

RE: LETTER FROM MR. RONALD J. JOYCE AND MS. PATRICIA A. MCHATTIE  
WHICH APPEARED ON THE AGENDA FOR THE 1988 JUNE 20 MEETING OF COUNCIL  
(ITEM 3h)  
5450/52 BOOTH AVENUE

ACTING MUNICIPAL MANAGER'S RECOMMENDATION:

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

\* \* \* \* \*

TO: Municipal Manager 1988 June 22

FROM: Director Planning &  
Building Inspection

SUBJECT: 5450/52 BOOTH AVENUE

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RECOMMENDATION:

1. THAT a copy of this report be provided to Mr. Ronald J. Joyce and Ms. Patricia A. McHaffie, 5455 Booth Avenue, Burnaby, B. C. V5H 3A4

BACKGROUND:

Appearing on the 1988 June 20 Council Agenda was a letter dated 1988 June 10 from Mr. Ronald J. Joyce and Ms. Patricia A. McHaffie of 5455 Booth Avenue, Burnaby, B. C. They complain of a two-family dwelling across the street from their home that contains an illegal suite and about current municipal policy as it relates to Zoning Bylaw enforcement. Their letter also includes comments about the enforcement of bylaws that regulate the parking of vehicles on residential streets. These matters are addressed in the following report.

**REPORT**

5450/52 Booth Avenue:

On 1987 November 30, the Building Inspection Division received a complaint signed by Burnaby resident, Mr. Ronald J. Joyce, complaining about a two-family dwelling at 5450/52 Booth Avenue being converted to a four-family dwelling.

Planning & Building Inspection Department  
Re: 5450/52 Booth Avenue  
1988 June 22

189

Page 2

On 1987 December 01, Burnaby's Bylaw Enforcement Co-ordinator and the District Building Inspector attended the subject dwelling and inspected the second storey of 5450 Booth Avenue and the first storey of 5452 Booth Avenue. There was no evidence of an illegal suite on the first storey of 5452 Booth Avenue although the first storey renovation underway was not yet complete at that time. On 1987 December 11, the Bylaw Enforcement Co-ordinator again attended the subject dwelling and inspected the second storey of 5452 Booth Avenue.

As the Bylaw Enforcement Co-ordinator was unsuccessful in his further attempts to inspect the first storey of 5450 Booth Avenue, a letter (Attachment #1) dated 1988 January 08 was sent to the registered owner of the property by certified mail requesting that he apply for a permit for first storey finishing and that he arrange for inspection of the premises. Since the registered owner did not respond, the Bylaw Enforcement Co-ordinator and his supervisor, the Supervisor, Building Inspections, attended the subject address on 1988 February 22. The registered owner admitted that he was now living in the first storey suite at 5452 Booth Avenue. He denied access to the first storey of 5450 Booth Avenue so that the inspection of the two-family dwelling could not be completed.

On the strength of the owner's admission that he was living in a first storey suite, and that he had separate tenants on the second storey of both sides of the premises, he was ordered by certified mail on 1988 February 29 (Attachment #2), to bring his premises into compliance. The certified letter was returned "Unclaimed", so the order was sent by double registered mail on 1988 April 11 (Attachment #3). This letter, which was signed for, had ordered compliance by 1988 June 15. An inspection was attempted, unsuccessfully, on 1988 June 22, to determine if the owner had responded and brought his premises into compliance. If the owner continues to deny access for inspection, the municipality will initiate legal action to uphold its right of entry as provided in the Burnaby Zoning Bylaw.

The Building Inspection Division will continue its enforcement action to ensure that the requirements of the Burnaby Zoning Bylaw and the Burnaby Building Bylaw are upheld.

#### Illegal Suite Enforcement Policy:

In response to the question regarding Burnaby's current enforcement practices relating to illegal suites, the Building Inspection Division is following council's established policy of enforcement only upon receipt of a complaint from an aggrieved Burnaby resident. In keeping with the direction provided by the Municipal Solicitor and the Crown Prosecutor's office in such matters, the Building Inspection Division strives to achieve compliance as opposed to punishment. This practice is viewed as a reasonable approach in bylaw enforcement and has been endorsed by municipal council. Legal action is initiated only as a last resort. This approach is appropriate, given the Division's limited investigative and legal resources.

