

ITEM 11
MANAGER'S REPORT NO. 55
COUNCIL MEETING Aug. 15/77

Re: MATTERS ARISING FROM COUNCIL'S CONSIDERATION OF THE REPORT:
A REVIEW OF RESIDENTIAL OCCUPANCY STANDARDS
(Item 28, Report No. 51, July 18, 1977)

The following report from the Director of Planning contains information on matters that arose in connection with the Council's consideration of residential occupancy standards on August 2, 1977.

RECOMMENDATIONS:

1. THAT Item 9, Municipal Manager's Report No. 49, Council Meeting July 21, 1975, which recommended the granting of the necessary authority to register restrictive covenants for the control of occupancy of single family and two family dwellings under Section 24A of the Land Registry Act, be brought forward for consideration. (see attached copy); and
2. THAT Council pass the following resolution which would become effective immediately upon its passage:

"The Municipal Council does hereby authorize the Mayor and Clerk to execute on behalf of the Corporation those covenants that involve limitations on the occupancy of single-family and two-family dwellings, pursuant to Section 24A of the Land Registry Act."

* * * * *

Planning Department
August 9, 1977
Our File #02.240
Section 104/105

TO: MUNICIPAL MANAGER
FROM: DIRECTOR OF PLANNING
RE: MATTERS ARISING FROM COUNCIL'S CONSIDERATION OF THE
REPORT: A REVIEW OF RESIDENTIAL OCCUPANCY STANDARDS

A. BACKGROUND

At a special meeting on August 2, 1977, to consider the report: "A Review of Residential Occupancy Standards", the Council approved the following recommendations:

- (1) The introduction of the proposed text amendments, as amended by Council, into the Burnaby Zoning By-law and the advancing of these to a Public Hearing on August 16, 1977.
- (2) The amendment of the Burnaby Waterworks By-law to bring certain definitions into conformity with those in the Zoning By-law. Also adopted was the granting of authorization to the Municipal Treasurer to charge two rates for water purposes where there is an in-law suite in a single family dwelling.

- (3) The provision of blanket approval to the Municipal Manager to authorize injunction applications being sought to restrain offenders from maintaining illegal suites when circumstances are approved by the Municipal Solicitor.
- (4) The approval of the addition of a staff member to the Building Department in order to enforce the Zoning and Building By-law regulations and provide for the collection of water and sewer service rates.

The purpose of this report is to respond to the questions raised at the meeting and to indicate the actions taken as a result of certain decisions and requests that were made.

B. ENFORCEMENT AND INSPECTIONS

The primary means for administering and enforcing the Zoning By-law regulations is contained in Section 7.5 (Inspection), which provides the authority for gaining access to a property to ensure that the provisions of the by-law are being properly adhered to. This section reads as follows:

"The Chief Building Inspector, the Chief Licence Inspector, or any other official of the Corporation who may be appointed by the Council, is hereby authorized to enter, at all reasonable times, upon any property or premises to ascertain whether the provisions of this By-law are being obeyed."

It was requested at the meeting that staff report back on the following question: "Does the Fire Marshall, Tax Assessor or Health Inspector have the right to enter private property, upon complaint, for inspection purposes, without a court order and further would this apply to inspection carried out under Section 7.5 of the Burnaby Zoning By-law."

We have checked on this matter with the Municipal Solicitor who expressed the opinion that inspections of property may be made, without a court order, in all of the above cases.

The Building Department refuses to issue building permits in cases where building plans show provision for more dwelling units than permitted under the Zoning By-law regulations. Samples of letters which set forth such refusals were requested by the Council. Copies of five of these, which have been taken from the Building Department files, are attached.

C. DISCUSSION OF PROPOSED ZONING BY-LAW AMENDMENTS

Certain amendments were made by the Council to the originally proposed regulations contained in the Residential Occupancy Standards report. These, which have been incorporated into the regulations recently submitted to the Municipal Clerk (Public Hearing) and the Municipal Solicitor (amendment by-law), include the following changes:

- (1) The addition of sons or daughters of the owner-occupier of the dwelling to the persons that may be accommodated in an in-law suite. This was included in the definition of "in-law suite", as well as in the governing regulations.

- (2) The amplification of the term "removal" with reference to the in-law suite regulations to indicate that this includes the removal of the kitchen and such items as cupboards, sinks and cooking facilities.

