall system and the concrete stairs were still existing . A further order was sent to the owner in August of 2005 to remove or reduce the overheight fence in the east side yard, provide the required off-street parking and remove the concrete deck, retaining wall system and stairs.

DISCUSSION

A recent inspection indicated that the off-street parking was not provided, the fence in the side yard was overheight and the concrete deck, retaining wall system and concrete stairs were still existing and no permits or approvals have been obtained. As access to the building was not gained there is no information as to whether the interior areas are being occupied as approved under the issued development and building permits.

CONCLUSION

Although the building is not currently listed for sale, it is recommended that a 336D Notice be filed against the title so that any prospective purchasers will be warned that there are violations of the Zoning and Development and Vancouver Building By-laws. Subject to Council approval, I will 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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