



ADMINISTRATIVE REPORT

Report Date: March 2, 2009
Contact: C. Robbins
Contact No.: 604.873.7563
RTS No.: 07979
VanRIMS No.: 08-2000-20
Meeting Date: March 26, 2009

TO: Standing Committee on Planning and Environment
FROM: City Building Inspector
SUBJECT: Nuisance Building at 3441 East 4th Avenue

RECOMMENDATION

- A. THAT Council declare that the condition of the building and accessory building at 3441 East 4th Avenue, Lot 21, Block 94, Section 29, THSL, Plan 7494, PID 010-600-809, is a nuisance and dangerous to public health pursuant to Section 324A of the Vancouver Charter;
- B. THAT Council approve the attached Resolution and order the registered owner of the property to
- remove all garbage, debris and soiled finishes from the interior of the building;
 - clean, sanitize and fumigate the building;
 - repair the rear porch and stairs;
 - repair the front entry door and lock;
 - remove all items stored in the rear detached garage including the unlicensed vehicle;
 - demolish the unsafe detached garage at the rear of the property
- within 30 days of a copy of the Resolution being served pursuant to Section 324A of the Vancouver Charter
- C. THAT in the event of the failure of the owner to comply with the order of Council, Council further orders and hereby authorizes the City Building Inspector and/or his designate, to carry out the work outlined in paragraph B above and have the unlicensed vehicle stored in the unsafe garage disposed of or sold pursuant to Section 342A(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 default of the order, in the event that the owner fails to allow the City Building Inspector and/or his designate access to the building and site to carry out the work outlined in paragraph C 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 3441 East 4th Avenue, and may, in her discretion, seek injunctive relief in that action or proceeding, in order to bring this property into compliance with city by-laws.
- E. THAT the City Clerk be directed to file a 336D Notice against the Certificate of Title to the property at 3441 East 4th Avenue, in order to warn prospective purchasers that there are violations of the Standards of Maintenance By-law and Vancouver Building By-law and that there is an order of Council against the property.

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 any other matter or thing in or upon any private or public lands, a nuisance or dangerous to the public safety, and by such resolution, to order that the same shall be removed, pulled down, filled up, or otherwise dealt with by the owner, agent, lessee, or occupier thereof, as the Council may determine.

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 declare the condition of the building and detached garage at 3441 East 4th Avenue, a nuisance pursuant to Section 324A of the Vancouver Charter and order the property owner to remove all garbage and debris from the interior of the building, clean, sanitize and fumigate the building, repair the rear deck, rear stairs, front door and lock, and demolish the unsafe garage at the rear.

It also requests that in default of Council's order, Council authorize the City Building Inspector or his designate carry out the work at the owners expense and that a warning notice be filed against the Title to the property in the Land Titles Office.

BACKGROUND

This is a single family dwelling that was constructed in 1950. It is located in an RS-1 One Family Dwelling District.

The owner of the property is an elderly woman. Although this building is on record as her fixed address, she doesn't appear to live in the building and neighbours have reported that she is only seen sporadically. A review of the history of this file shows a longstanding problem with the exterior yards being overgrown, complaints of rats and mice on the property and allegations that the interior of the building was full of domestic garbage.

Over the past few years, the city has arranged for the property to be cleaned up and all overgrowth cut under the provisions of the Untidy Premises By-law. Because the owner failed to pay for the costs of this work, they were added to the tax roll for the property.

Last fall, this department received notification from Vancouver Police that the property owner was listed as a missing person. Police had entered the building in search of the owner and reported that she was not found in the building but that the interior is in deplorable shape, full of domestic garbage and there are signs of rat infestation throughout. There is currently no electrical service to the building and no heat. Police were able to locate the owner in January of 2009 and advised staff that she is living in an apartment building on the east side of Vancouver. Staff sent her a letter with concerns about the condition of the building and advising her that this matter would be brought before Council for consideration as a nuisance. After receiving our letter, the owner came into the office to discuss the matter with staff.

The owner claims that she intends to clean up the building and move back into the building after it is cleaned up. However, she was unaware that the building had recently sold for non-payment of taxes. Staff brought her and her current landlord over to the Tax Office so that she could sort out a redemption plan. The tax office subsequently confirmed that she has made an initial payment towards redemption of the property and has set up a repayment schedule.

The Property Use Inspector recently carried out an inspection of the building which revealed the following:

- a) the building is full of domestic garbage;
- b) carpeting is soiled;
- c) there is a strong offensive odour in the building;
- d) the rear porch and stairs are dilapidated;
- e) the roof of the detached garage has collapsed;
- f) there is no heat or electricity in the building;

DISCUSSION

The deplorable condition of the interior of this building appears to be a result of the owner's actions. She has a lengthy history with the city of non-compliance. Despite her expressed intention to clean up the property, it is unlikely she will do so given her past history of non-compliance.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

Although the building appears structurally sound, in its current state it is not fit for habitation and is very unsanitary. There are piles of domestic garbage throughout and signs of rat infestation. The rear detached garage is in an unsafe condition as the roof has collapsed and the rear porch and stairs must be repaired.

The building and garage are in contravention of the Standards of Maintenance and Vancouver Building by-laws. Because of the garbage and resultant infestation by vermin, the property is detrimental to neighbouring property owners.

It is therefore recommended that Council declare the condition of this property a nuisance and order the owner to remove all garbage, debris and soiled finishes from the interior of the building, clean, sanitize and fumigate the building, repair the rear porch, stairs and front door and demolish the unsafe detached garage. It is further recommended that in default of Council's order, the City Building Inspector be authorized to enter onto the property to have the work done at the owner's expense.

It is also recommended that a 336D Warning Notice be filed against the Certificate of Title to the property in the Land Titles Office to warn prospective purchasers that there are by-law violations and an order of Council against the property.

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In the Matter of Section 324A of the
Vancouver Charter and
3441 East 4th Avenue

RESOLUTION

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

1. THAT the condition of the building and accessory building at 3441 East 4th Avenue, Lot 21, Block 94, Section 29, THSL, Plan 7494, PID 010-600-809 is a nuisance and dangerous to public health pursuant to Section 324A of the Vancouver Charter;
2. THAT the registered owner of the property is hereby ordered to:
 - a. Remove all garbage, debris and soiled finishes from the interior of the building;
 - b. Clean, sanitize and fumigate the building;
 - c. Repair the rear porch and stairs;
 - d. Repair the front entry door and lock;
 - e. Remove all items stored in the rear detached garage including the unlicensed vehicle;
 - f. Demolish the unsafe detached garage at the rear of the property

within 30 days of a copy of this Resolution being served pursuant to Section 324A of the Vancouver Charter

3. THAT in the event of the failure of the owner to comply with the order of Council, Council further orders and hereby authorizes the City Building Inspector to have the work outlined in paragraph 2 above carried out and to have the unlicensed vehicle stored in the garage disposed of or sold pursuant to Section 342A(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 3441 East 4th Avenue, and may, in her discretion, seek injunctive relief in that action or proceeding in order to bring the property into compliance with city by-laws and 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 3441 East 4th Avenue, in order to warn prospective purchasers that there are violations of the Standards of Maintenance and Vancouver Building By-law on this property and that there is an order of Council against the property.