In ensuring that this is done, the Building Department requests the owner to provide a set of plans showing that the former rooms of the suite are in conformity with the single family use of the dwelling unit. Upon submission and acceptance of the plans, a minimum building permit is issued to the owner to record "removal" of the suite and conversion to conforming use, and the file is closed thereafter.

- (3) The amendment of the proposed definition of "dwelling unit" to make it clear that more than one bathroom may be included.

D. COVENANTS FOR THE CONTROL OF RESIDENTIAL OCCUPANCY

The third recommendation contained in the report on Residential Occupancy Standards proposed the granting of the necessary authority to register restrictive covenants for the control of occupancy of single and two family dwellings under Section 24A of the Land Registry Act. This item was referred back to staff for clarification with particular reference to possible zoning changes.

With respect to application of a covenant after a change of zoning has taken place, Section 24A of the Land Registry Act makes provision for removal of the covenant if it comes into conflict with a municipal zoning by-law.

The Chief Building Inspector, following consultation with the Municipal Solicitor, indicates that in the event of a major change of zoning, if a Grantor of a covenant came to the Corporation to request its removal or discharge, the Corporation, since it has benefited by the covenant, would agree and take the necessary steps to have it removed. It should be noted, however, that the onus would be on the Grantor to have this done, and that the Corporation would not have to initiate the discharge of all outstanding covenants in the event of a zoning change.

E. SURVEY OF ONE FAMILY AND TWO FAMILY DWELLINGS

As noted in the report on Residential Occupancy Standards: "In the matter of enforcement, ideally there should be a street by street inspection of existing single family and duplex residences by the Building Department to determine whether or not there are non-conforming suites in use. Orders should be issued to upgrade the suites where the zoning will permit, and in all others the use should be ordered to be discontinued. From this will flow building permit data from which Treasury may enforce collection of the required water and sewer charges."

This matter was discussed at the special Council meeting and it was determined that detailed procedures would have to be worked out for conducting such a survey. It was agreed that this would be the subject of a separate report to the Council.

F. RECOMMENDATION

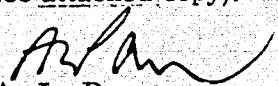
It is recommended that the Council now proceed with the consideration of Recommendation #3 in the report on Residential Occupancy Standards, which was as follows:

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THAT Item 9, Municipal Manager's Report No. 49, Council Meeting July 21, 1975, which recommended the granting of the necessary authority to register restrictive covenants for the control of occupancy of single family and two family dwellings under Section 24A of the Land Registry Act, be brought forward for consideration (see attached copy).

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A. L. Parr,
DIRECTOR OF PLANNING.

RBC/hf

Attach.

c. c. - Chief Building Inspector
Municipal Solicitor
Municipal Treasurer
Assistant Director - Long Range
Planning and Research

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ITEM 2.
 (5 SAMPLE 2011)

BUILDING DEPARTMENT

18 September, 1974

Dear Sir:

MJJ	
FRM	
GH	
DS	
LA	
JD	

Subject: 7014 E. Hastings Street
 Lot 5, Block 5, D.L. 207, Plan 4032

Your application to this Department for building permit, made 12 September, 1974, is being rejected on the grounds that the plans for the single family dwelling proposed for the above property contain provision for accommodation beyond that permitted by Burnaby Zoning By-law No. 4742.

The plan of the basement of the proposed single family dwelling contains rough-in for two full three piece bathrooms, together with the rough-in for two sinks, one on each side of the basement, plus two separate entrances to both sides of the basement.

The statement you submitted to this office on the afternoon of September 17 is not accepted as an explanation of the rough-in preparation work for the proposed basement.

Since your property, in an R4 zone, has a width of 50 feet, it is capable of single family development only. If you care to submit to this Department alternate building plans for a single family dwelling, another building permit application will be processed.

Yours truly,

M. J. Jones
 CHIEF BUILDING INSPECTOR

MJJ:cmg
 c.c. () Planning Director
 () Municipal Manager
 () Municipal Solicitor
 BLIND C.G. () H.R. Swift, Supervisor
 Building Inspections
 () G.R. Humphrey, C.E.T.
 PLAN CHECKING ASST. III

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17/11/77

(S. SAMPLE 2000)

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MJJ	
FRM	
JS	
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BUILDING DEPARTMENT

July 7, 1976.

