

ITEM 7
MANAGER'S REPORT NO. 33
COUNCIL MEETING 1982 05 17

RE: LETTER FROM SIDNEY WONG AND YONGE WONG WHICH APPEARED ON THE AGENDA
FOR THE 1982 MAY 10 MEETING OF COUNCIL (ITEM 5d)
ILLEGAL SUITE

MUNICIPAL MANAGER'S RECOMMENDATION:

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

* * * * *

TO: MUNICIPAL MANAGER 1982 MAY 05

FROM: CHIEF BUILDING INSPECTOR

RE: 5561/63 CHAFFEY AVENUE, BURNABY
LOT 3, BLK. 78, D.L. 33, GRP. 1, PLAN 5074
EXCEPT PCL. "A" & ROAD (REF. PLAN 12674) NWD

RECOMMENDATION:

1. THAT a copy be forwarded to Mr. Sidney Wong, 5563 Chaffey Avenue, Burnaby, B.C. V5H 2S1.

Introduction:

Mr. Sidney Wong of 5563 Chaffey Avenue has written to Council objecting to the action taken by the Corporation with regard to a breach of covenant between himself and his co-property owner, Mr. Yonge Wong, and the Corporation of the District of Burnaby.

Background:

The semi-detached, two-family dwelling in question was constructed under Building Permit No. B-44738, with an Occupancy Certificate issued by the Burnaby Building Department 1978 December 29. Following a complaint from a neighbour, inspection on 1980 August 27 confirmed that unauthorized basement finishing was taking place at the subject address. On 1980 December 16, property owners, Sidney and Yonge Wong, appeared in Provincial Court charged with illegal construction. The case was dismissed on a technicality. In connection with their application for a building permit, the Wongs were advised by letter on 1981 May 20 (Attachment 1) as to the two-family dwelling status of their premises and were issued a building permit for basement finishing on 1981 June 08. One of the conditions whereby the permit was issued was the agreement sworn by the Wongs on 1980 September 08 and registered against the land title stating that the premises would be used as a two-family dwelling only and would not be converted into a multiple family dwelling (Attachment 2).

On 1982 March 29, a complaint was received by the Building Department that the subject premises were being used as an unauthorized multiple family dwelling.

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Discussion:

Inspections of the premises by Burnaby By-Law Enforcement Coordinator, Mr. P.A. Eastman, on 1982 April 06 and 1982 April 13 established that property owner, Yonge Wong, was living in the finished lower floor area of 5561 Chaffey Avenue, with the upper floor area occupied by rental tenants Mr. and Mrs. Y. Laskowski, and that property owner, Sidney Wong, was living in the finished lower floor area of 5563 Chaffey Avenue, with the upper floor area occupied by rental tenants Beth Chevrefils, Renee Ethier and Kelly Anne Lloyd.

In each instance Mr. Eastman found doors between the upper and lower areas to be locked, with the lower floor finished areas each containing electrical hot plates, refrigerators, two-compartment sinks, and kitchen cabinets. In each instance the Wongs advised Mr. Eastman that they used the hot plates to do their own cooking in the lower floor areas. The evidence indicated that the semi-detached, two-family dwelling was occupied as four separate dwelling units in violation of the Burnaby Zoning By-Law and in breach of the restrictive covenant agreement between the Corporation of Burnaby and the property owners dated 1980 September 08.

Initial follow-up action on by-law infractions ordinarily involves an inspection and subsequent letter from the Chief Building Inspector to affected property owners. Because breach of covenant is a civil matter between the Corporation and the property owners, this item was referred to the Municipal Solicitor who had previously obtained authority from the Municipal Manager to enforce the provisions of a restrictive covenant in a similar earlier case involving unauthorized occupancy at 7217/19 - 17th Avenue, Burnaby.

Solicitors for the Corporation of the District of Burnaby wrote to the property owners on 1982 April 22 advising them that unless steps were undertaken to enable them to be in compliance with the agreement within 21 days of the date of the letter, legal proceedings would be commenced to seek relief in the form of a mandatory injunction to comply, along with costs of the action.

This is for the information of Council.

FRM:lm
Enc.

Frank R. Mulling

for M.J. Jones

CHIEF BUILDING INSPECTOR

MRG	
GRH	
RF	R.F.
ABS	BS.
CHJ	
PAE	PAE

1981 May 20

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Yonge Wong and
Sidney Wong
5563 Chaffey Avenue
Burnaby, B.C.
V5H 2S1

Subject: 5561/63 Chaffey Avenue, Burnaby
Lot 3 Exc. Pcl. "A", Ref. Plan 12674,
Block 78, District Lot 33, Plan 5074

This will confirm inspection on 1981 May 19 relative to the processing of building permit for which application was made on 1980 August 28. The said application made and the plans tendered to the Building Department on 1980 August 28 was as a result of Suspension Notice posted earlier because of unauthorized construction taking place in the basements of the above premises.

The above inspection of 1981 May 19 was made to conclude consideration of your application of 1980 August 28 and relies on the plans of the same date showing the finishing of:

- two bedrooms
- one hobby room
- one hallway
- one storage room
- one recreation room
- one bathroom, and
- one utility room in the said basements.

