

ITEM	19
MANAGER'S REPORT NO.	45
COUNCIL MEETING	1979 06 25

RE: LETTER FROM MISS E. VERA MCGILLIVRAY WHICH APPEARED ON THE AGENDA FOR THE 1979 MAY 28 MEETING OF COUNCIL (ITEM 3b) ILLEGAL SUITES

Appearing on the agenda for the 1979 May 28 meeting of Council was a letter from Miss E. Vera McGillivray who is currently occupying an illegal suite. Following is a report from the Director of Planning regarding illegal suites.

RECOMMENDATIONS:

1. THAT the recommendation of the Director of Planning be adopted; and
2. THAT a copy of this report be sent to Miss E. Vera McGillivray, 6757 Lakeview Avenue, Burnaby, B.C. V5E 2P6.

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1979 June 19

TO: MUNICIPAL MANAGER  
 FROM: DIRECTOR OF PLANNING  
 RE: ILLEGAL SUITES

RECOMMENDATION

1. THAT Council authorize the removal of the moratorium on the serving of notices of non-compliance with the Burnaby Zoning By-law which was established on 1979 June 11.

REPORT

A. BACKGROUND

Mr. Wayne Stilling appeared as a delegation before Council on 1979 May 28 on behalf of Miss E. Vera McGillivray who is currently occupying an illegal suite at 6757 Lakeview Avenue. Council subsequently granted Miss McGillivray permission to retain occupancy until 1979 September 01 at which time alternative accommodation will become available to her.

During consideration of this subject, the Council directed that a further report be submitted with particular reference to the following points:

- (a) A review of the procedures presently being followed by the City of Vancouver and the Municipality of Surrey with respect to the occupancy of illegal suites in those jurisdictions and the applicability of those regulations in Burnaby.
- (b) Can provision be made in the current regulations concerning proven cases of hardship caused by rigid enforcement of said regulations.

- (c) Is it necessary to require the removal of all appliances, etc. or would a written agreement by the owner of the premises to discontinue the illegal use suffice for Municipal purposes.

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A number of related matters were also discussed by the Council, including the problem of the fourplexing of two-family dwellings and the question of strata titling as it affects the Zoning By-law regulations. Subsequently, on 1979 June 11, the Council passed the following motion:

"THAT this Council authorize the holding in abeyance of the serving of notice of non-compliance with the Burnaby Zoning By-law to offending property owners insofar as illegal accommodation is concerned pending the receipt of the staff report referred to in the aforementioned motion."

The requested report, which follows, has been prepared in conjunction with the Building and Legal and Lands Departments.

B. A REVIEW OF THE CURRENT PROCEDURES FOLLOWED IN VANCOUVER AND SURREY WITH RESPECT TO ILLEGAL SUITES AND THEIR APPLICABILITY TO BURNABY

There is a growing trend in Vancouver, as in the case of other Lower Mainland municipalities, towards the development of additional units in residential buildings, particularly in the conversion of duplexes to fourplex occupancy. There are Vancouver housing inspectors who deal specifically with such matters and carry out the block survey policy which is currently in effect. Staff is presently studying the illegal conversion problem and a tightening up of the regulations to ensure that they reflect Council policy is under consideration.

The City of Vancouver does not attempt at the permit stage to hold up the issuance of permits and building construction on the grounds of Suspect accommodation or services. However, careful note is taken of Suspect plans and these are re-inspected by staff. Where a violation of the regulations is found the City rigidly enforces its by-laws and action is taken to have the additional units removed.

The enforced reconversion of a fourplex back to a duplex may create problems for the tenants and sometimes for the owners. City Council, in the case of a hardship appeal, will sometimes allow a tenant or owner to stay for a period of time. Each such hardship case is considered on its own merits and once approved must be renewed annually. However, as noted by City officials, there are people who are taking advantage of this policy and the matter is now being closely scrutinized.

In an effort to control a growing illegal suite problem in Surrey, the Council amended the Zoning and Business Licence By-laws in August of 1975 which, in effect, legalized such suites as temporary dwelling units for a period of five years. Under these regulations, only one temporary unit is permitted in any single or two-family dwelling, which is subject to the payment of an annual fee of \$225.00. When the five year period has expired in 1980, this policy will be reviewed by the Council.

