

ITEM	15
MANAGER'S REPORT NO.	77
COUNCIL MEETING	1979 11 13

RE: LETTER FROM MRS. STELLA WHITE WHICH APPEARED ON THE AGENDA FOR THE
1979 OCTOBER 29 MEETING OF COUNCIL (ITEM 6i)
RESIDENTIAL OCCUPANCY STANDARDS

Appearing on a previous agenda was a letter from Mrs. Stella White regarding the construction and occupancy of premises at 5508/10 East Georgia Street. A copy of her letter is attached for the convenience of Council.

The Director of Planning's report which contains background information on the status of the review which has been taken with regard to residential occupancy standards follows this report on the agenda (Item 16 Page 181).

* * * * *

RECOMMENDATION:

1. THAT the recommendations of the Chief Building Inspector be adopted.

TO: MUNICIPAL MANAGER

FROM: CHIEF BUILDING INSPECTOR

RE: LETTER OF 1979 OCTOBER 29
MRS. STELLA WHITE, 5514 EAST GEORGIA STREET

RECOMMENDATION:

1. THAT Mrs. Stella White be requested to attend a future meeting of Council should she wish to elaborate on her views; and
2. THAT a copy of this report be sent to Mrs. Stella White, 5514 East Georgia Street, Burnaby, B.C. V5B 2V6; and

REPORT

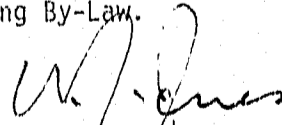
The following is prepared for the information of Council in connection with the letter of Mrs. Stella White of 5514 East Georgia Street.

Mrs. White is telling it "like it is" in an honest, truthful, and accurate statement describing the effects on her life style now following the construction of premises at 5508/10 East Georgia Street by Hannig Construction Ltd. in October 1978 and thereafter the illegal conversion of the said premises to SIXplex occupancy by the same contractor for the new strata owners.

Details surrounding the construction and unauthorized alteration of premises at 5510 East Georgia will be found in the attached Item Supplementary 17, Manager's Report No. 59, Council Meeting 1979 09 04.

The contractor was recently taken to court for violation of the Burnaby Building By-Law, and more specifically, for undertaking work on the premises without the benefit of a permit. He was fined \$75.00 (staff is reviewing the situation to determine what further legal action may be appropriate in this case). The inability to process charges to enforce provisions of Burnaby Zoning By-Law where premises are held in strata ownership is only hastening, in part, the breakup of former pleasant residential neighbourhoods. See attached Supplemental In-Camera Report No. 52, 1979 July 30.

It is recommended that a copy of this report be supplied to Mrs. White, and that Mrs. White be invited to the next meeting of Council or Committee held to deal with the proposed text amendments to Burnaby Zoning By-Law.



M. J. Jones
CHIEF BUILDING INSPECTOR

c.c. DIRECTOR OF PLANNING
MUNICIPAL SOLICITOR

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CORRESPONDENCE AND PETITIONS
 Regular Council Meeting
 1979 October 29

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RECEIVED

1979 OCT 23

MAYOR'S OFFICE

B/L No. 7412
 TEXT AMENDMENTS
 RESIDENTIAL OCCUPANCY
 STANDARDS

5514 E. Georgia St. VSB 1V6
 Burnaby, B.C.
 Oct 19/79

Mayor Tom Constable, and Members of Council:

I read with great interest, the report on the proposed amendments to Burnaby Zoning by-law. I really cannot stand up and talk or even read to a group of people, so I hope you will take the time to read my letter. We live in an "older" neighbourhood, The lots are 50 - 66 ft. frontage, in the 5500 - 5600 Blk. East Georgia St. with the one exception, the lot next door to us has an 80 ft. frontage. There are 6 houses in this block area under 25 yrs. old, the rest much older and well maintained, - I realize as these "older" homes are sold, some may be replaced by much larger houses, but at present there seems to be no limit, to size or type.

