



ADMINISTRATIVE REPORT

Report Date: July 7, 2009
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VanRIMS No.: 08-2000-20
Meeting Date: July 23, 2009

TO: Standing Committee on Planning and Environment

FROM: Chief Building Official and Assistant Director Coordinated By-law Compliance

SUBJECT: Request for Injunctive Relief - Balmoral Hotel at 159 East Hastings Street

RECOMMENDATION

THAT Council authorize the Director of Legal Services, in her discretion, to commence a legal action or proceeding in relation to the premises at 159 East Hastings Street (Balmoral Hotel), and to 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 THAT Council approve the foregoing.

CITY MANAGER'S COMMENTS

The City Manager RECOMMENDS approval of the foregoing.

COUNCIL POLICYThe Vancouver Charter gives Council power to pass by-laws fixing standards of fitness for human habitation to which all dwellings, whether single or multiple, must conform (s.306(1)(i)) and for requiring owners or occupants of real property to maintain said property in a neat and tidy condition in keeping with a reasonable standard of maintenance (s.323(u)). The City has exercised its powers by enacting the Standards of Maintenance By-law.

Section 334 of the Vancouver Charter allows the City to seek injunctive relief for any by-law violation.

In March of 2009, Council directed that in appropriate cases, staff request Council approval to seek injunctive relief to bring Single Room Occupancy (SRO) buildings in the Downtown East Side (DTES) into compliance with City By-laws.

PURPOSE

The purpose of this report is to request Council approval to seek injunctive relief to have the Balmoral Hotel @ 159 East Hastings brought into compliance with the Building and Standards of Maintenance By-laws.

BACKGROUND

The Balmoral Hotel is an 8 storey SRO building with approximately 170 rooms. It was constructed in 1908 and is on the Heritage Registry.

The building has been in continual violation of City By-laws, in particular the Building and Standards of Maintenance By-laws. Violations include damaged walls and ceilings, leaky faucets, plugged toilets, dirty carpeting, and damaged flooring. Numerous orders have been issued over the years and the City Prosecutor has laid charges for multiple violations.

The following provides a brief history of the Department's recent enforcement action in regard to this building:

- In February of 2009, the District Property Use Inspector reported that the elevator in the building was not working - violation of Section 11A.1 of the Standards of Maintenance By-law.
- On April 29, 2009 the owners were ordered to have a licensed elevator repair company commence repairs to the elevator and to provide written confirmation of a signed contract to the attention of the Chief Building Official.
- In April of 2009, the District Property Use Inspector also reported that there were a number of violations in the common hallways and stairwells in the building. The violations were as follows:
 - There are holes at the base of the walls where the walls and floor meet (resulting in problems with adequately pest proofing the building) - violation of Section 4.1.(12) (13) of the Standards of Maintenance By-law;
 - The flooring in the common hallways on each floor is not being maintained in a neat and sanitary condition - violation of Section 13.1 and 21.10 of the Standards of Maintenance By-law;

- There are depressions in the flooring and the flooring is uplifted in some areas creating a trip hazard - violation of Sections 13.1 and 21.10 of the Standards of Maintenance By-law;
- The floor covering/finish is worn and damaged in some areas and has not been maintained - violation of Section 13.1 and 21.10 of the Standards of Maintenance By-law;
- The exit stairs on the north (rear of the building) and south side (front of the building) are not being maintained and are not in good repair (treads show excessive wear or are damaged, finish coating/painting of stairs has not been maintained and is deteriorating, stair treads are warped and loose creating a hazard) - violation of Section 13.1 and 21.10 of the Standards of Maintenance By-law and Section 9.8 Division B of the Building By-law.

The owners were ordered to obtain a building permit and complete repairs to the hallways and stairwells by August 31, 2009.

The owners were also advised that the City may seek injunctive relief should they continue to contravene the by-laws.

DISCUSSION

The following is a status report with respect to the orders issued:

a) Elevator:

The owners responded by providing confirmation that they have entered into a contract with Richmond Elevator Maintenance Ltd. Staff confirmed with the contractor that the owners have paid a deposit for the work and the company is in the process of ordering the necessary parts to retrofit the elevator. The timeline for delivery of the required equipment is 14 -16 weeks and installation is estimated at another 8 weeks.

In the meantime, the repair company has been able to make temporary repairs and the elevator has been operational.

b) Common Areas:

To date, no application for Building Permit has been submitted. Some progress has been made on the sanding and staining of floors. However, 5 floors still require baseboards and painting of walls, doors and baseboards has not yet commenced. Work is also still outstanding with respect to the building exits.

FINANCIAL IMPLICATIONS

There are no financial implications for the City.

SOCIAL IMPLICATIONS:

This building currently provides 170 housing units at a low rental rate. Given the shortage of such housing in the city, it is important that this housing stock be maintained and that the basic needs of the tenants be provided and maintained. The work required in this report is not expected to require any of the existing tenants to vacate their units.

CONCLUSION

Although some progress has been made in response to the orders issued by the Chief Building Official, the required Building Permit has not yet been obtained and there are still contraventions of the Standards of Maintenance and Building By-laws. It may or may not prove necessary for the City to seek injunctive relief to enforce its by-laws in order to bring this building into compliance. Nevertheless, staff request that Council authorize court action seeking injunctive relief to have this building brought into compliance with the Standards of Maintenance and Building By-laws should it prove necessary.

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