

8. Re: Unsightly Premises and Poultry on Residential Property
(Item 31, Report No. 50, August 14, 1972)
(Item 25, Report No. 46, July 17, 1972)

Council on July 17, 1972, received a letter from Mr. and Mrs. Furlani and others concerning property which is located at 6565 12th Avenue. They contended that Mr. G. Jones, the owner, is in contravention of the Unsightly Premises By-law, is in violation of a law which prohibits the keeping of poultry in residentially zoned areas, and has not properly concealed from public view an offensive picture which is on display in a window of his home.

Council on August 14, 1972, was shown a sketch and a series of pictures of the property in question and given a comprehensive chronological report on various incidents that have occurred on the Jones' property between 1960 and the present time. Council concurred with the following recommendations that were submitted by the Medical Health Officer on that date:

- "1. We do not consider that there is a contravention of the Unsightly Premises By-law at this time. We are however, prepared to make periodic inspections to ascertain the condition of the property.
2. (a) That action regarding the keeping of poultry on this property be deferred until the Solicitor has advised of the legal aspects of zoning.

(b) That the Health Department carry out very early morning inspections to ascertain the extent of noise made by the rooster crowing.
3. That the subject of the picture in the window be referred to the Municipal Solicitor."

The Chief Public Health Inspector on November 2, 1972, wrote to Mr. Jones concerning the keeping of poultry on premises which are owned by Mr. Jones and which are located at 6565 12th Avenue. Pertinent extracts from the letter are reproduced below:

"The Municipal Legal Department is of the opinion that the keeping of four (4) chickens, one (1) rooster, and six (6) geese on your premises, addressed as 6565 12th Avenue, Burnaby is permitted as a legal non-conforming use.

The manner in which you now keep this poultry is not satisfactory to the Health Department and if it is your intention to continue the keeping of poultry, the number not to exceed that now kept, you must conform with the following regulations:

1. "No person shall within the Municipality keep any fowl or or game birds except in houses and enclosures so constructed as to prevent any fowl or game birds escaping therefrom, and every such house and enclosure shall be regularly cleaned and disinfected and kept free from any offensive or disagreeable odor.

No fowl or game birds shall be kept in or beneath any house or place where any person shall sleep or eat, or in or beneath any building or place attached to or connected with any such house or place.

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2. No owner or occupier of real property shall allow the said real property to become untidy or unsightly."

This applies to your rear yard. We would request that you clean this portion of your property and properly store the existing materials.

3. The pond in the rear yard, fed by a hose connected to the municipal water supply, and having its nozzle below the water surface, constitutes a cross connection. This method of keeping water in this pond is to be discontinued immediately.

Compliance with items 1 and 2 is requested on or before December 4, 1972. We would request that the poultry house be situated in the north-west corner of your property, and further, that you present a plot plan of the proposed poultry house to the Municipal Building Department prior to commencing construction of the same.

We would further advise that we are in receipt of noise complaints caused by the crowing of a rooster. We are presently checking on this complaint, and should the investigation prove that the rooster you keep is the source of this noise, we will request abatement.

A re-inspection of your property will be carried out by this Department on December 4, 1972."

Following is a reply from the Solicitor regarding a picture which Mr. Jones has placed in a window of his house:

"I have noted that Council on August 14, 1972 adopted the report of the Medical Health Officer wherein " the subject of the picture in the window" is referred to me.

I have not seen the picture, but from the description in the report, namely that it is "a picture of a naked lady", and from descriptions of it received from others who have viewed it, I doubt very much if there is any action that the Municipality can take. If Mr. Furlani can convince the R.C.M.P. or a Justice of the Peace that the picture in its location violates section 159(2) of the Criminal Code, he can lay a charge under that section. The section provides that it is an offence, knowingly without lawful justification or excuse, to expose to public view any obscene picture.

I doubt very much if this picture would be considered obscene under any definition applied by our Courts today."

Council will not be further advised on this matter if Mr. Jones satisfactorily complies with the conditions that have been established by the Municipal Health Department.

RECOMMENDATIONS:

THAT a copy of this report be sent to Mr. and Mrs. Furlani and the petitioners; and

THAT a copy of this report be sent to Mr. G. Jones.