Gentlemen:

Subject: 6930/32 Napier Street; Lot 155,
 Blk. 20, D.L. 132, Plan 25597

We have for reply your letter of July 5, 1976, which has drawn to the personal attention of the undersigned the building plans which you have submitted in application for a building permit for a semi-detached, two-family dwelling on the above-described property.

After viewing the amended basement floor plan which has been attached to the plans prepared by The Building Centre (B.C.) Ltd. Plan Service, it is our opinion that the changes being sought are in preparation for the use of this building as a four-family dwelling. Accordingly, the Plan Checker, Mr. Lane, has been asked to discontinue processing this application for permit until the building plans properly indicate only a semi-detached, two-family dwelling.

We trust you will advise the purchaser accordingly.

Yours truly,

Donald R. Mearns

for M.J. Jones,
 CHIEF BUILDING INSPECTOR.

MJJ:lm

c.c. Mr. A. Lane,
 Plan Checker.

Mr. G. Humphrey, Supervisor,
 Plan Checking.

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ITEM 2
 (S) SAMPLE KEY

MJJ	
FRM	
JS	
GII	
HRS	
SN	
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BUILDING DEPARTMENT

December 2, 1976.

[Handwritten signature] Mr.

Dear Mr. _____

Subject: 7760 Lawrence Drive;
 Lot 93, D.L. 59, Plan 46471

This letter will confirm receipt of your application of November 26, 1976, to finish a portion of the basement area to provide accommodation for Mrs. _____'s mother and father, Mr. & Mrs. _____. Under terms of Burnaby Zoning By-Law No. 4742, permits for "in-law suites" are only issued for the parents or grandparents of the occupants of a dwelling when extenuating circumstances are present. This generally relates to conditions of ill health and the son or daughter is required to provide special care to his or her parents or grandparents. In our opinion, by-law conditions are not being met by this application and hence permits for the basement unit will not be forthcoming at this time.

If at some future date you wish to reapply and can at that time support your application, send a bona fide medical report to substantiate the need for the special accommodation.

In the meantime, any finishing in the basement of the subject building can only be for use in strict conjunction with the main floor single-family occupancy. If you wish to finish the basement for this purpose, kindly submit an amended designated plan to the Plan Checking Division of this department for the possible issuance of a building permit. Such basement finishing would not permit the construction of a kitchen area or any other area wherein food could be prepared.

Yours truly,

Frank B. Melby

for M.J. Jones,
 CHIEF BUILDING INSPECTOR.

HRS:lm

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ITEM 2,
 (5 SAMPLE LETTERS)
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MLL	
FRIG	
JS	
GR	
RE	
S	
GI	

BUILDING DEPARTMENT

294-7130

February 4, 1977.

Mr.

Dear Mr.

Subject: 5028/30 Sidley Street;
Lot 2, Blk. 38, D.L. 98, Plan 2066

We have reviewed the construction file for the two-family, semi-detached dwelling under construction for and on the above-described property. Plans for the main floor dwelling units show full kitchen with nook, dining room, livingroom, three bedrooms (the master with en suite plumbing), and a full bathroom.

We are unable to approve of further finishing of rooms in the basement as described on plans submitted January 31, 1977, since such rooms would lend themselves to unauthorized use as a separate dwelling unit exceeding the permitted two-family use in this zone. Accordingly, you are requested to follow your approved building plans for which Building Permit No. B 40045 was issued June 8, 1976.

Yours truly,

M. J. Jones,
 CHIEF BUILDING INSPECTOR.

MJJ:lm

c.c. Mr. G. Humphrey,
 Supervisor, Plan Checking.

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ITEM 2.
 (5 SAMPLE PERMITS)

MJJ	
FRM	
JS	<i>[Signature]</i>
GH	<i>[Signature]</i>
HRC	
SN	
GT	

BUILDING DEPARTMENT

February 9, 1977.

Mr.

Dear Mr.

Subject: 7696/98 Cumberland Street;
 Lot "F", Blk. 1, D.L. 11, Plan 19840

On January 18, 1977, you submitted plans to this department in application for building permit for a purported semi-detached, two-family dwelling. The plans at that time were rejected because of the proposed basement layout which included extra outside doors for private entrances to basements, excessive basement plumbing (two bathrooms - nine fixtures per basement), and separated front entrances to basements. All the foregoing items would lead to separate use of basements as third and fourth dwelling units in the building.

The main floor on each side of the semi-detached building contains a luxurious dwelling unit with living room, full dining room, large kitchen with built-in freezer, and separate dinette, separate laundry area, four bedrooms - the master with an suite bathroom containing four fixtures, and full bathroom with five fixtures.

