



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: March 16, 2007
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VanRIMS No.: 11-3000-12
Meeting Date: June 14, 2007

TO: Standing Committee on Planning and Environment
FROM: City Building Inspector
SUBJECT: Nuisance Property at 3532 West 40th Avenue

RECOMMENDATION

- A. THAT Council declare that the condition of the property at 3532 West 40th Avenue, Lot 37, Block 14, District Lot 2027, Plan 2482 PID 013-736-922, is a nuisance pursuant to Section 324A of the Vancouver Charter.
- B. THAT Council approve the attached Resolution and order the registered owner to remove all debris, miscellaneous items, materials stored in the yards and remove all unlicensed, dismantled or wrecked vehicles parked/stored in the yards within 30 days of a copy of the Resolution being served pursuant to Section 324A of the Vancouver Charter.
- C. THAT in the event that the owner fails to comply with this order of Council, Council further orders and hereby authorizes the City Building Inspector to have all miscellaneous items/materials stored in the yards and all unlicensed, dismantled or wrecked vehicles parked/stored in the yards removed, disposed of or sold pursuant to Section 324A(2) of the Vancouver Charter. Council further orders that from the proceeds of such sale or disposal shall be deducted for the use of the city the actual costs and disbursements incurred by the city in carrying out the removal, sale and disposal and the remainder of such proceeds shall be paid by the city to the owner.
- D. THAT in the event of the failure of the owner to allow the City Building Inspector and/or his designate access to the site to carry out the work as outlined in Recommendation C above, the Director of Legal Services is hereby

authorized, in her discretion, to commence a legal action or proceeding in relation to the property at 3532 West 40th Avenue, and may, in her discretion, seek injunctive relief in that action or proceeding in order to bring this property into compliance with the City By-laws and Council's resolution.

- E. THAT the City Clerk be directed to file a 336D Warning Notice against the Certificate of Title to the property at 3532 West 40th Avenue, in order to warn prospective purchasers that there are violations of the Standards of Maintenance and Untidy Premises By-laws related to this property and that there is an order of Council against the property.

GENERAL MANAGER'S COMMENTS

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

CITY MANAGER'S COMMENTS

The City Manager RECOMMENDS approval of the foregoing.

COUNCIL POLICY

Section 324A of the Vancouver Charter enables Council by resolution or by-law to declare any building, structure, tree, or erection of any kind whatsoever, or any other matter or thing in or upon any private or public lands, street or road, a nuisance or dangerous to the public safety or health and by such by-law or resolution, to order that the same shall be removed, pulled down, filled up, or otherwise dealt with, by the owner, agent, leasee or occupier thereof.

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 is of a nature that a purchaser unaware of the contravention, would suffer a significant 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.

PURPOSE

The purpose of this report is to request that Council declare the untidy and unsightly condition of the property at 3532 West 40th Avenue a Nuisance pursuant to Section 324A of the Vancouver Charter and order the owner of the property to remove all materials, miscellaneous items and unlicensed and/or dismantled vehicles from the site. It is also requesting that a 336D Warning notice be filed against the Certificate of Title to the property to warn prospective purchasers that there are violations of the by-laws at this property.

BACKGROUND

This is a single family dwelling that was constructed in 1929. It is located in an RS-5, One Family Dwelling District.

This department has received a number of complaints over the past few years concerning the untidy and unsightly condition of the yards at this location. At present, the yards contain stacks of wood that have been exposed to the elements for a number of years, pipes, tires, a rusted shopping cart, and piles of cut tree branches. In addition, there are three unlicensed, unsightly and dilapidated vehicles on the site, one being a large flatbed truck with a collapsed trailer attached.

The City had dealings with this property owner 10 years ago regarding these same issues, at which time he advised that he was dealing with a sick and elderly parent and requested time to comply with the by-laws. Although ample time was granted, the violations were never rectified. A new complaint was submitted in June of 2006 at which time the owner was issued a new order pursuant to the Untidy Premises By-law. The owner responded with a request for copies of the by-laws (which were provided to him in January of this year) and indicated that he would address the City's concerns after satisfying other unrelated matters that he had with the Federal Government.

DISCUSSION

Although the owner of the property has stated that he intends to cooperate and remove the items noted above, they have remained on the site and in an unsightly and untidy condition for several years. The condition of the property is not in keeping with the surrounding properties that are well maintained and is in contravention of the Standards of Maintenance and Untidy Premises By-laws.

It appears that the owner is either unwilling or incapable of complying with the by-laws.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

In order to gain compliance on these long outstanding by-law violations and address the concerns of the neighbouring property owners, it is recommended that City Council declare the condition of the property a nuisance and order the property owner to comply with the attached resolution. It is also recommended that the City Building Inspector be authorized to have the work done in the event that the owner fails to do so and that the Director of Legal Services be authorized to commence a legal action to bring the site into compliance with the by-laws should the need arise.

Although the property is not currently listed for sale, it is further recommended that a 336D Warning Notice be filed on Title to the property in order to warn prospective purchasers that there are violations of the Untidy Premises and Standards of Maintenance By-laws on this property and that there is an order of Council against the property.

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In the Matter of Section 324A
of the Vancouver Charter and
3532 West 40th Avenue

RESOLUTION

Be it resolved by the Council of the City of Vancouver:

1. THAT the condition of the property at 3532 West 40th Avenue, Lot 37, Block 14, District Lot 2027 Plan 2482, PID 013-736-922 is declared to be a nuisance pursuant to Section 324A of the Vancouver Charter.
2. THAT the registered owner of the property is hereby ordered to remove all debris, miscellaneous items, wood, tires, metal, tree cuttings and materials stored in the yards and remove all unlicensed, dismantled or wrecked vehicles parked/stored in the yards, within 30 days of a copy of the Resolution being served pursuant to Section 324A (1) of the Vancouver Charter.
3. THAT in the event that the owner fails to comply with this order of Council, Council further orders and hereby authorizes the City Building Inspector and/or his designate, to have all miscellaneous items, wood, tires, metal, tree cuttings and materials stored in the yards and all unlicensed, dismantled or wrecked vehicles parked/stored in the yards removed, disposed of or sold pursuant to Section 324A(2) of the Vancouver Charter. Council further orders that from the proceeds of such sale or disposal shall be deducted for the use of the city the actual costs and disbursements incurred by the city in carrying out the removal, sale and disposal and the remainder of such proceeds shall be paid by the city to the owner.
4. THAT in the event of the failure of the owner to allow the City Building Inspector and/or his designate access to the site to carry out the work outlined in paragraph 3 above, the Director of Legal Services is hereby authorized, in her discretion, to commence a legal action or proceeding in relation to the premises at 3532 West 40th Avenue, and may, in her discretion, seek injunctive relive in that action or proceeding in order to bring the property into compliance with Council's order.
5. THAT the City Clerk is hereby directed to file a 336D Warning Notice against the Certificate of Title to the property at 3532 West 40th Avenue, in order to warn Prospective purchasers that there are violations of the City By-laws related to this Property and that there is an order of Council against the property.