About a year ago, the place next door to us, then 5512 E. Georgia was sold to a builder-contractor, we were not surprised that he immediately demolished the house on the property. He informed us he would build a duplex, duplex are legal in this area, on 72 ft. frontage. This building is monstrous, its three stories high. This is a side by side, duplex, we have lost part of our view, light and a great deal of privacy. The property slopes, so the entrance to the main floor is about 2 ft below street level, the entrance to the basement is ground level, complete with sliding glass doors. We spoke to the builder-contractor many times, his favourite phrase was "people want BIG houses." he told us he could only finish the top floor. We were in the building, the plan was nailed to the wall. The top floor, has 3 bedrooms, en-suite bath, a bathroom, a sun room, a living room, dining room, kitchen and eating area. We asked about the other 2 level's; the main level, he said would have bedrooms, a bathroom, game room and a rumpus room. The basement? well, whatever the family who ever bought it would decide. Each floor was the exact plan as the top floor. the plumbing was roughed in, there

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is a furnace on the main floor, and a furnace in the basement. I have spoken to people in the building dept. , the building inspection, and an Alderman re this duplex. I was told there is no height level, that the builders plan seemed in order, that in-law suites are allowed, also they are NOT allowed. The Alderman and the building dept. said that a 4 plex Unit is definately not allowed in our area; and a 6 plex not allowed anywhere. The legal definition of a duplex, I was informed by all your people, was a two family home, one family in each side. The plan for the " duplex " looked very much like plans for a 6 plex to me, but nothing could be done, just wait and see, I was asured it was only a duplex. Each side of the duplex sold seperatly, we have FIVE families, each living on a seperate floor; there are seven vehicles, belonging to these families, there are six to ten bags of garbage for pick up every week; the basement of 5508 Georgia was not completed, I understand there seems to be a legal problem. When the first side 5510, was sold, the builder told us he was just finnishng a couple bedrooms and putting in a bathroom. My husband and I both work, we cant always see what goes in and out, after the sale it was a private home.

The last time I phoned Mr. Eastman, I waited on hold for some time, so I spoke a long time, to say I was very angry is putting it mildly. He asked for the address and the builders name, I had given that information to everyone I talked to, Mr. Eastman said little else , but did say he would check the permit.

This is a residentle area, I strongly object to having an apartment building next door to me; and it does look like one. We have lived in Burnaby for 23 years, own our house, and pay our taxes. We like the area and don't like was happened to it. I feel my property has been devalued, my rights imposed on. Should we decide to sell, how many people would like to live in a house that has 5 or possible 6 families next door ? I have a problem I very much doubt can be resolved with any satisfaction, but I feel council should try , I'd like some suggestions.

The proposed amendments are definately needed, in fact long overdue. I certainly

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believe the housing Inspector should have greater powers, and there should be a few more Inspectors. There are a great many illegal duplex's in Burnaby, large houses with one family upstairs, and another family living downstairs. You have one person for inspection, with little or no authority, how could it be otherwise. Many people are well aware how ineffective our zoning laws are, and take full advantage of the fact. At the meeting last week, aldermen asked for further information before taking action on the proposed amendments, very typical; how much longer do we have to wait before anything sensible is done? Will the whole matter be postponed until after the election? I would like to suggest the council take action NOW.

(Mrs.) Stella White
(MRS. STELLA WHITE)

AGENDA 1979 10 29

COPY- MANAGER

- CHIEF BUILDING INSPECTOR (FOR REPORT)

- PLANNER

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ITEM	SUPPLEMENTARY 17
MANAGER'S REPORT NO.	59
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ATTACHMENT 1

RE: LETTER FROM OLIVIA CHAN
 5510 EAST GEORGIA STREET, BURNABY, B.C. V5E 1V6
 STRATA LOT 2, D.L.127, GROUP 1, N.W.D. STRATA PLAN NW 125

Appearing on the agenda for the 1979 September 04 meeting of Council is a letter from Olivia Chan regarding accommodation in a dwelling owned by her on East Georgia Street in Burnaby. Following is a report from the Chief Building Inspector on this matter.