Revised plans were submitted to this department on the 7th of February with merely the whitening-out of one of the basement bathrooms and the pairing of the front entrance doors from the former separate doors. The basement still contains a full bathroom of five fixtures, including a five-foot long bathtub, water closet, bidet, and two lavatory basins in a vanity counter. Front entrance doors have a capability of easy conversion to separated entrances to upper and basement floors.

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Mr. Manuel Ferreira

February 9, 1977.

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Direct outside entrances are proposed to a furnace and storage room separate from the balance of the basement. The basement, excluding the furnace room, is still being proposed with a full bathroom and the capability of conversion to a third and fourth dwelling unit.

Therefore, please take notice that this department will not be able to issue plumbing permits for installation or rough-in of basement plumbing shown on plans received February 7, 1977, nor to issue building permit for plans showing a paired front door.

Besides the foregoing, we note the proposed roof structure of this two-family dwelling to be an imitation cottage roof when viewed from the exterior, but actually to contain a centre portion of flat roof with a single central roof drain. In the event that the roof drain were to become plugged, such as with a covering of snow followed by freezing temperature, or by an accumulation of leaves or other debris on this roof, a flooding condition could very easily occur. The concealed flat roof design can be retained, but we would ask that you include in the design two scupper overflows to avoid any possible buildup of flood water on the flat roof in the event of stoppage of the normal roof drain.

When plans have been submitted which do not contain facilities for conversion of basements to third and fourth dwelling units, and roof drainage design modified to include scuppers, a building permit may be obtained for a two-family, semi-detached building. At the time such permit is issued, a Declaration will be taken pursuant to Section 3.(8) of Burnaby Building By-Law No. 6333.

Yours truly,

M. J. Jones,
CHIEF BUILDING INSPECTOR.

MJJ:lm

c.c. MUNICIPAL SOLICITOR

Mr. George Humphrey,
SUPERVISOR, PLAN CHECKING.

RE: COVENANT FOR THE CONTROL OF OCCUPANCY
SINGLE-FAMILY AND TWO-FAMILY DWELLINGS

ITEM 9
MANAGER'S REPORT NO. 49
COUNCIL MEETING July 21/75

The following report from the Chief Building Inspector contains a request for blanket authority to execute a form of covenant which would have the effect of controlling the type of occupancy that is permitted in single-family and two-family dwellings.

On July 7, 1975, Council gave blanket authority to the Mayor and Clerk to execute restrictive covenants pertaining to the limitation of building elevations. Because covenants involving occupancy are similar in that both types are somewhat numerous it is recommended that covenants for the control of occupancy also be executed without the need for prior approval from Council. It is understood that if granted, Council will be requested to extend such approval on a year-to-year basis.

RECOMMENDATIONS:

1. THAT authorization be given to execute the covenant relating to the dwelling at 5351 and 5353 Dominion Street, as more specifically outlined in the Chief Building Inspector's report; and
2. THAT Council pass the following resolution which would become effective immediately upon its passage:

"The Municipal Council does hereby authorize the Mayor and Clerk to execute on behalf of the Corporation those covenants that involve limitations on the occupancy of single-family and two-family dwellings, pursuant to section 24A of the Land Registry Act."

* * * * *

Mr. M.J. Shelley,
MUNICIPAL MANAGER.

July 9, 1975

Dear Sir:

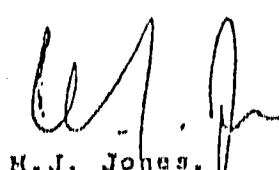
Subject: Single-Family and Two-Family Dwellings
Control of Occupancy

This Department continues to experience difficulty in the control of building permits applied for by builders, developers or other persons for finishing of lower floor accommodation generally in basements of single-family or two-family dwellings. In an effort to establish a means of control of authorized occupancy of such buildings as ownership transfers either before completion of construction or immediately after completion of construction, we asked the Municipal Solicitor to prepare a form of covenant which could be capable of registration under Section 24A of the Land Registry Act with the Land Registrar.

A covenant in respect of property at 5351 and 5353 Dominion Street, for a dwelling being constructed thereon by Pacific Ironwork Ltd., has been prepared and an original and three copies are attached hereto.

