

RE: RESPONSES TO 1983 U.B.C.M. RESOLUTIONS:
PROVISION OF MUNICIPAL CONTROL OF STRATA PLANS
FOR NEW AND UNOCCUPIED BUILDINGS - RESOLUTIONS B48

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Director Planning & Building Inspection be adopted.

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TO: MUNICIPAL MANAGER
FROM: DIRECTOR PLANNING & BUILDING INSPECTION
SUBJECT: RESPONSES TO 1983 U.B.C.M. RESOLUTIONS:
PROVISION OF MUNICIPAL CONTROL OF STRATA PLANS FOR NEW
AND UNOCCUPIED BUILDINGS - RESOLUTIONS B48.

1984 SEPTEMBER 18

RECOMMENDATIONS:

1. THAT Council continue to press for the implementation of Resolution B48 by the Province, through the U.B.C.M. Executive.
2. THAT a copy of this report be forwarded to Mayor A.L. Moore, President of the U.B.C.M. - 313 Sixth Street, New Westminster, B.C., V3L 3A7 for appropriate follow-up actions.

REPORT

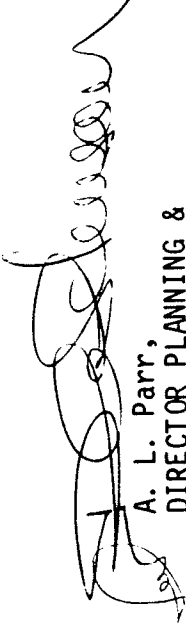
1.0 BACKGROUND:

On 1984 August 27 Council received a Manager's report from the Director Planning & Building Inspection regarding the above referenced topic (report attached). On that occasion, Council tabled the matter pending clarification by staff of specific instances where developers have circumvented zoning bylaw regulations in order to strata title semi-detached dwellings for sale as fourplex units.

RESPONSES TO 1983 U.B.C.M. RESOLUTIONS
PROVISION OF MUNICIPAL CONTROL OF STRATA PLANS
FOR NEW AND UNOCCUPIED BUILDINGS - RESOLUTIONS B48

2.0 GENERAL DISCUSSION:

- 2.1 Pursuant to Councils' request for clarification on this matter, we advise that in 1983 staff had prepared a list of 18 semi-detached two-family dwellings constructed during 1981 and 1982. Ten of these two-family dwellings were subsequently strata titled without Municipal Approval pursuant to the prevailing regulations of the Condominium Act since the dwellings were newly constructed and unoccupied. For research purposes, nine of the ten two-family dwellings that were strata titled were subsequently determined to contain illegal dwelling units. As a result, a total of four dwelling units have been established within each of these nine two-family dwellings in contravention of the Zoning Bylaw.



A. L. Parr,
DIRECTOR PLANNING &
BUILDING INSPECTION

AP

PDS/g1

Attachment

ITEM (SUPPLEMENTARY) 5
MANAGER'S REPORT NO. 53
COUNCIL MEETING 84/08/27

ITEM 1
MANAGER'S REPORT NO. 59
COUNCIL MEETING 84/09/24

RE: RESPONSES TO 1983 U.B.C.M. RESOLUTIONS:
PROVISIONS OF MUNICIPAL CONTROL OF STRATA PLANS
FOR NEW AND UNOCCUPIED BUILDINGS - RESOLUTION B48

MUNICIPAL MANAGER'S RECOMMENDATION:

1. That the recommendation of the Director Planning & Building Inspection be adopted.

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TO: MUNICIPAL MANAGER
FROM: DIRECTOR PLANNING &
BUILDING INSPECTION
SUBJECT: RESPONSES TO 1983 U.B.C.M. RESOLUTIONS: PROVISION OF MUNICIPAL
CONTROL OF STRATA PLANS FOR NEW AND UNOCCUPIED BUILDINGS -
RESOLUTION B48

1984 August 22

RECOMMENDATIONS:

1. THAT Council continue to press for the implementation of Resolution B48 by the Province, through the U.B.C.M. Executive.
2. THAT a copy of this report be forwarded to Mayor A.L. Moore, President of the U.B.C.M. - 313 Sixth Street, New Westminster, B. C. V3L 3A7 for appropriate follow-up actions.

REPORT

Appearing on the agenda of the Council meeting of 1984 August 07 was an item of correspondence from Mayor Audrey L. Moore, President of the U.B.C.M. which included a copy of Burnaby's 1983 Resolution B48 and the response from the Province to the Resolution (copies attached).

A. THE PURPOSE OF THE RESOLUTION:

Under a 1975 amendment to the Strata Titles Act, strata plans involving new and unoccupied buildings were allowed to be registered by a B.C. Land Surveyor without reference to or approval of municipalities. As long as the Surveyor would certify that the development was new and not previously occupied, no other approval was required.