RECOMMENDATION:

1. THAT the recommendation of the Chief Building Inspector be adopted.

* * * * *

TO: MUNICIPAL MANAGER 1979 AUGUST 29
 FROM: CHIEF BUILDING INSPECTOR
 SUBJECT: 5510 EAST GEORGIA STREET, BURNABY
 STRATA LOT 2, DISTRICT LOT 127,
 GRP. 1, NWD STRATA PLAN NW 125

1. THAT a copy of this report be forwarded to Olivia Chan, 5510 East Georgia Street, Burnaby, B.C. V5B 1V6.

REPORT:

On 1979 August 09 we wrote to the Municipal Manager pursuant to a report submitted by the Municipal Solicitor dealing with the matter of the Strata Titles Act and its affect on the application of the Zoning By-Law within the Municipality of Burnaby. In that report we mentioned our recent discovery of a new sixplex in the last stages of construction in what is lawfully only a two-family dwelling held in strata ownership. Some of the details of that matter are now before Council with the letter of 1979 August 27 by Olivia Chan.

A chronology of events may be helpful to Council in receiving the above letter and the delegation by Olivia Chan:

1. (a) On 1978 October 03, Hannig Construction Ltd. obtained Building Permit No. B-45310 for construction of a side-by-side duplex dwelling on Lot "A", Block 6, District Lot 127, Plan 14285, and bearing civic address 5508/10 East Georgia Street.

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1. (b) Remarks on the face of the permit read:
"Garage in basement at front on each side. Engineer design required for all foundation walls over 7'-6" high. Basement and lower floor to be used in conjunction with main floor. This is a two-family dwelling only..."
2. Occupancy Certificate was posted 1979 March 15 following final inspections.
3. (a) The Chans signed an Interim Agreement to purchase Strata "A", Block 6, District Lot 127, Plan 14285, bearing civic address 5510 East Georgia Street on 1979 February 15.
(b) The Agreement provided the sale to be completed on or before March 25, with the purchasers obtaining possession on or before 1979 March 27.
(c) One of the conditions of the Agreement was:
"Contractor to satisfy all municipal building codes prior to occupancy on or before March 27/79."
(d) Another condition was:
"Vendor to finish lower middle level with terms and materials and planning agreeable to both parties, not to exceed _____"
(e) The Selling Broker as shown on the Agreement is the Royal Trust Corporation, 4641 North Road, Burnaby, V3N 4J5, per Mr. Tom Keys.
(f) The owner is shown on the Agreement as Helmut Hannig.
4. Hannig Construction Ltd. and the above-mentioned Helmut Hannig have been in the construction business in Burnaby for at least nine years.
5. The Zoning By-Law was amended on 1978 October 10 to preclude in-law suites from two-family dwellings and to limit such suites to placement in single-family dwellings only occupied by the owners thereof.
6. On 1979 March 25, the Chans signed a Home Improvement Contract with Helmut Hannig, Contractor, to:
 - (a) Improve and complete the ground-level and entrance area, (middle lower main) for immediate family in-law accommodation: approximately 1,000 sq. ft. as follows: complete with finished two bedrooms, kitchen-dining area, living room, bathroom, as per attached plans.
 - (b) Improve and complete the basement level at 5510 East Georgia Street for immediate family in-law accommodation: approximately 850 sq. ft., as follows: very similar to above, ground level entrance area, having similar two bedrooms, kitchen, dining area, living room, with bathroom having three-piece vanity, toilet, sink, and shower.
 - (c) to finish utility room floor with tile.
 - (d) to complete adjacent paving from front street to back portion of the back ground level cement patio area.

