

ITEM	9
MANAGER'S REPORT NO.	35
COUNCIL MEETING	93/05/25

TO: CITY MANAGER
DATE: 1993 MAY 25

FROM: ACTING DIRECTOR
PLANNING & BUILDING

SUBJECT: 7771 ELWELL STREET & 7773 ELWELL STREET
6944 CANADA WAY

PURPOSE: TO RESPOND TO THE 1993 APRIL 16TH LETTER TO THE MAYOR AND
COUNCIL REGARDING THE SUBJECT PROPERTIES AND PROVIDE COUNCIL
WITH AN ACCOUNT OF STAFF'S INVOLVEMENT.

RECOMMENDATION:

1. THAT a copy of this Report be sent to the complainant.

REPORT

SUMMARY

A number of illegal suite complaints have been made with regard to 7771/73 Elwell Street since 1989. In each of these instances the complaints were investigated and the property brought into compliance with Burnaby's Zoning Bylaw. Ownership of the property has changed hands twice since the initial complaint. [See Attachment for Previous History]

The current investigation has confirmed one illegal suite and one in-law accommodation without a valid "in-law suite licence". The new owner has agreed in writing to make a timely application for an in-law suite licence, remove the range and related wiring from the illegal suite by 1993 June 30, and remove an unauthorized securable door which restricts access between floors. This will again bring the property into compliance with Burnaby's Zoning, Building, and Electrical bylaws. The occupants of the basement will remain as lodgers.

Property misuse concerns at 6944 Canada Way have been addressed and the occupant has agreed to bring the property into full compliance by 1993 June 11. This information has been discussed with the complainants.

CURRENT INVESTIGATION (7771/73 ELWELL STREET):

On 1993 May 12th the Building Department received a copy of a letter to the Mayor and Council regarding the continued illegal occupancy of a semi-detached dwelling at 7771/73 Elwell Street.

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On 1993 May 14 a Bylaw Enforcement Coordinator and the Supervisor of Bylaw Services attended the premises, spoke with the occupants and inspected the lower floors.

The property is situated in a R5 Residential District which permits two family dwellings. It was constructed as a semi-detached dwelling. As a consequence of a previous complaint dated 1991 May 13, the former owners were ordered to terminate the illegal occupancy and obtain a building permit for basement finishing. They were required to reconstruct the basements on each side to a layout consistent with single family use. This involved the restoration of internal stairways and accesses and the removal of securable doors. All secondary cooking facilities were removed and related wiring cut back and disconnected.

The latest inspection revealed that the upstairs of 7773 Elwell Street is occupied by a family of three. The basement is occupied by two sisters as an illegal suite. An electric range had been installed contrary to Burnaby's zoning and electrical bylaws. A door with a lock had been installed at the bottom of the stairway contrary to approved plans.

7771 Elwell Street is occupied by a family of three living upstairs and their parents living downstairs. A secondary cooking facility was installed in the basement. This occupancy and the electric range would be permissible under a valid in-law suite licence.

The owners of the property have been notified of the findings of this investigation and have agreed in writing, to remove all cooking facilities and related wiring from the basement of 7773 Elwell Street and restore the non-securable door as set out in the approved plans by 1993 June 30. They have agreed in writing to make an application for an in-law suite licence for 7771 Elwell Street and take out all the required permits.

CURRENT INVESTIGATION (6944 CANADA WAY)

The Director Finance advises that Licence Office staff first started working with the occupant at 6944 Canada Way in 1991 April, and since that time the property has been in and out of compliance with the zoning bylaw, due to the occasional storage of junk and wrecked vehicles.

Our most recent inspection on 1993 May 13 revealed that some tires and a small pile of wood were on the property. We have discussed this with the occupant and are assured that he will act immediately to clean up the property. An inspection will be performed on 1993 June 11 to ensure full compliance with the bylaw.

Given that the occupant has been cooperative, we feel that court action is not necessary at this time.

The complainants have been contacted and are satisfied with our actions. Staff will continue to monitor the situation.

