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MANAGER'S REPORT NO.	42
COUNCIL MEETING	1978 05 29

 2.

More recently, at it's meeting of 1978 03 06, Council was informed of the hiring of a Housing Inspector and the commencement of a house-by-house survey in accordance with the direction taken from the initial report (1977 08 02). Subsequently, Council, at it's meetings of 1978 04 17 and 1978 05 15, has been provided with two progress reports on the conduct of the survey.

## B. DISCUSSION

### 1. Startup

With the startup of the Housing Inspection Program, it was anticipated that a number of details of operation would have to evolve with experience. It was known or expected that we would encounter a variety of circumstances which would require an exercise of discretion or judgement, such as where unusual personal circumstances caused departure from hard and fast regulations, or where installations were found at variance with specific technical regulations but where Zoning regulations were not being offended. However, it was realized that a full cycle of experience would only be obtained after some months of operation. A full cycle was regarded as - survey inspection, discovery of violation, notice for compliance/removal/deletion, failure to respond to notice, reinspection and prosecution for continued violation, Court appearance and trial. So far we have only reached the third stage in any of the housing surveys conducted.

Essentially, the program was commenced with the attitude that, wherever possible, persons found in breach of regulations would be assisted to bring themselves within by-law requirements without penalty; but that where compliance was not possible, a firm enforcement attitude would have to prevail.

### 2. Field Inspection

The initial report (1977 08 02) contained the passage:

"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 would, of course, require additional staff. However, the extra revenue collected should be more than enough to pay for the cost of the inspections. The cost of hiring an additional Building Inspector would, for example, range from \$12,000.00 to \$14,000.00 annually."

"Street-by-street" inspection has been applied as house-by-house inspection since it would not be meaningful to attempt to obtain data on any lesser basis of coverage. For example, the check for water/sewer rate assessment could not be properly conducted on a lesser basis of coverage.

In order to remove any surprise element from the house-by-house approach, and in order to improve the number of inspections completed on initial call, we have been considering a change of approach whereby a telephone call would be placed from the Building Department to the householder a day in advance of the field call. The householder or occupant would thereby be acquainted with the nature of the survey and the inspection visit would follow at a mutually acceptable time in the next day or two.

### 3. Violation Notices

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As has been noted in the first two housing reports, some definite violations are turning up which require enforcement notices to be issued. In this regard, we are following a standing department procedure of allowing a full month rental period of time to elapse before the effective date of the notice. That is, notice takes effect at the end of the next month following the time of inspection. This procedure is based on rental custom and meets provisions of the Residential Tenancies Act, as well as provisions of the Burnaby Zoning By-Law. Prosecution as a means of enforcement is not undertaken until such notice has been given and its time has expired. We are aware of more stringent enforcement procedures in other neighbouring municipalities, whereupon detection of a violation, notice is given, and at the same time an Information is laid and prosecution of the violation undertaken. At this time we do not subscribe to an 'enforcement by immediate prosecution' policy, and would propose to continue with a notice period before prosecution, unless directed otherwise.

### 4. Strata Titles Act

In the past month of April we have come across some two-family, semi-detached buildings occupied under provisions of the Strata Titles Act. The question arises: May a strata title unit in a semi-detached structure be considered as a single-family dwelling and thereby contain an in-law suite if otherwise in accordance with regulations? After a close examination of the Zoning By-Law and Strata Titles Act, we have to conclude that an in-law suite in a strata unit in a semi-detached structure is contrary to the provisions of the Zoning By-Law and therefore is not acceptable. It will be recalled that text changes were made to the Zoning By-Law following adoption of recommendations contained in the initial report (1977 08 02) for improving control over in-law suites in semi-detached structures. The by-law now reads:

- " . . . 3. Any accessory use in an R1, R2, R3, R4 or R5 District may include an in-law suite, subject to the following conditions:
- (a) Such an accessory use shall be permitted only within a single-family dwelling which is occupied by the owner . . ."

Single-family dwelling is defined as:

- " . . . any building consisting of one dwelling unit which is occupied or intended to be occupied as the permanent home or residence by one family only. Such a dwelling may include an in-law suite, subject to the Accessory Use provisions of Section 3 of this By-Law."

Two-family dwelling is defined as:

- " . . . any building divided into two dwelling units, each of which is occupied or intended to be occupied as the permanent home or residence of one family only."

Strata titling provides only for a different form of tenure in a semi-detached, two-family dwelling than the tenure provided by rental or lease agreement. Strata titling does not alter the fact that maximum site utilization has been made in the form of a two-family structure as provided for in the Zoning By-Law. Hence, our conclusion that strata title tenure of a dwelling unit in a two-family structure does not legally or physically alter the control measure adopted by amendment of the Zoning By-Law in 1977 to provide for in-law suites only in single-family dwellings.

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C. CONCLUSION

The housing program should still be considered to be in its startup phases. Thus far we have covered less than one-half a square mile of the approximately 11.5 square miles of the municipality zoned residentially for single-family or two-family use.

In the area covered a total of 634 properties have been visited of which 367 properties have been checked by inspection. From the inspections made 30 Zoning by-law violations have been found and notices issued to respective property owners.

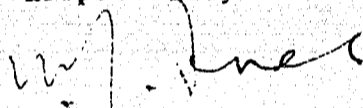
The majority of response encountered to date has been genuinely in favour of the program. Results obtained so far would confirm the circumstances which led to the initial report of 1977 08 02 and would confirm the need to implement all of the recommendations and to carry out the intent of that report. The program is being closely monitored to ensure its fair and equitable application of by-law provisions to all persons affected thereby, and it is proposed to keep Council informed by regular progress reports.

Accordingly, we do not find reason at this time to discontinue the program and would respectfully recommend:

THAT, the Housing Inspection Program for Residential Occupancy Standards be continued, and

THAT, Mr. Patrick Eastman, Housing Inspector, be appointed pursuant to Section 7.5 of Burnaby Zoning By-Law No. 4742 with authority to enter at all reasonable times upon any property or premises to ascertain whether the provisions of By-Law No. 4742 are being obeyed.

Respectfully submitted,



M.J. Jones  
CHIEF BUILDING INSPECTOR

MJJ:pw

c.c.