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7. On 1979 July 25, the Building Department received a report of unauthorized construction taking place at 5508 East Georgia Street. The premises at 5508/10 East Georgia Street were investigated on 1979 July 26 by the Housing Inspector, Mr. P. Eastman, who reports:

Top Floor containing three bedrooms, two bathrooms, kitchen, front room with dining area and family room. Occupied by Raymond and Olivia CHAN and two children.

Second Floor containing two bedrooms, two bathrooms, kitchen, front room and dining area, furnace room and garage. Occupied by Poon Tsuen CHAN (father) and Wai King CHAN (mother).

Basement Level containing two bedrooms, four-piece bathroom, kitchen, living room combination. Occupied by S.P. CHAN (brother), Tinna CHAN (sister-in-law) and two children.

8. The attached letters (Attachments 1 & 2) dated 1979 August 01 were sent to Hannig Construction Ltd. by return registered mail.
9. Mr. H. Hannig appeared in Burnaby Building Department on 1979 August 08 following receipt of the above-noted letters.
10. Mr. & Mrs. Chan appeared in the Building Department on 1979 August 09 and met with Mr. Fraser to obtain information regarding municipal building and zoning regulations.

The Chans submitted to Mr. Fraser a copy of the "Home Improvement" contract signed by themselves and Mr. Hannig on 1979 March 25, as well as a copy of the Interim Agreement for their purchase of the premises. They explained they had no knowledge of any wrongdoing since they were told by their agents (real estate and contractor) that the proposed construction work was approved.

Mr. Fraser explained to the Chans the term "dwelling unit" as defined in the Burnaby Zoning By-Law, and the Chans appeared to understand that a dwelling unit was to be used for living and sleeping purposes for not more than one family and containing only one kitchen. The Chans acknowledged that compliance with the by-law as described to them would necessitate removal of the two unauthorized kitchen units, one on the middle floor and one on the lower floor of the premises.

In further discussion with the Chans, Mr. Fraser explained to them the term "family" as defined in the Zoning By-Law, meaning one or more persons related by blood, marriage or adoption, or a group of not more than three unrelated, non-transient persons, living together as a single, non-profit group in a dwelling unit and using common cooking facilities, but excluding boarders, lodgers, foster children or servants. The Chans acknowledged the explanation by Mr. Fraser and their understanding of the definition of the word "family."

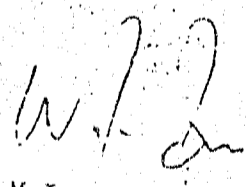
In conclusion, the Chans enquired about making an application for a building permit to retain the rooms now constructed in their premises. Mr. Fraser explained that the unauthorized kitchens, sinks, and cooking facilities, giving the rooms dwelling unit status, must be removed before any building permit would be issued. It was further explained to the Chans the removal of facilities giving dwelling unit status would involve confirmation by site inspection, submission of amended building plans, and entering into a restrictive covenant registrable under Section 24A of the Land Registry Act.

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11. A meeting was held on 1979 August 15 in the Building Department attended by Messrs. Hannig, Contractor, and Humphrey and Fraser of the Building Department. Mr. Hannig discussed his position in this matter and asked what would be necessary to have permit privileges restored to him. Mr. Hannig was informed that privileges could not be restored until all building by-law infractions had been removed in the subject premises.
12. Mr. K. Rehnby of Mark & Rehnby, Barristers & Solicitors, contacted Mr. Fraser by telephone on 1979 August 15. Mr. Rehnby was acting on behalf of Hannig Construction Ltd. The discussion centered around Mr. Hannig's present position, that of having his permit privileges cancelled in the Municipality of Burnaby. Mr. Rehnby was given the same reply as earlier given to Mr. Hannig.
13. Mr. & Mrs. Chan appeared at the Building Department on 1979 August 21 and made application for a building permit to retain the additional finished rooms in the basement and sub-basement areas. A deposit of \$30.00 was taken for legal fees for preparation of a restrictive covenant only in the event that permit is granted to the Chans for finishing of rooms for use within terms of Burnaby Zoning By-Law as had been discussed with them 1979 August 09.
14. Mr. Rehnby telephoned Mr. Fraser on 1979 August 22 to discuss the inability of Mr. Hannig to gain access to the Chan residence to remove the unauthorized construction. Mr. Rehnby said he was writing to Mr. & Mrs. Chan requesting entry.
15. On 1979 August 24, the Building Department received a copy of a letter by Hannig Construction Ltd. to Mr. & Mrs. Chan at 5510 East Georgia Street requesting permission from Mr. & Mrs. Chan to allow Hannig Construction Ltd. to enter and remove the unauthorized kitchen facilities.