You are aware of the terms of Burnaby Zoning By-Law No. 4742, and the fact that in the units at civic address 5561 and civic address 5563 Chaffey Avenue only one authorized dwelling unit may be permitted.

Therefore, any finishing of basements at the said civic addresses has to be for use in conjunction with the main floors of the said addresses such that only one single-family dwelling unit is maintained at either civic address. In other words, separate basement suites used for separate family purposes apart from the family use of the main floor quarters, would be regarded as violation of Burnaby Zoning By-Law and would subject an owner to application of the said Zoning By-Law.

A building permit may be issued for the foregoing described finishing work in the respective basements at 5561/63 Chaffey Avenue following submission of item 1 of the attached objection notice of 1980 November 27 (verification of electrical loading and circuit sketch prepared by a licenced contractor), and following removal of plumbing waste/vent stacks and water piping installed in both recreation rooms without benefit of plumbing permit or safety inspection. Stub connections left are to be capped off in tight manner.

MJJ:lm

M.J. Jones
CHIEF BUILDING INSPECTOR

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ATTACHMENT 2

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RECEIVED

SEP 22 1980

LAND TITLE ACT
Form 17 (Section 215)

Covenant BUILDING INSPECTORS
OFFICE

True Value \$ ~~100~~ 1.00

Merewith Fees of \$ ~~10.00~~ 10.00

APPLICATION

SEP 22 1980
The Corporation of the District of Burnaby
Legal Services Department,
4949 Canada Way, Burnaby, British Columbia V5G 1M2
294-7183

[Signature]
A Commissioner for taking Affidavits for British Columbia
(Solicitor/Agent)

THIS AGREEMENT made the 8th day of September,

1980.

BETWEEN:

YONGE WONG, Environmental Technologist,
SIDNEY WONG, Agricultural Product Inspector,
5561 - 5563 Chaffey Avenue,
Burnaby, British Columbia
V5H 2S1

(hereinafter called the "Grantor")

OF THE FIRST PART

AND:

THE CORPORATION OF THE DISTRICT OF BURNABY
4949 Canada Way,
Burnaby, British Columbia,
V5G 1M2

(hereinafter called the "Grantee")

OF THE SECOND PART

WHEREAS the Grantor is the owner of those lands and premises situate, lying and being in the Municipality of Burnaby, in the Province of British Columbia, more particularly known and described as Lot 3, Block 78 of District Lot 33, Group 1, Plan 5074 EXCEPT: Parcel "A" and Road (Reference Plan 12674) New Westminster District (hereinafter called "the said land").

AND WHEREAS there is situate on the said land a Two Family Dwelling (hereinafter called "the said Two Family Dwelling").

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LAND TITLE ACT
Form 1 (Section 36)
MECHANISM OF REGISTRATION
Registered or application received on
the day and at the time written hereon

T. W. Carson, Registrar
New Westminster, British Columbia

16 SEP 80

139492

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AND WHEREAS the said land is zoned Residential (R5) pursuant to By-Law No. 4742 and Amendments (hereinafter called "the said by-law").

AND WHEREAS the said by-law defines Two Family Dwelling as any building divided into two dwelling units, each of which is occupied or intended to be occupied as the permanent home or residence by one family only.

AND WHEREAS the Grantor has applied for a building permit to construct within the basement of the said Two Family Dwelling certain works and facilities (hereinafter called "the said facilities").

AND WHEREAS the Chief Building Inspector of the Grantee has agreed to grant a building permit to construct the said facilities on condition that the said facilities shall not be used as a separate dwelling unit or in violation of the provisions of the said by-law.

AND WHEREAS the plans of the said facilities have been submitted to the Building Department of the Grantee and are on file in that office.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the sum of One Dollar (\$1.00) now paid by the Grantee to the Grantor, the receipt and sufficiency of which is hereby acknowledged, the Grantor does hereby covenant and agree with the Grantee pursuant to section 215 of the Land Title Act as follows:

(a) The said land shall be used in conformity with the provisions of the said by-law and in particular shall be used for a Two Family Dwelling only.

(b) The said facilities shall not be used as a separate dwelling unit and shall not be used to convert the said Two Family Dwelling into a multiple family dwelling.

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(c) The said land shall not be subdivided into strata lots pursuant to the Condominium Act, R.S.B.C. 1979, by depositing in the Land Title Office a Strata Plan pursuant to the said Act.

This agreement shall enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns.

Wherever 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 parties hereto have caused this agreement to be executed the day and year first above written.

Signed, Sealed and Delivered by
the Grantor in the presence of:

Name *D.A. SHRIMPTON*
D.A. SHRIMPTON

Address 1245 KINGWAY
VANCOUVER, B.C.

Address _____

Occupation Solicitor
(As to both signatures)

The Corporate Seal of the Grantee

was hereunto affixed in the presence of:

James King
Municipal Clerk-Authorized Signatory

James King
JAMES KING

Sidney Wong
SIDNEY WONG