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Since that time, Burnaby has, through items of correspondence and U.B.C.M. Resolutions, endeavoured to have the Act amended (now the Condominium Act) to provide that all strata plan applications, whether or not new and unoccupied buildings are involved, be made subject to municipal approval (as was the case prior to 1975).

These actions have been taken in light of the violations of the Burnaby Zoning By-law relative to the conversion of two-family dwellings into fourplex residences, and the arguments advanced in the courts that if a two-family dwelling had been strata titled, it could be converted into four dwelling units.

The absence of municipal jurisdiction, in effect, nullifies the powers granted to municipalities, under the Municipal Act, to regulate in a Zoning By-law land use and density, through control of siting, size and shape of buildings and structures, and having regard to the character of zones and the prevention of overcrowding of land, the number of units which a building can contain and the resulting allowable development densities.

B. THE PROVINCIAL RESPONSE TO THE RESOLUTION AND ITS IMPLICATIONS:

The Ministry of Consumer and Corporate Affairs has responded to the Resolution by proposing that building permits be required as a filing document for strata plans at the Land Registry Office. Any subsequent changes would be filed as part of a disclosure requirement under the Condominium Act.

The effect of this is that a record would be provided of strata plan applications which could be referred to by a municipality for information. On the other hand, there would be no specific involvement by the Municipal Approving Officer, we would not see or sign the strata survey documents, nor would there be departmental implementation of the Guidelines for Duplex Condominiums and Conversions (i.e.: separate utilities, written statement by the applicant agreeing to comply with R4 or R5 zoning requirements).

Clearly, these proposals would not provide a municipality with any control over the issuance of a strata plan which involves new and previously unoccupied buildings.

This is also the opinion of the Municipal Solicitor who expressed the view that the measures being proposed by the Province will do nothing to prevent a situation whereby a building permit is granted for a two-family dwelling but, before occupancy, the property is converted to four strata units in contravention of the Burnaby Zoning By-law.

C. A REVIEW OF PREVIOUS MEASURES TAKEN AND THEIR RESULTS:

Certain amendments to the Zoning By-law were passed in 1980 (By-law No. 7477) designed to strengthen the occupancy standards with particular emphasis on a greater degree of control over the fourplexing of two-family units.

These included such measures as a reduction in the permitted floor areas for two-family dwellings as a means of controlling over building and the resulting illegal conversions, the designating of a basement as a storey, the lowering of allowable building heights for semi-detached and duplex dwellings, and in the introduction of a regulation specifying that where a parcel of land is subdivided into strata lots, the area of the parcel and the development which occurs on it must be in compliance with the Zoning By-law standards (Section 6.19 - Development under the Strata Titles Act).

Many of these regulations have had a positive effect in decreasing the problems that were being encountered, particularly the reduction in the bulk of two-family dwellings. However, despite these and other measures that have been taken, there continues to be a problem created by the loophole in the Condominium Act wherein the municipality has no involvement in the approval of strata plans for new and previously unoccupied buildings.

The absence of municipal control continues to be taken advantage of by certain developers to circumvent the Zoning By-law regulations. This is becoming increasingly evident in recent trends towards the development of additional dwelling unit accommodation in cellars of new semi-detached dwellings in the municipality. Such buildings, intended for two-family occupancy, are being strata titled before completion and subsequently sold as fourplex strata units.

D. CONCLUSIONS AND PROPOSED ACTIONS:

It is concluded that there is a need for an amendment to the Condominium Act to ensure that municipal zoning by-laws are not made ineffectual by excluding the requirement for municipal approval of strata title applications for new and unoccupied buildings or for buildings to be constructed and developed.

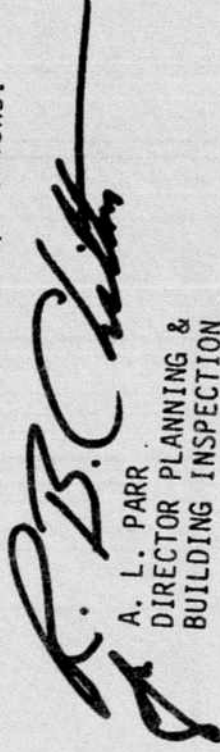
Although staff have been unable to specifically determine from the Ministry of Consumer & Corporate Affairs whether their statements (attached) represent their final position on this matter, we understand that the process will provide for further input from the Municipality and the UBCM for further discussion. In this regard, staff will continue its efforts to make contact with the Ministry in order to pursue the matter further in an effort to enable the Municipality to wherever appropriate, control strata titling as mentioned above.

In addition, it is proposed that the Council continue to press, through the U.B.C.M. Executive, for the implementation of Burnaby's Resolution B48 by the Province.

