



ADMINISTRATIVE REPORT

Report Date: January 23, 2009
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VanRIMS No.: 08-2000-20
Meeting Date: March 5, 2009

TO: Standing Committee on Planning and Environment
FROM: City Building Inspector/Chief Building Official
SUBJECT: REPEAT (GROW-OP) BUILDING AT 729 EAST 58TH AVENUE

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 at 729 East 58th Avenue, and to seek injunctive relief in that action or proceeding in order to:
 - i. Have the registered owner obtain permits, correct all deficiencies in the building and obtain a re-occupancy permit;

And
 - ii. Prohibit the current registered owner from renting the building or allowing anyone other than himself and his immediate family to live in the building;

- B. THAT the City Clerk be directed to file a 336D Warning Notice against the Certificate of Title to the property at 729 East 58th Avenue, in order to warn prospective purchasers that there are violations of the Vancouver Building, Electrical and Standards of Maintenance By-law related to this 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 334 of the Vancouver Charter allows the City to seek injunctive relief for any By-law contravention.

Section 336D of the Vancouver Charter provides a mechanism whereby the City can warn prospective purchasers of contraventions of City by-laws related 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 authorize the Director of Legal Services to seek injunctive relief to require that the current registered owner of this repeat grow op building obtain all required repair permits and re-occupancy approval and to prevent the current owner from renting this property. It also requests that Council approve the filing of a 336D warning notice on title to the property in the Land Title Office in order to warn prospective purchasers that this building has been a grow op on 3 occasions and that there are violations of the Building, Electrical and Standards of Maintenance By-law related to this property.

BACKGROUND

This is a single family dwelling that was constructed in 1962. It is located in an RS-1, One Family Dwelling District.

The current owner of the property purchased the building in 2000. Since that time, the building has been closed by Growbusters team on three occasions because it was being used as an illegal marijuana grow operation as outlined in the following timetable:

- 2001 - busted. Owner told staff that the property had been rented and the grow-op belonged to an unknown tenant. Owner obtained repair permits and was granted a Re-Occupancy permit in February of 2002 (indicated that he would be living in the building, so was not required to obtain a business license).
- March, 2007 - busted. Owner again told staff that the property had been rented and the grow- op belonged to an unknown tenant. Owner obtained repair permits and was granted a Re-Occupancy permit in July of 2007 (again indicated that he would be living in the building - so no business license required).
- November, 2008 - busted. Owner yet again told staff that the property had been rented and the grow-op belonged to an unknown tenant.

The illegal conversion of a building to a grow operation results in unsafe electrical installations and unauthorized modification of the electrical service. The risk of fire is high. There is also significant potential for mould contamination. Grow op buildings also pose a serious risk to neighbouring residents in that they are targets for potentially violent home invasions (grow rips) which sometimes mistakenly target neighbours of actual grow-ops.

Once a building has been closed by the VPD (Growbusters), an order is issued by the Chief Building Official to the property owner requiring that the building be vacated. The owner is further advised that the building is not permitted to be reoccupied until repair permits have been obtained, all mould contamination has been removed by qualified Environmental Consultants and a Re-Occupancy Permit has been issued.

Following the third closure of the building at 729 East 58th Avenue, staff asked the owner to come in to a meeting. At the meeting the owner advised staff of the following:

- a) he didn't know the building was again being used as a grow op;
- b) he was renting the building to his friend (although he couldn't remember the friend's last name);
- c) he had no rental agreement with the tenant;
- d) he would pick up the rent at the front door but never went into the building;
- e) the tenant has disappeared;
- f) he (the owner) is out of town a lot on business and no one else manages the property in his absence (when asked by staff what the nature of his business was, he replied "I don't have to tell you that");
- g) he did not have a business license because he didn't know he needed one (although he had previously signed a declaration waiving a business license because he said that he would be living in the building);

Staff advised the owner that he has not demonstrated that he can responsibly manage this building and that he negligently allowed the building to become a grow op on three occasions and was putting the neighbouring residents at risk. He was advised that staff were not prepared to allow him to use this building as rental property. He was advised that this matter would be brought to Council and that he would have the opportunity to demonstrate to Council how he will properly manage this building and what steps he will take to prevent it being used as a grow op in the future.

DISCUSSION

This owner has been grossly negligent in his management of this property. He failed to learn from his previous experiences and has taken no responsibility for the continued use of his building as a grow op. His negligence has caused a drain on Police and City resources and has put the safety of the neighbouring residents at risk. He misinformed the City in order to receive re-occupancy approval without obtaining a business license for this rental property. He has shown a complete disregard of the by-laws and of the dangerous impact of the grow operations in his house. He was advised that the Chief License Inspector will not consider issuing a business license to him to rent out this property in the future, to which he responded, "I will live in the building". In light of past experiences, staff do not believe that this statement can be relied on. A court order, prohibiting the owner from renting the property or allowing persons other than his immediate family members, would compel him to take a more responsible attitude towards his obligations as a property owner.

Although it is unusual for the City to seek a court order of this nature, staff believe that these circumstances warrant such an approach.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

Given the complete disregard of City by-laws, the threat to neighbouring residents and the lack of accountability of this property owner, it is recommended that the Director of Legal Services be instructed to seek injunctive relief to compel the owner to a) repair the building under permits and b) prevent the owner from re-renting the property. It is believed that requiring the owner to live in the property will put direct responsibility on him to keep the building occupied legally as a single family dwelling and prevent it from being used again as a marijuana grow operation.

The filing of a 336D Notice on Title to the property will also warn any prospective purchasers that this building has been used as a marijuana grow op on three occasions and that because of this, there are multiple by-law violations and an order of Council against the property.

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