



## ADMINISTRATIVE REPORT

Report Date: September 17, 2013  
Contact: Carli Edwards  
Contact No.: 604.873.7533  
RTS No.: 10293  
VanRIMS No.: 08-2000-20  
Meeting Date: October 9, 2013

TO: Standing Committee on Planning, Transportation and Environment

FROM: Deputy Chief Building Official and Assistant Director of Licences and Inspections

SUBJECT: 3683 East Hastings Street - Request for Injunctive Relief and Notice on Title

### **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 3683 East Hastings Street (Lot A, Block 46, Plan VAP17717, District Lot THSL NWD, PID 007-260-211) and to seek injunctive relief in that action or proceeding in order to bring this property 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 3683 East Hastings Street (Lot A, Block 46, Plan VAP17717, District Lot THSL NWD, PID 007-260-211); to inform prospective purchasers that there are contraventions on the property of the Building By-Law, Fire By-law, Zoning and Development By-law, Licence By-law and the Electrical By-law.

### **REPORT SUMMARY**

This report summarizes the by-law violations and related enforcement history of 3683 East Hastings Street. As a result of these violations Council is asked to consider a recommendation to seek a court injunction to bring the building into compliance with City Bylaws as well as the registration of a notice on title. At the time this report was written, the building was non-compliant with the Building By-Law, Fire By-law, Zoning and Development By-law, Licence By-law and the Electrical By-law.

### **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 3683 East Hastings is a 4 storey mixed use building with commercial uses on the ground floor and residential/office space on the top three floors. The building is owned by 353806 BC Ltd, a company that list Roger Zen and Moreno Zen as its directors. In the City's dealing with this building, Giovanni (Jon) Zen has represented himself as the Owner's representative for the building.

In 2002, two of the residential units on the upper floor were extensively damaged by fire. From the time of the fire until earlier this year, all of the residential units had remained vacant.

Prior to the fire, the top three floors of the building were divided between residential suites (28) in the west portion and office space in the east portion. In 2005, the Owner received Development Permit approval to change the office space to residential and provide a total of 86 rental residential units in the top three floors of the building. Construction on the building to renovate the existing residential units and convert the office space has proceeded very slowly since the time the work was approved and it was the understanding of the City's inspectors that work had ceased on the building.

It came to our attention in May of this year that the Mr. Zen had rented out residential units on the west portion of the building. A coordinated inspection confirmed 60 apartments on the residential side of the building had been rented out without required safety inspections or approvals in place. According to information from the tenants, the units had been rented out since January of 2013. The apartments did not have a working fire alarm system, sufficient fire exiting or sprinklers and were being serviced from a temporary electrical connection. Without the work completed, none of the permits could be finalized and the owner was ineligible to apply for an occupancy permit or a business licence.

While moving tenants in without proper approval violates several City by-laws, the more urgent issue in May was the safety of the tenants. City Inspectors acted immediately to Order a 24 hour fire watch for the building. This was followed up by a

series of lengthy Orders, with short timelines, requiring work to be completed on the life safety systems of the building. Mr. Zen met the timelines given and we were able to avoid vacating the building because of the safety issues.

Once the life safety systems were in place and the fire watch could be removed, attention was immediately turned to other issues in the building that required completion before Mr. Zen could apply for an occupancy permit and business license. These issues include: Outstanding Issue	Associated By-law
Operation of fitness centre on the ground floor without approval	Zoning and Development Licence
Incomplete work on the east portion of the building to convert it to residential use	Zoning and Development Building
No permits in place for the work done to install sprinklers	Building
Incomplete fire stopping throughout the building	Building
Improper exit doors and door hardware	Building Fire
Damage inside some suites due to plumbing leaks	Building
Reconfiguration of ramps and stairs to meet current standards	Building
Repairs to exhaust fans in the parkade	Electrical, Building

Several City Inspectors have been assigned to this file since May and have been working closely with the various professionals and trades technicians hired by Mr. Zen to complete this work. Throughout this process, the tenants have been allowed to stay in the building and none of the current violations are of a nature that would require the evacuation of the building. At the time this report was written there were 59 residential tenants and 4 commercial tenants.

While this process has been underway, Mr. Zen has also told us that he no longer wants to pursue the approval that was received to convert the office space on the east side of the building to residential. This change will require another development application and will further delay the ability to finalize the work. This change will also result in a loss of 16 rental units that were approved in the 2005 development permit. The City has committed to helping Mr. Zen through this process but he has still not produced drawings or other documents required to make this application.

### ***Strategic Analysis***

Although the imminent life safety issues were addressed quickly, the Owners have not finished all of the work that is required to finalize the permits. All permits must be

finalized before the City can issue an occupancy permit and a business license. Staff have been working with Mr. Zen and his representatives since May to outline all of the requirements and have offered assistance throughout the process to aid in the application for the various permits required to finish the work.

It is recommended that the City seek injunctive relief against the Owners through the Supreme Court of BC to compel completion of the work and compliance with all City By-laws. The City is also pursuing prosecutions in Provincial Court for moving the tenants into the apartments prior to having an occupancy permit or a business license. It is our hope that these charges will result in significant fines for the Owners of the building and instil an understanding of the seriousness of their actions.

Subject to Council approval to seek injunctive relief, this matter will be referred to the Director of Legal Services so that she may, at her discretion, commence a legal action or proceeding in relation to 3683 East Hastings Street. The work to bring the building into compliance with City by-laws can be done with the tenants in place. Should the work be completed, the City has the discretion to discontinue injunctive relief at any time.

In addition, the contraventions of the Building By-Law, Zoning and Development By-law, Licence By-law and the Electrical By-law are of the nature that a purchaser, unaware of the contraventions, would suffer a significant loss or expense if the by-laws were enforced against the purchaser. In this case, a purchaser may assume that the tenants are in the building with all the proper approvals in place. In order to protect prospective purchasers, it is recommended that a notice is placed on the title of the lands, pursuant to section 336D of the Vancouver Charter.

### *Implications/Related Issues/Risk (if applicable)*

#### *Financial*

There are no financial implications.

### *CONCLUSION*

The property at 3683 East Hastings Street is non-compliant with the Building By-Law, Fire By-law, Zoning and Development By-law, Standards of Maintenance By-law, Licence By-law and the Electrical By-law. The Owners of this building, Roger Zen and Moreno Zen, rented out units in this building without operational life safety systems and without proper approvals in place. While they have addressed the imminent life safety issues, other issues remain, with several approvals still outstanding. The City has notified the Owners of the safety violations through multiple City Orders and extensive communication with various professionals working on the building. At this point, it is recommended to seek injunctive relief in the BC Supreme Court to bring the building into compliance and to place a notice on title to notify prospective purchasers of the by-law violations.

\* \* \* \* \*