



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: May 26, 2008
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VanRIMS No.: 08-2000-31
Meeting Date: June 26, 2008

TO: Standing Committee on Planning and Environment

FROM: Chief Building Official

SUBJECT: 514 Homer Street - Request for Injunctive Relief and Warning to Prospective Purchasers

RECOMMENDATION

- A. THAT the Director of Legal Services is hereby authorized, in her discretion, to commence a legal action or proceeding in relation to the premises located at 514 Homer Street, Lots 1-4, Block 36, Plan 210, District Lot 541, New Westminster Land District, PID 015-487-946, and may, in her discretion, 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 against the title to the property at 514 Homer Street, Lots 1-4, Block 36, Plan 210, District Lot 541, New Westminster Land District, PID 015-487-946, in order to warn prospective purchasers that there are contraventions of the Zoning and Development and Vancouver Building By-laws related to this building.

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

Sections 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 of Vancouver can warn prospective purchasers of contraventions of City by-laws relating 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 as a result of that condition, a building or structure is unsafe or unlikely to be usable for its expected purpose; or is of a nature that a purchaser, unaware of the contravention, would suffer a significant loss or 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 approval to seek injunctive relief to have this building brought into compliance with City by-laws.

BACKGROUND

The Victorian Hotel is situated at the corner of Homer and Pender Streets. It was constructed in early 1900. It operated as a rooming house with 56 rooms until about 1999 after which it gradually developed into a tourist hotel.

There is a long history of non-compliance with City By-laws by the owners of the Victorian Hotel. In April, 2004, a Stop Work Order was issued after City inspectors discovered that extensive interior alterations were underway without permit or approval. The unauthorized alterations included removal of nine SRA designated rooms, reconfiguration of the floor layouts, a new fire alarm and sprinkler system and replacement of exterior windows.

In April, 2004, the owners requested an extension of time to to apply for the necessary permits to July 2, 2004. However, the owners did not submit applications for permits and refused to permit subsequent inspections.

In October 2004, after the Chief Building Official issued an order demanding access, the owners finally allowed inspectors back into the building. That inspection revealed that the work without permit did not meet the requirements of the Building By-law. Drop ceilings had been incorrectly installed, installation of the bath tubs did not allow room for required fire separations and minimum life safety requirements in the building had been compromised.

In March of 2005 the owners' architect finally submitted the first application for building permit, almost a year after the work without permit was first discovered. For almost a year, the City requested that the owners provide the plans and documentation necessary to support the building permit application. On February 1, 2006, the application was refused by the Chief Building Official because it was incomplete.

In late 2005, the owners requested Council approval to demolish 9 SRA-designated rooms and convert the building to tourist accommodation containing 47 rooms.

On October 20, 2005, Council approved an SRA conversion permit on the condition that the owners first:

- i. obtain all necessary City Permits required for the alterations carried out without permits in the building and that the alterations be inspected and approved for occupancy by the Chief Building Official;
- ii. submit to the City a payment in the amount of \$45,000 (\$5,000 for each of the nine SRA rooms demolished without permit);
- iii. enter into a Section 219 Covenant with the City requiring the Homer and Pender facades be rehabilitated in phases and to be completed within three years on terms and conditions to the satisfaction of the Director of Legal Services and the Director of Planning.

Following the Council meeting in October 2005, there were further delays by the owners. Some examples of the delays to date are as follows:

Date of Request from City	Action:	Status
April, 2004	Stop Work Order - Building Permit required	No building permit obtained
October 20, 2005	Council Resolution - a) Section 219 Covenant required; b) Facades to be rehabilitated within 3 years; c) All City Permits to be obtained d) payment of \$45,000 re SRA by-law to be submitted	a) not done b) not done c) no permits obtained d) \$45,000 paid January 19, 2007
November 27, 2006	Chief Building Official requests: a) owners' undertaking b) signed & sealed electrical drawings c) letters of assurance d) concept review	a) submitted April 12, 2007; b) not submitted c) not submitted d) submitted February 7, 2007

December 18, 2006	Director of Legal Services advises of the requirements for execution of the Section 219 Covenant	Not executed
April 5, 2007	City Staff request a separate appraised value for each of the two buildings on this site in order to determine upgrading requirements under the Building By-law	Not provided
April, 2007	Staff fax deficiency list to owners' Architect	Partially resolved as of March 2008

Although the owners did pay \$45,000 on January 19, 2007 (for the demolition of nine SRA rooms), this payment was made just prior to amendments to the SRA By-law (February 15, 2007) which increased the fee for demolition of a residential unit from \$5,000 to \$15,000 per unit.

At the end of 2007, the owners released their architect from his contract and hired a new architect and engineer.

City staff met with the owners, their legal counsel and their engineer in January 2008 to try to resolve outstanding issues related to the Section 219 Covenant and the required Development and Building Permits.

One of those issues was the cost of restoring the exterior heritage facades, originally estimated by the owners' architect to be in excess of \$400,000.00. In keeping with the City's standard practice, the Director of Legal Services requested that the owners submit a Letter of Credit in that amount, in connection with the required Section 219 Covenant, as security for completion of the required restoration work. The owners felt that the original estimate from their architect for the façade rehabilitation was excessive and were confident that their new architect and engineer could provide a lower estimate. The owners agreed at that time to sign the Section 219 covenant in the form required by the Director of Legal Services, subject only to agreement on the estimate for façade rehabilitation works.

On March 3, 2008, the owners provided a new estimate to the City and agreed to sign the Section 219 Covenant on the basis of that estimate. Since that date, the owners have requested numerous changes to the covenant, many of which are unacceptable to the Director of Legal Services. The owners have yet to provide the letter of credit or execute the Section 219 covenant.

DISCUSSION

Enforcement action began on this building when a Stop Work Order was posted in 2004. That enforcement action was postponed by ongoing discussions/negotiations with the owners.

Over four (4) years has passed since the posting of the Stop Work Order. During this four year period, the owners have not satisfied fundamental requirements for permit applications.

While staff has tried unsuccessfully over the past four (4) years to obtain the necessary information and documents, the owners have continued to operate a hotel at this location. There appears to be little incentive for the owners to comply with City by-laws as long as they are able to continue to operate their business with impunity in a building which does not comply with City by-laws.

CONCLUSION

Staff request Council approval to seek injunctive relief as it appears that there is little likelihood of obtaining compliance with City by-laws in this case in the absence of a court order. Even if the required permits are eventually obtained, there is a concern, based on the owner's history of delay, that the required work to rehabilitate the exterior facades and bring the building into compliance with the by-laws will not be carried out within a reasonable time frame. It is therefore recommended that Council authorize the Director of Legal Services at her discretion to commence legal action and/or seek injunctive relief to have this building brought into compliance with the by-laws.

Although the building is not currently listed for sale, it is also recommended that a 336D Warning Notice filed against the title to the property in the Land Titles office to warn prospective purchasers of the by-law contraventions.

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