

Supports Item No. 1
PT&E Committee Agenda
December 15, 2011



ADMINISTRATIVE REPORT

Report Date: November 18, 2011
Contact: Will Johnston
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RTS No.: 9407
VanRIMS No.: 08-2000-20
Meeting Date: December 15, 2011

TO: Standing Committee on Planning, Transportation and Environment
FROM: Chief Building Official and Director, Licences and Inspections
SUBJECT: 705 East 17th Avenue - Injunctive Relief and 336D Notice

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 located at 705 East 17th Avenue (Lot D, Block 91, District Lot 301, Plan 12651, PID 008-864-055), and to seek injunctive relief in that action or proceeding, in order to bring this building into compliance with City By-laws.
- B. THAT the City Clerk be directed to file a 336D Notice in the Land Title Office in relation to the building at 705 East 17th Avenue located on Lot D, Block 91, District Lot 301, Plan 12651, PID 008-864-055; to inform prospective purchasers that there are contraventions on the property of the Zoning and Development By-law, Building By-law and Electrical By-law related to the construction or safety of this building.

REPORT SUMMARY

The purpose of this report is to request Council approval to seek a court order requiring the owner of the property at 705 East 17th Avenue to bring the building into compliance with the Zoning and Development By-law, the Building By-law, and the Electrical By-law.

The report also requests that Council direct the City Clerk to file a 336D Notice in the Land Title Office against the title of 705 East 17th Avenue.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

Section 334 of the Vancouver Charter allows the City to seek a court order requiring a person to comply with any of the City's By-laws.

Section 336D of the Vancouver Charter provides a mechanism whereby the City of Vancouver can advise prospective purchasers of certain conditions or contraventions of City By-laws with respect to land or a building or structure. It provides that if the City Building Inspector observes an unsafe condition, a by-law contravention related to the construction or safety of buildings or structures or if the contravention is of the nature that a purchaser, unaware of the contravention, would suffer a significant expense if the by-law were enforced against the purchaser, then the City Building Inspector may recommend to City Council that a resolution be considered directing the City Clerk to file a notice on the title of the property in the Land Title Office.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

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

REPORT :

Background/Context

The building at 705 East 17th Avenue is a 2-storey building located in a C-2 commercial district. It was constructed in 1925, underwent major renovation in 1967 with the construction of a 2nd floor addition, and was approved as wholesale and storage use.

In January 2011, a co-ordinated joint inspection by the building, electrical, plumbing, and fire inspectors revealed that the 2nd floor of this building had been converted to residential use without permits or inspection approval. The 2nd floor now contains 16 (sixteen) unapproved dwelling units.

The unauthorized use and alterations are in contravention of the Zoning and Development By-law, the Building By-law and the Electrical By-law. Some of the more serious violations include:

- There is no second means of egress from the 2nd floor.
- The exit door separating the 2nd floor area and exit stairs is not fire-rated.
- The wall separations between suites and corridor, and between each suite, do not have proper fire resistance rating.
- The stairs, landing and headroom in exit stairway are not to code.
- Separations between the electrical room and suites/corridors are not fire-rated.
- There is no wheelchair accessibility in the building.
- The water piping, drainage waste and venting systems in the building are not to code.
- There are numerous deficiencies under the Electrical By-law.

On January 26, 2011, the owner was ordered to obtain the required Development, Building and Trades Permits to carry out the necessary upgrades to the building by March 1, 2011. After two requests for additional time to comply have been granted by the Chief Building Official, on May 5, 2011, the owner submitted a Development Application.

The application was reviewed in relation to all pertinent regulations, policies and guidelines in terms of number of units, unit size, parking and other liveability standards related to residential use in the C-2 zone. The preliminary drawings were also reviewed for compliance with the Building By-law and revealed a number of serious non-conforming Building By-law

issues. On August 9, 2011, the Director of Planning found that the application was not supportable and refused the Development Application.

Following the refusal, the City issued another order to the owner to cease the use of the 2nd floor as residential rental units by September 30, 2011. However, the owner requested more time in order to appeal to the Board of Variance. On September 15, 2011, the City sent the owner a letter outlining the following interim life safety measures which must be addressed before a further extension of time would be considered:

- Provide a fire-rated exit door at the top of the stairs separating the 2nd floor area and the exit stairs.
- Provide a verification report for the existing fire alarm system that was installed without permit or inspection approval, and documentation to verify that the system is being monitored. (These were submitted by the owner on September 27, 2011.)
- Provide a 24/7 fire watch to ensure safety of the occupants during the interim period.

On October 12, 2011, the District Building Inspector reported that the fire-rated door had not been installed and that there was no fire watch present at the time of the inspection. It was further reported that the building in its current state posed a potentially unsafe condition with respect to the safety of the occupants.

Consequently, on October 28, 2011, the City issued a final order to the owner to cease occupancy of the 2nd floor of this building by November 30, 2011. Also accompanying this order was a notice to each tenant notifying them that the Chief Building Official has declared the residential units on the 2nd floor to be unsafe due to building safety code issues and that the owner has been ordered to vacate the 2nd floor. This "Notice to Vacate" was posted by the inspector on the door of each dwelling unit.

Since receipt of the latest order, the owner has made it clear to the City that he has no intention to vacate the unauthorized dwelling units by November 30, 2011. The owner through his legal counsel has requested yet another extension of time to March 31, 2012.

The Chief Building Official has denied this latest request and informed the owner that the City will be pursuing further legal action, including seeking approval from City Council to seek a court ordered injunction in order to bring the building into compliance.

As of the date of this report, the owner has not appealed to the Board of Variance or made any further applications to the City for permits.

Strategic Analysis

The 2nd floor of this building was altered and converted from wholesale/storage use to 16 (sixteen) dwelling units without the necessary permits or inspection approvals. As a result, there are contraventions of the Building By-law and the Electrical By-law which relate to construction and safety of the building. The foregoing is also a contravention of the Zoning and Development.

Despite several extension-of-time approvals by the City, the owner of this property has failed to comply with the orders from the City to obtain the necessary permits to upgrade the

building or cease occupancy of the 16 (sixteen) unauthorized dwelling units on the 2nd floor. The building is in an unsafe condition.

The contraventions of the Building By-law, Zoning and Development By-law, and Electrical By-law are of a nature that a purchaser, unaware of the contraventions, would suffer a significant loss or expense if the by-laws were enforced against the purchaser.

Financial

There are no financial implications.

Other

This building contains 16 (sixteen) unauthorized dwelling units that are fully occupied. Some of the units may have double occupancy. Neither the Inspections staff nor Housing's Tenant Relocation Assistant was able to contact any of the tenants. However, through conversations with the owner, staff discovered that 3 of the tenants are welfare recipients while the majority of the remaining tenants are students. The Assistant Director of Housing has been kept abreast of the circumstances around this case. The Tenant Relocation Assistant has also been in contact with the Province's Housing Integrated Task Team in order to offer the necessary assistance.

CONCLUSION

The owner has to date not made further application for permits, or taken any interim measures as recommended by the Chief Building Official to ensure the safety of the tenants. Consequently, subject to Council approval, this matter will be referred to the Director of Legal Services to request that she commence a legal action or proceeding in relation to the property at 705 East 17th Avenue. At her discretion, she may seek injunctive relief in that action or proceeding in order to bring this property into compliance with all City By-laws.

Further, although the property is not listed for sale, it is recommended that a 336D Notice be filed against the title to the property in the Land Title Office to inform prospective purchasers that there are violations of City By-laws on this property related to construction and safety of this building.

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