It is further proposed that a copy of this report be forwarded to the president of the U.B.C.M. for appropriate follow-up actions.

RBC/jce
Attach.

cc: Chief Building Inspector
Municipal Solicitor
Assistant Director - Long Range Planning & Research


A. L. PARR
DIRECTOR PLANNING &
BUILDING INSPECTION

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CORRESPONDENCE AND PETITIONS
Regular Council Meeting
1984 August 07

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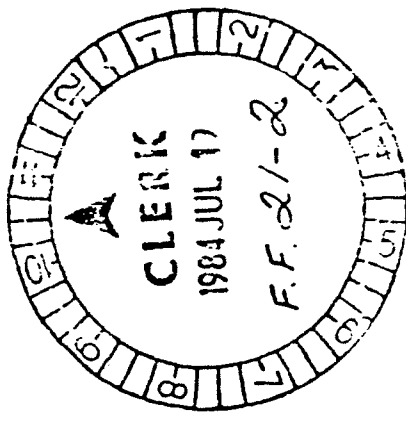
ORIGINAL TO: RBC

cc: A. L. PARR

UNION OF BRITISH COLUMBIA MUNICIPALITIES

PRESIDENT:
MAYOR A. L. MOORE
EXECUTIVE DIRECTOR:
C. S. J. MCKELVEY

U.B.C.M. OFFICE
313 SIXTH STREET
NEW WESTMINSTER, B.C. V3L 3A7
PHONE 528-4447
AREA CODE 18041



June 27, 1984.

District of Burnaby

Mayor and Council:

RE: RESPONSES TO 1983 U.B.C.M. RESOLUTIONS

Following the 1983 Convention, the U.B.C.M. submitted 108 endorsed resolutions to the Government for their consideration. On May 28th, representatives of the U.B.C.M. Executive met with the Minister of Municipal Affairs, the Hon. Bill Ritchie, and his senior staff to discuss the Government's responses.

The full Executive will meet on July 12th, 1984, to consider the responses and, as in previous years, determine the appropriate followup actions. At this time, I have enclosed a copy of the 1983 resolution sponsored by your municipality and the Government response for your information.

Any comments you would wish to make would be welcomed.

Yours sincerely,

Audrey L. Moore, Mayor,
President.

0288R

: - Agenda 1984 August 07

: - Copy - Manager

- Director Planning & Building Inspection

U B C M

ITEM (SUPPLEMENTARY) 5
MANAGER'S REPORT NO. 53
COUNCIL MEETING 84/08/27

B48 PROVISION OF MUNICIPAL CONTROL OF STRATA PLANS FOR NEW AND
UNOCCUPIED BUILDINGS

WHEREAS the Condominium Act provides that where a strata plan is part of a phased development or is a bare-land strata plan, a certificate of approval by a municipal approving officer is required, and where a previously occupied building is converted to strata lots the approval of a municipal Council is necessary;

AND WHEREAS no such municipal approval is required where a strata plan involves a building that has not been previously occupied, or a building constructed and developed, in which case only the obtaining of a certificate from a B.C. Land Surveyor verifying the status of the building and filing it with the Registrar of Land Titles is necessary;

AND WHEREAS a municipality has no control over a strata plan developed under these circumstances and the powers granted to municipalities in the Municipal Act to regulate the size, shape and siting of buildings under a zoning by-law are rendered ineffective;

AND WHEREAS the absence of municipal jurisdiction in such cases has resulted in developments which overcrowd the land, create parking problems, increase traffic volumes on residential streets, provide an added load on municipal services and utilities, increase pressures on neighbourhood parks and community facilities, and prevent the realization of such desirable community objectives as the preservation of the character of residential districts, the character of dwellings already erected and the suitability of such areas for low density residential accommodation:

THEREFORE BE IT RESOLVED that the Provincial Government be requested to amend the Condominium Act, RSBC 1979, to provide that strata titling of a new and unoccupied building, or a building to be constructed and developed, be made subject to the approval of the municipal Council of a municipality and compliance with its zoning by-law regulations.

~~CORRESPONDENCE AND PETITIONS~~
Regular Council Meeting
1984 August 07

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B48

Ministry of Consumer and Corporate Affairs

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The problem occurs when new and unoccupied buildings are registered as strata title developments without reference to municipal approving officers.

This Ministry has proposed that building permits be required as a filing document in the Land Registry when a strata plan is of four or less strata units.

All plans filed with Land Titles would have an original building permit statement and any subsequent changes would be filed as part of a disclosure requirement under the Condominium Act.

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ATTACHMENTS

REGISTER NO.
6232

SEP 06 1984

Corporation of the District of Surrey
MUNICIPAL REGISTERED PLANNING