



1991 November 18

TO: MUNICIPAL MANAGER

FROM: DIRECTOR PLANNING
AND BUILDING

SUBJECT: 8405 THIRTEENTH AVENUE, BURNABY, B.C.
LOT 1, BLOCK 1, DISTRICT LOT 25, PLAN 1465

PURPOSE: TO OBTAIN COUNCIL'S APPROVAL TO DECLARE A
DILAPIDATED SUMP AT THE PREMISES A NUISANCE AND
ORDER ITS CLEANING OUT, REPAIR AND RE-COVERING

RECOMMENDATIONS

1. THAT Council declare the dilapidated sump on the subject premises a nuisance and order that it be cleaned out, repaired and re-covered by the owners within 14 days after service of the order.
2. THAT Council order that:
 - (a) In the case of default by the owners to comply with the order within the period named in it, the municipality by its employees or other may enter and carry out the repair of the hole at the expense of the owner; and
 - (b) In the case of default by the owners to comply with the order, the charges for carrying out the repair, including all incidental expenses if unpaid on 1991 December 31, shall be added to and form part of the taxes payable on the subject lands for real property as taxes in arrears.
3. THAT a copy of this report be provided to the registered owners of the property:

Tung-Kin Lay &
Sheung-Chu Louie
10379 - 133A Street
Surrey, B.C.
V3T 4A1
4. THAT a copy of this report be provided to all parties registered as having an interest in or charge against this property.

Summary

Previous attempts to have the owners secure a hole in the side yard at 8405 Thirteenth Avenue, Burnaby, B.C. have proven ineffective. Earth has caved into a dilapidated sump, thereby creating a dangerous condition.

Recognizing the potential hazard, it is recommended that Council act under the authority provided in Section 936 of the Municipal Act and order it be cleaned, repaired and securely re-covered.

Background

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On 1991 May 02, as a result of a complaint from a neighbour, an inspection of the premises revealed that a hole had formed in the side yard, caused by rotting of the top of a storm sump. On 1991 May 07, the Assistant Chief Building Inspector advised the owners by double registered mail that it was imperative to have the sump cleaned out and covered with a concrete lid. This would prevent water from backing up into the house perimeter drain line and someone from inadvertently falling in. The owners were given until 1991 May 15 to make the necessary repairs.

A subsequent letter was sent on 1991 May 27 by registered mail offering the Building Department's assistance to resolve the problem and notifying the owners that if no remedial action was taken, the necessary corrections would be made and the costs added to their property tax. No response was received from the owners.

On 1991 June 19 the Assistant Chief Building Inspector attempted to contact the owners, with a letter sent by process server, advising them of the unsafe condition. The letter was returned un-served. On 1991 June 27, the Supervisor of Bylaw Services tried to hand deliver the same letter. A young man encountered at the premises identified himself as a friend of the owners, but refused the letter. However, he advised he would put a board over the hole and asked staff to reinspect on 1991 July 02. At the time of reinspection, a thin piece of plywood and block of concrete had been placed over the depression.

In a letter dated 1991 July 11, the Assistant Chief Building Inspector notified the owners that such a measure was only temporary and that the site remained in an unsafe and hazardous condition. The owners were asked to immediately open up the area around the depression so an Inspector could check the size of the underground space and determine what further work would be required to render the site safe. No progress on this matter was made on the part of the owners.

A further letter was sent on 1991 October 03 advising the owners that unless the depression was secured before 1991 October 25, an order would be sought from the Municipal Council to declare the situation a nuisance, thereby allowing the municipality to rectify the problem and apply all costs to the owners' property taxes. Reinspection on 1991 October 25 revealed that no further remedial work had been undertaken.

Municipal Act

Section 936 of the Municipal Act states:

"(1) The Council may declare a building, structure, or erection of any kind, or a drain, ditch, watercourse, pond, surface water or other matter or thing, in or on private land or a highway, or in or about a building or structure, a nuisance, and may direct and order that it be removed, pulled down, filled up or otherwise dealt with by its owner, agent, lessee or occupier, as the council may determine and within the time after service of the order that may be named in it.

(2) Service of the order shall be effected by sending a copy by return registered mail to the owner of the land where the nuisance exists, and to all other persons whose names appear on the records of the land title office as having an interest in the land, and to the agent, if known, of the registered owner, and to any lessee and occupier of the land, the notice to be sent to the last known address of each interested person referred to in this subsection.

Municipal Act cont'd

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- (3) The council may further order that, in case of default by the owner, agent, lessee or occupier to comply with the order within the period named in it, the municipality, by its employees and others, may enter and effect the removal, pulling down, filling up or other defaulting, and may further order that the charges for doing so, including all incidental expenses, if unpaid on December 31 in any year, shall be added to and form part of the taxes payable on that land or real property as taxes in arrear."

Conclusion

As long as the depression remains unfilled and uncovered, it represents a potential hazard to the residents, neighbours and visitors to the site. With the concurrence of Council, it is our intention to continue to work with the owners to obtain compliance. However, in the event that the owners do not comply, we will proceed with the necessary steps to repair the dilapidated sump.


TDA:lm


A.L. Parr
DIRECTOR PLANNING
AND BUILDING

cc: Chief Building Inspector
Municipal Solicitor