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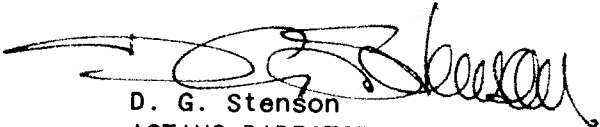
CONCLUSION:

Voluntary compliance is the prevailing objective of the City's enforcement action. Owners are given written notice specifying the violation, ordered to cease and take such remedial measures as required within a specified time.

With regard to the Elwell property, prosecution has not been required in this situation as compliance has been achieved prior to each sale of the property. Each subsequent violation must therefore be dealt with as a separate offence.

It is the intention of both departments to pursue voluntary compliance within a reasonable period of time.

RMK
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Attach.


D. G. Stenson
ACTING DIRECTOR
PLANNING & BUILDING

cc. Chief Building Inspector
Director Finance

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ATTACHMENT TO MANAGER'S REPORT

PREVIOUS HISTORY (7771 ELWELL STREET AND 7773 ELWELL STREET)

The first record of an illegal suite complaint for 7771/73 Elwell Street dates back to 1989 January 17 and lists "traffic and noise" as the reason for the complaint. An inspection revealed that the building was being occupied as a four family dwelling in contravention of Burnaby's Zoning Bylaw. Consistent with policy and current procedures the owners were notified of the violation and ordered to remove the ranges and related wiring. A 1989 April 14th reinspection confirmed that the ranges and related wiring had been removed and that the basement "tenants will remain as lodgers".

A further letter was received from the complainant 1989 August 18 suggesting that the premises had not been brought into compliance, stating "there are many residents at these addresses with the resultant noise and traffic". A letter acknowledging the receipt of the complaint was sent to the complainant and on 1990 April 4 the owner admitted that there were two unauthorized ranges and agreed to have them removed in two days. On 1990 April 6th, the basements were inspected and no cooking facilities were present. All related wiring had been removed. The owners asked that the complainants bring all traffic or noise problems to their attention. This message was relayed to the complainant and confidentiality maintained.

The owners said they could not continue to make their mortgage payments. An agreement for sale was signed in November of 1990 and the sale completed in March of 1991. The property sold for \$385,000.

1991 May 13, the complainants notified the Building Department of a sales listing enclosing a copy of a real estate ad: "4-plex \$439,000...\$40,000 per year revenue". They wrote they were "tired of having their driveway used as part of the public road system, and of the traffic which comes and goes at unusual hours".

On 1991 May 23 an inspection took place. Unauthorized cooking facilities were found in each of the basements. The building, plumbing and electrical inspectors noted unauthorized construction, plumbing and electrical installations.

By letter of 1991 July 03 the owners were ordered to terminate the illegal occupancy and apply for all required permits. A further letter was sent 1991 September 09 threatening legal action if compliance was not voluntarily achieved. Review of the submitted basement floor plan resulted in the restoration of internal stairways, reduction of counter space, provision of internal access and nonrestricted circulation. The building permit was issued 1991 December 12 and final approval obtained 1992 January 2.

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Further to a telephone call from the complainant, 7773 Elwell Street was inspected 1992 March 24. The basement no longer contained an electric range. The "rec room area" contained a bar sink, fridge, microwave and hotplate. The whole of 7773 Elwell was covered by one rental agreement. The premises were occupied by a family of three and two lodgers. Regular visitors periodically stayed with the lodgers who occupied the basement. In a letter dated 1992 April 13, the tenant confirmed the living arrangement and agreed to remove the portable cooking facilities.

The removal of the portable cooking facilities was confirmed by a 1992 April 28th inspection and a letter sent to the complainant informing them that the investigation was completed, no unauthorized occupancy was noted and no further action was warranted.

Records show that the property was sold again. The sale completed in April of 1992 for \$380,000.

The premises were reinspected 1993 May 14 following receipt of the subject letter by the Building Department. The new owner was immediately informed of the requirements and time frame for compliance.

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