

17. Re: Notification of By-Law Contravention - Illegal Suites
Letter dated January 17, 1974 from Mr. O. E. Kiechle
(Item 21, Report No. 5, January 21, 1974)

On January 21, 1974, Council received a report on two letters from Mr. O.E. Kiechle regarding Municipal Regulations that govern the use of suites in one and two family residential dwellings. The correspondent's letters specifically concerned two illegal suites that have been added to a dwelling at 6090/6092 Canada Way.

Staff did not receive Mr. Kiechle's second letter dated January 17, 1974 in sufficient time to prepare a detailed reply for Council last week. This report will, therefore, be addressed to Mr. Kiechle's allegation that the Municipality, by failing to notify him in writing of the violation, and thereby providing him the opportunity to initiate remedial measures, contravened the Zoning By-Law.

By way of introduction, Council on January 21, 1974 was advised that the Building Department requires original owners (such as Mr. Kiechle) to sign a form confirming their understanding that a particular dwelling is to be a single or two family dwelling only. As evidenced by Mr. Kiechle's signature on the form dated April 10, 1973, he clearly understood this limitation. It should be noted also that the form signed by Mr. Kiechle includes reference to the fact that installation of sinks in the basement of the subject dwelling were to be used solely for recreational and personal purposes.

In the case of subsequent owners, it is the practice of the Building Department to issue warnings. Subsequent owners may not know that the suite is in violation of a bylaw, and in all fairness, should be warned before prosecution proceedings are initiated against them.

Following are further comments from the Chief Building Inspector on this matter:

"I have carefully studied Sec. 7.6, paras. (1) and (2) of Burnaby Zoning Bylaw, following notification of Mr. Kiechle's letter of January 17, 1974, and beg to advise that Mr. Kiechle is completely wrong in his allegation that the Zoning Bylaw was contravened when charges were placed against him last year for violation of the said Bylaw.

Paras. (1) and (2) of Sec. 7.6 are totally independent of one another. Para. (2) places no direction on the Building Inspector to serve a notice on a Bylaw offender before a charge is laid. In the event of a Bylaw violation, para. (1) is the operating clause of Sec. 7.6 with respect to placement of a charge. Para. (2) instructs the Building Inspector to give written notice to a Bylaw offender in the event of a Bylaw violation, but the para. contains no direction that the notice shall precede laying of a charge. The notice referred to shall specify the violation, order cessation thereof, and specify remedial measures necessary. Para. (2) goes on to state how the Corporation shall obtain Bylaw compliance if the remedial measures are not performed and allows the Corporation to recover any remedial costs it may have incurred by summary process at law in any court of competent jurisdiction. This court action is not the action following a Bylaw violation referred to in para. (1).

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Paras. (1) and (2) of Sec. 7.6 have been discussed with Mr. W.L. Stirling, Municipal Solicitor, who has confirmed emphatically the Bylaw understanding outlined above. I might add that the two paragraphs have also been discussed with Mr. Bruce Chilton, Senior Planner, who too has confirmed the above Bylaw understanding."

The broader aspects of fourplex development in two-family residential districts is the subject of a separate report from the Director of Planning (see Item 16).

RECOMMENDATION:

THAT a copy of this report be sent to Mr. O. E. Kiechle.