The premises at 5510 East Georgia Street, and adjoining premises at 5508 East Georgia Street, offend the Burnaby Zoning By-Law by containing three dwelling units each (the third at 5508 in the final stages of construction), where the by-law intends that only one dwelling unit shall be contained. Unless otherwise directed by Council, the Building Department will continue to take action to have terms of Burnaby Building and Zoning By-Laws upheld.



M.J. Jones
CHIEF BUILDING INSPECTOR

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RETURN REGISTERED

294-7130

1979 August 1

Hannig Construction Ltd.
 8950 - 189th Street
 Surrey, B.C.
 V5B 3K3

Subject: 5510 East Georgia Street, Burnaby
Strata Lot 2, D.L. 127, Plan SW 125

This letter will confirm an inspection of the subject premises carried out by Mr. P. Eastman, Burnaby Housing Inspector, on 1979 July 26 between 12:00 h and 13:00 h. Mr. Eastman noted that all areas designated as unfinished on the approved building plans, which are on file in this office, have been completely finished without authorization or permits, in direct violation of Section 4. (1) of Burnaby Building By-Law No. 6333.

Our records show that Building Permit No. B-45310 was issued to Hannig Construction Ltd. on 1978 October 03, granting approval to construct a new side-by-side duplex with each unit approved as detailed below:

- (1) The main floor to contain six finished rooms and two finished bathrooms.
- (2) The basement to contain one finished recreation room, one finished laundry room, and one finished garage. The balance of the basement area is designated as unfinished.
- (3) The lower basement floor designated as unfinished.

The finishing of all areas previously designated as unfinished on the approved plans is in direct violation of Section 4. (1) of the Burnaby Building By-Law No. 6333.

Pursuant to the above-noted by-law, you are hereby directed to remove all unauthorised construction on or before 1979 August 31. Failure to do so will result in this matter being referred to the Provincial

BF Aug 31

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Hannig Construction Ltd.

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1979 August 1

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Prosecutor for whatever is necessary to enforce Burnaby Building By-Law
No. 6333.

Your co-operation will be looked for and appreciated.

Frank R. Mehling

Frank R. Mehling, P.Eng.
DEPUTY CHIEF BUILDING INSPECTOR

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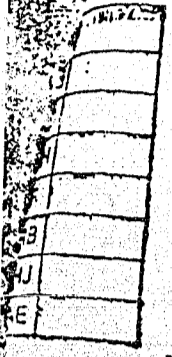
- c.c. Raymond and Olivia Chan
5510 East Georgia Street
Burnaby, B.C. V5B 1V6
- Mr. A. Brown, Supervisor,
Plumbing & Gas Inspections
- Mr. D. Jackson, Supervisor,
Electrical Inspections
- Mr. P. Eastman, Burnaby
Housing Inspector
- Mr. G.R. Humphrey, Supervisor,
Plan Checking

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ATTACHMENT 2

~~ITEM SUPPLEMENTARY 17
MANAGER'S REPORT NO. 59
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294-7130



RETURN REGISTERED

1979 August 1

Hannig Construction Ltd.
8950 - 189th Street
Surrey, B.C.
V5B 3K3

Subject: 5508/10 East Georgia St., Burnaby
Strata Lots 1 and 2, D.L. 127,
Strata Plans STA NW 125

Inspection of the subject premises by Mr. P. Eastman, Burnaby Housing Inspector, and Mr. R. Fraser, Supervisor, Building Inspections, on 1979 July 25 revealed that unauthorized construction within the above noted premises had been carried out by Hannig Construction Ltd.