That the approach is effective in most instances is substantiated by enforcement records. In 1987, although 173 illegal suite complaints were received, the Building Inspection Division had only to initiate court action in two cases in seeking compliance. To date, the other cases have been concluded, or have not yet reached the stage where legal action remains the only alternative.

Planning & Building Inspection Department  
Re: 5450/52 Booth Avenue  
1988 June 22

Page 3

ITEM 24  
MANAGER'S REPORT NO. 45  
COUNCIL MEETING 88 06 27

While a deterrent approach such as issuing "tickets" as suggested by Mr. Joyce and Ms. McHaffie, might be effective in controlling illegal suites, such a practice is currently beyond the authority provided in the Zoning and Building Bylaws. It would come at the price of increased budget requirements and a greater exposure to legal liability. Further, the Municipal Act may not allow some of the deterrent approach options put forward.

At the same time, the municipality has no recognized authority to attract the attention of home owners through the removal of municipal services or public utility connections to their property even if those connections were under the control of the municipality.

With regard to the comments from Mr. Joyce and Ms. McHaffie regarding the parking of vehicles on residential streets, the following comments from the Officer in Charge, RCMP, Burnaby Detachment, have also been included in this report for the information of Council.

"The 5400 block Booth Avenue is a quiet residential area with little traffic. Bylaw 6912, Section 6, limits the parking of a vehicle to three hours between 8:00 a.m. and 6:00 p.m. unless it is in front of the owner's residence or has the permission of the residence's occupant.

It is apparent that infractions of this bylaw in the 5400 block Booth Avenue are confined generally to weekends as next to no vehicles were parked in the entire block on three different days during the past week. The other section of Bylaw 6912 which is relevant to the concern of Mr. Joyce and Ms. McHaffie is Section 3(d) which prohibits any parking on any street for a period in excess of 24 hours. Again, it is apparent that any infractions on the 5400 block Booth Avenue are generally confined to weekends.

In low traffic areas we only respond to specific complaints about a specific vehicle, mark the tire and return three hours later and issue a ticket if the vehicle has not been moved. The alternative is that a ticket will be issued in the first instance if the complainant is prepared to attend court and swear that the vehicle has not moved for three hours within the 8:00 a.m. - 6:00 p.m. parameters. Twenty-four hour infractions are handled similarly. No complaint was received from Mr. Joyce or Ms. McHaffie nor were they prepared to attend court and swear to the extended parking complained of.

Self-generated parking enforcement by our personnel is limited to high volume traffic areas, e.g., main arteries during rush hour, areas around the Skytrain stations, the B. C. Telephone building and other commercial areas where parking is limited to one and two hour parking.

As a matter of interest, in excess of 30,000 parking tickets were issued in 1987.

The contents of this report have been discussed with Mr. Joyce and Ms. McHaffie."

AJ

AJE/jce  
Attach.



A. L. PARR  
DIRECTOR PLANNING &  
BUILDING INSPECTION

cc: Chief Building Inspector  
O.I.C. RCMP, Burnaby Detachment  
Municipal Solicitor

ITEM	24
MANAGER'S REPORT NO.	45
COUNCIL MEETING	88 06 27



4949 Canada Way, Burnaby, B.C. V5G 1M2  
 Planning & Building Inspection Department  
 Building Inspection Division

ATTACHMENT #1

191

Telephone (604)

294-7141

1988 January 08

CERTIFIED MAIL

J. S. Gilding  
 7375 Kingsway  
 Burnaby, B. C. V3N 3B5

Subject: Unauthorized Construction of Alleged Illegal Suites  
 5450/52 Booth Avenue, Burnaby, B. C.

On 1987 December 01, Building Inspector, Mr. M. Y. Chow, inspected the subject premises and noted that unauthorized construction was being undertaken in the basement of the two-family dwelling at the subject address.

Any construction or alteration, without first obtaining a permit, is in violation of Section 4.(1) of Burnaby Building Bylaw No. 6333, a copy of which is enclosed.

You are requested to apply for and obtain a building permit from the Plan Checking Section of this Division by 1988 February 12. In the meantime, all construction work at the subject premises is to cease.

Should you require further information, please contact the Plan Checking Section at 294-7141.

Mr. E. S. Mortimer, Bylaw Enforcement Co-ordinator, has made several unsuccessful attempts to inspect the subject premises.

Please take notice that pursuant to Section 7.5 of Burnaby Zoning Bylaw No. 4742 (copy enclosed), authority is provided for an inspector to enter premises at all reasonable times.