Could you please obtain blanket approval of Municipal Council to authorize execution of the particular covenant respecting 5351 and 5353 Dominion Street, as well as any other covenant of like nature which from time to time may be required to assist in enforcement of regulations of Burnaby Zoning By-Law. Legal description of property at 5351 and 5353 Dominion Street is Lot 35, Block 20 of the North Part of District Lot 74, Group 1, Plan 2603, N.W.D.

Yours truly,



M.J. Jones,

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THIS INDENTURE made and entered into this ^{6th}
day of June 1975.

BETWEEN:

PACIFIC IRONWORK LTD.,
110 North Slocan Street, Vancouver,
British Columbia,

(hereinafter called the "Grantor")

OF THE FIRST PART

AND:

THE CORPORATION OF THE DISTRICT OF BURNABY,
4949 Canada Way, in the Municipality of
Burnaby, Province of British Columbia,

(hereinafter called the "Grantee")

OF THE SECOND PART

WHEREAS application has been made to the Building
Inspector of the Grantee for the granting of a building permit
for a development on Lot 35 of Block 20 of the North Part of
District Lot 74, Group 1, Plan 2603, N.W.D.

AND WHEREAS the building plans attached hereto contain
facilities to create self-contained suites in the basement.

AND WHEREAS the use of such basement as suites is not
permitted under the Burnaby Zoning By-Law.

AND WHEREAS as a condition of the granting of a building
permit, the Building Inspector of the Grantee has required that
the owner of Lot 35 of Block 20 of the North Part of District Lot
74, Group 1, Plan 2603, N.W.D., covenant with the Grantee that
the said building shall not be used for the purpose of housing
any more than two families, and the Grantor has agreed to this
condition.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in
consideration of the premises and in consideration of the sum of
One (\$1.00) Dollar now paid by the Grantee to the Grantor, the
receipt whereof is hereby acknowledged, the Grantor does hereby

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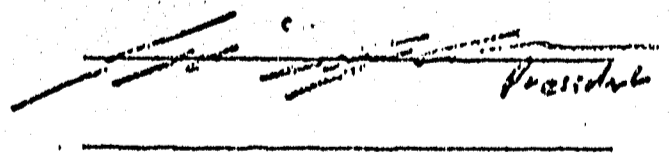
covenant and agree with the Grantee, pursuant to section 24A of the Land Registry Act, that the Grantor shall not use the said basement as self-contained suites and in any event not to use the said lands for any purpose other than to house a maximum of two families.

That the expressions Grantee and Grantor herein contained shall be deemed to include the executors, administrators, successors and assigns of such parties wherever the context so admits.

WHENEVER the singular or masculine are used in this Agreement they shall be construed as meaning the plural or feminine or body corporate where the context or the parties hereto so require.

IN WITNESS WHEREOF the Grantor has set his hand and seal and the Grantee has hereunto caused its corporate seal to be affixed, attested by the hands of its proper officers duly authorized in that behalf as of the day and year first above written.

THE CORPORATE SEAL OF PACIFIC IRONWORK LTD. WAS HEREUNTO AFFIXED IN THE PRESENCE OF:



THE CORPORATE SEAL OF THE CORPORATION OF THE DISTRICT OF BURNABY WAS HEREUNTO AFFIXED IN THE PRESENCE OF:

_____ MAYOR

_____ CLERK

LAND REGISTRY ACT
Form Q. (Section 59)

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ACKNOWLEDGMENT OF OFFICER OF CORPORATION

I HEREBY CERTIFY that on the 6th day of June
1975, at *Burnaby, B.C.*
in the Province of British Columbia, *Luis Arvelino*
(whose identity has been proved by the evidence on oath of *JK*
, who is) personally known to me, appeared
before me and acknowledged to me that he/she is the *President*
of *Pacific Ironwork Ltd.*, and that
he/she is the person who subscribed his/her name to the annexed
instrument as *President* of the said *Company*
and affixed the seal of the *said Company* to
the said instrument, that he/she was first duly authorized to
subscribe his/her name as aforesaid, and affix the said seal to
the said instrument, and that such corporation is legally entitled
to hold and dispose of land in the Province of British Columbia.

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IN TESTIMONY WHEREOF I have hereunto set my Hand and
Seal of office at *Burnaby, B.C.*, in the
Province of British Columbia, this 6th day of *June*
in the year of our Lord One Thousand Nine Hundred and Seventy-Five.

[Signature]
A Commissioner for taking Affidavits
for British Columbia. *J. Hudson*
A Notary Public in and for the Province
of British Columbia.