Pursuant to Section 4.(6) of the Burnaby Building By-Law No. 6333, all permit privileges previously enjoyed by Hannig Construction Ltd. within the Municipality of Burnaby are hereby cancelled. A copy of the above noted section is attached.

Frank R. Mehling

Frank R. Mehling, P.Eng.
DEPUTY CHIEF BUILDING INSPECTOR

RF:lm
Enc.

c.c. LICENCE DEPARTMENT
P. Eastman
G. Humphrey
Joyce Scambler

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ITEM SUPPLEMENTARY 4
III-CAMERA
MANAGER'S REPORT NO. 52
COUNCIL MEETING 1979 07 30

Re: RESIDENTIAL OCCUPANCY STANDARDS

ATTACHMENT 2

Following is a report from the Municipal Solicitor regarding residential occupancy standards. The Solicitor's recommendation is covered in Item 17, Report No. 49, 1979 July 16.

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RECOMMENDATION:

1. THAT the report of the Municipal Solicitor be received for information purposes.

* * * * *

TO: MUNICIPAL MANAGER
FROM: MUNICIPAL SOLICITOR
RE: RESIDENTIAL OCCUPANCY STANDARDS

JULY 25, 1979

RECOMMENDATION:

1. That Council seek changes in the Strata Titles Act to ensure that the Strata Titles Act is not used to defeat the provisions of the municipal Zoning By-Law.

REPORT

Council on July 16, 1979 received a report from the Director of Planning on residential occupancy standards. This report made certain recommendations. It proposed certain amendments to the Zoning By-Law and urged that the Legislature be requested to amend the Strata Titles Act to provide that all strata plan applications require the approval of the Approving Officer or the Municipal Council.

The Municipality had commenced three prosecutions in the Provincial Court for violations of the Zoning By-Law. These violations concerned the conversion of duplex residences into four-plex residences. The defence put forward in each case was that these duplexes had been strata-titled before occupancy and two strata lots created in each case. It was then urged that each strata lot would permit a two-family dwelling. Because of the uncertainty of the law, it was decided not to pursue these prosecutions further and they have been withdrawn. However, the four-plexing of duplex buildings will continue until the law is clarified or the Strata Titles Act amended.

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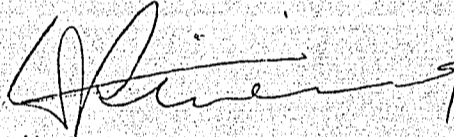
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At present a bare-land strata plan and a strata plan which does not form part of a phased strata plan requires the approval of the Approving officer. In the case of a strata plan which is neither of these and includes a building which has not been previously occupied, no approval is necessary and the certificate of a B. C. Land Surveyor certifying that the building has not been occupied before the date of his certificate is sufficient. Conversion into strata lots of a previously occupied building requires the approval of Council. Council may refuse approval but the Approving Officer may not refuse approval if the application meets the requirements of the Act.

It makes little sense that the Legislature, having given Council wide zoning powers, in the exercise of which Council shall have due regard, inter alia, to the prevention of overcrowding of land and the preservation of the amenities peculiar to any zone, should permit procedures under the Strata Titles Act to defeat the provisions of the municipal Zoning By-Law. Further, Council may not change zoning regulations without a public hearing and due notice given to all persons who may deem themselves affected by the proposed changes. Under the Strata Titles Act, changes can be effected in a summary fashion.

It is therefore recommended that Council seek changes in the Strata Titles Act to ensure that the Strata Titles Act is not used to defeat the provisions of the municipal Zoning By-Law.



W. L. Stirling,
MUNICIPAL SOLICITOR

WLS:mc

CC: DIRECTOR OF PLANNING
CHIEF BUILDING INSPECTOR