Please contact Mr. Mortimer at 294-7355 by 1983 January 27 to arrange a time when the building will be open for inspection.

*AJJE*

A. J. Ertis, P. Eng.  
 ASSISTANT CHIEF BUILDING INSPECTOR

AJE/jce  
Encl.

cc: Supervisor, Building Inspections  
 Plan Checking Supervisor  
 Bylaw Enforcement Co-ordinator

ATTACHMENT #2

THE CORPORATION  
OF THE DISTRICT OF  
**BURNABY**

4949 Canada Way, Burnaby, B.C. V5G 1M2

Planning & Building Inspection Department  
Building Inspection Division

Telephone (604)

294-7355

CERTIFIED MAIL

1988 Feb. 29

Mr. J. S. Gilding  
5452 Booth Avenue  
Burnaby, B.C.  
V5H 3A3

Subject: 5452 Booth Avenue  
Illegal Suite

As a result of a complaint to this Division, inspections of the subject premises were carried out by Mr. E.S. Mortimer, Bylaw Enforcement Coordinator, on 1987 December 01 and 11. An inspection was also made by Mr. M.Y. Chow, Building Inspector, on 1987 December 01. During inspection, it was noted that the first storey was being finished as one separate, self-contained dwelling unit in contravention of Burnaby Zoning Bylaw No. 4742.

During a subsequent attempted inspection on 1988 February 22 by Mr. Mortimer and Mr. D.G. Stanbrook, Supervisor of Building Inspections, you admitted you were occupying the first storey of 5452 Booth Avenue in addition to having tenants on the second storey of both 5450 and 5452 Booth Avenue.

Pursuant to the above bylaw, the subject property is located within an R4 Residential District and the building thereon is approved for use as a two-family dwelling.

In view of the above-mentioned violation, you are hereby ordered to have the use of the building for more than a two-family dwelling terminated by 1988 April 30. You are further ordered to remove any unauthorized ranges and all related wiring from the first storey, and to call for re-inspection by 1988 May 16.

Failure to comply with the above orders may result in the matter being referred immediately to the Provincial Prosecutor, without further notice, for necessary action to see that the provisions of the Burnaby Zoning Bylaw are upheld.

AJE:1m

*AJE:1m*

A.J. Ertis, P.Eng.  
ASSISTANT CHIEF BUILDING INSPECTOR

ITEM	24
MANAGER'S REPORT NO.	45
COUNCIL MEETING	88 06 27
ATTACHMENT #3	



4949 Canada Way, Burnaby, B.C. V5G 1M2  
 Planning & Building Inspection Department  
 Building Inspection Division

Telephone (604)  
 294-7355

1988 April 11

DOUBLE REGISTERED

Mr. J.S. Gilding  
 5452 Booth Avenue  
 Burnaby, B.C.  
 V5H 3A3

Subject: 5452 Booth Avenue  
Illegal Suite

As a result of a complaint to this Division, inspections of the subject premises were carried out by Mr. E.S. Mortimer, Bylaw Enforcement Coordinator, on 1987 December 01 and 11. An inspection was also made by Mr. M.Y. Chow, Building Inspector, on 1987 December 01. During inspection it was noted that the first storey was being finished as one separate, self-contained dwelling unit in contravention of Burnaby Zoning Bylaw No. 4742.

During a subsequent attempted inspection on 1988 February 22 by Mr. Mortimer and Mr. D.G. Stanbrook, Supervisor of Building Inspections, you admitted you were occupying the first storey of 5452 Booth Avenue in addition to having tenants on the second storey of both 5450 and 5452 Booth Avenue.

Pursuant to the above bylaw, the subject property is located within an R4 Residential District and the building thereon is approved for use as a two-family dwelling.

In view of the above-mentioned violation, you are hereby ordered to have the use of the building for more than a two-family dwelling terminated by 1988 May 31. You are further ordered to remove any unauthorized ranges and all related wiring from the first storey, and to call for re-inspection by 1988 June 15.

Failure to comply with the above orders may result in the matter being referred immediately to the Provincial Prosecutor, without further notice, for necessary action to see that the provisions of the Burnaby Zoning Bylaw are upheld.

*AJt Lt.*

A.J. Ertis, P.Eng.  
 ASSISTANT CHIEF BUILDING INSPECTOR

AJE:lm