It should be emphasized that the temporary dwelling unit regulations apply only to illegal suites which were occupied prior to 1975 August. Any suites developed after that date are considered as illegal and required to be removed.

There is no block by block inspection survey policy in Surrey. Information on possible violations is obtained from neighbourhood complaints, routine inspections and through a system of checking Real Estate Board multiple listings.

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No recognition is given to hardship cases since it is felt that such a policy would be discriminatory and open to abuse. There is, however, provision for the establishment of in-law suites subject to certain conditions.

The housing procedures followed in Vancouver are quite similar to those in Burnaby, with the exception of the block survey approach and the policy on hardship cases. However, as indicated earlier, there are people taking advantage of the policy on hardship cases and the matter is now being more closely scrutinized. Surrey officials feel that such a policy could increase the number of violations and make more difficult the carrying out of established administrative procedures. For these reasons, the introduction of this type of policy is not considered appropriate for Burnaby, which already has a growing illegal suite problem.

It is considered that the policy of legalizing illegal suites followed in Surrey would tend to perpetuate a use not originally permitted in the Zoning By-law. Neighbours who oppose such developments would be obliged to tolerate them for a five year period. There is also the possibility that when the deadline is reached in 1980, it may well be decided that since these suites are now firmly entrenched, they should be allowed to continue for an indefinite period of time. The fact that such units are permitted to exist would, it is felt, increase the likelihood of further illegal suites being developed.

C. POLICY ON HARDSHIP CASES

The concerns in both Vancouver and Surrey, as noted in the preceding section of the report, would suggest that such a policy could create considerable problems and make more difficult the exercising of controls over illegal suites.

The Municipal Solicitor has given the opinion that provision cannot be legally made to vary the enforcement attitude for particular individual reasons such as hardship. The Solicitor points out that if such provision were attempted, it would create an air of uncertainty about the by-law and leave the by-law and the Corporation of Burnaby open to challenge on the grounds of discrimination.

D. THE QUESTION OF PHYSICAL REMOVAL OF APPLIANCES AS OPPOSED TO A WRITTEN AGREEMENT APPROACH TO DISCONTINUE AN ILLEGAL USE

As noted by the Chief Building Inspector, an illegal suite has two main aspects - one its physical being or presence; the other its use or occupancy. The latter is the more obvious in a building or neighbourhood and can be a daily or ongoing violation of a use provision of the Zoning By-law. The first aspect becomes a by-law violation when the illegal suite meets the Zoning By-law definition of a dwelling unit and a building thus contains more dwelling units than permitted under terms of the said by-law. There is often an accompanying violation of the Building By-law or other by-laws when a dwelling unit has been put in place without the required authorizing building permit, plumbing or electrical permits, as the case may be.

The occupancy violation is automatically overcome by vacating the suite or by cessation of its use as a separate dwelling unit. The violation of physical being and presence is not as simply overcome as is occupancy. It can only be overcome by removing the offending dwelling unit or components thereof which give it being. The "removal of appliances by written agreement" route was followed by the Building Department in the past and found to be ineffective.

The two aspects have to be remedied together, for if not, it is only a matter of time before the occupancy violation reappears and the Corporation is put to another round of expense for by-law enforcement.

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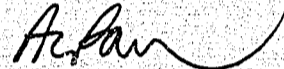
E. DISCUSSION OF RELATED MATTERS

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A number of other matters relative to the illegal suite problem were discussed by the Council. Among these was the whole question of the conversion of dwellings into additional units not in compliance with the Zoning By-law regulations. Of particular concern was the matter of the growing trend towards the fourplexing of two-family dwellings. Associated with this problem was the increasing number of such units which are being strata titled and the possible effects of this form of ownership on the Zoning By-law regulations.

In conclusion, we would advise that these matters are the subject of a comprehensive review being conducted at the present time, on a priority basis, in cooperation with the Building and Legal and Lands Departments. It is anticipated that a report will be forthcoming within the next two to three weeks.

This is for the information of Council.

  
A. L. Parr  
DIRECTOR OF PLANNING

RBC/hf

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