

TO: MUNICIPAL MANAGER 1992 MAY 11

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: 5696 PORTLAND STREET
CONTRAVENTION OF BYLAWS - FILING IN LAND TITLE

PURPOSE: That Council direct the Clerk to file a notice in the Land Title Office pursuant to Section 750.1 of the "Municipal Act" with respect to property observed to be in contravention of Municipal Bylaws.

RECOMMENDATIONS:

1. THAT Council direct the Clerk to file a Notice in the Land Title Office stating that:
 - i) A Resolution relating to the land at 5696 Portland Street has been made under section 750.1 of the Municipal Act, and
 - ii) Further information respecting the Resolution may be inspected at the Offices of the Municipal Clerk, Corporation of the District of Burnaby.

2. THAT a copy of this Report be sent to Drago Sladich and Anita Sladich, 5696 Portland Street, Burnaby, B.C. V5J 2R6.

REPORT

SUMMARY:

Contrary to Burnaby's Zoning, Building, Electrical and Plumbing Bylaws, the owners of the subject property have converted the crawl space of the subject premises into a kitchen, three bedrooms and a bathroom, increasing the total floor area from a permitted 3575 sq. ft. to approximately 4800 sq. ft.

At the time of the complaint, the property was up for sale. In addition to any other enforcement measures to be taken, it is recommended that any potential purchaser be notified of the situation by registering the contravention on title pursuant to section 750.1 of the Municipal Act.

BACKGROUND:

On 1992 March 04 a complaint from a resident of Burnaby was forwarded to the Building Department from the Office of the Municipal Manager. This complaint alleged renovations taking place involving the removal of sand and cement. A real estate ad was enclosed advertising seven bedrooms, five bathrooms, an in-law suite and over 4900 sq. ft. in living area.

A review of our files indicated only four bedrooms, four bathrooms and a total of 3575 square feet were approved pursuant to Building Permit B68169. No application for an in-law suite licence was made. An in-law suite licence and the required permits cannot be obtained for the finishing that has taken place in the area approved for crawl space.

A letter was immediately sent to the realtors notifying them of the pending investigation of the premises and a request for disclosure to potential purchasers.

On 1992, April 03 the subject premises were inspected by Building Department staff. This inspection revealed that the crawl spaces adjacent to the basement rec room, laundry area and furnace room had been illegally converted into a full kitchen, three bedrooms and a three piece bathroom. These major renovations were made without building, electrical or plumbing permits or approvals. This additional floor space is in excess of the density permitted by the zoning bylaw and prohibits the Chief Building Inspector from issuing a building, electrical or plumbing permit for the renovations.

CONTRAVENTION OF BYLAWS:

Burnaby Zoning Bylaw 1965 No.4742

- Section 102.4 (excess of permitted floor area)
- Section 102.1 (non-permitted use in R2 Residential District)
- Section 3 "accessory use" (3)(d)(in-law suites required to comply with all Bylaws)

Burnaby Building Bylaw 1973 No. 6333

- Section 4 (commencing construction without a building permit)

Burnaby Plumbing Bylaw 1973 No. 6335

- Section 7 (construction or alteration of plumbing system without a plumbing permit)

Burnaby Electrical Bylaw 1974 No. 6494

- Section 19 (electrical installation without an electrical permit)

PREVIOUS HISTORY:

On 1990 March 08, the property was the subject of a Notice of Suspension during the initial construction, the objections included an unauthorized increase in building, cellar and crawl space height. This Notice of Suspension was sent to the present owners, Mr. and Mrs. Sladich, who owned the subject property at the time of construction.

A 1 ft. pony wall was added to the cellar wall increasing the height of the building to 30.58 ft. where 29.53 ft. was permitted. The main floor was raised to the extent that the designated "cellar" no longer complied with the requirement to have more than 50% of its perimeter below average finished grade. This changed the classification of the designated "cellar" to that of a "basement" which in turn resulted in the creation of a three storey building where only 2.5 storeys were permitted.

An application to build a three storey single family dwelling was made to the Board of Variance, 1990 March 20. No application was made for the relaxation of the height restriction.

This application resulted in the receipt of a petition signed by 51 residents of 5600 and 5700 blocks of Portland and McKee Streets opposing the height and size of the building.

The 1990 April 05 Board of Variance decision #3585 allowed for the construction of a three storey building while requiring the observation of a finished height of 29.53 ft. This resulted in the reduction of the overall height of the building from 30.58 ft. to 29.53 ft. by a truncation of the roof trusses. The "basement" designation for the lower floor was allowed. The crawl space infill was reworked to comply with the approved plans and Building Code requirements. The Certificate of Occupancy was issued 1991 February 5.

ITEM 10
MANAGER'S REPORT NO. 34
COUNCIL MEETING 92/05/11

COMMENTS:

This single family dwelling was constructed proximate to its allowable maximum density (3630 sq. ft.). The property owners have no recourse to the Board of Variance on matters of density.

The homeowners were made aware of the height and floor area restrictions imposed by the Zoning Bylaw at the time of construction. After obtaining the occupancy permit they proceeded to excavate the crawl spaces and convert them into a habitable space with cooking facilities.

To comply with the Zoning Bylaw, the area in contravention must be converted back to crawl spaces. This would require the removal of all unauthorized construction, wiring and plumbing, confirmation of the basic structural integrity, and reconstruction of the crawl spaces by backfilling them with concrete and sand.

It is the intention of the Building Department to pursue voluntary compliance within a reasonable period of time. However, one of the property owners has indicated to staff that they would not voluntarily convert the area back into crawl space.

CONCLUSION:


Registration of the contraventions on title would notify a potential purchaser of the infractions. Further inquiry would reveal the Building Department's intention to pursue this matter until compliance is achieved, preventing the situation where enforcement measures would be taken against a purchaser unaware of the contraventions.

Registration will effectively warn any third party that none of the construction, wiring and plumbing in the areas in question has been permitted or approved, thereby reducing liability on the part of the Municipality.

The recommendation to use section 750.1 in this instance is consistent with the report of the Housing Committee adopted by Council, March 8, 1989.

RMK:rmk

cc. Chief Building Inspector
Municipal Clerk


A. L. Parr
DIRECTOR PLANNING
AND BUILDING

