

TO: CITY MANAGER 1996 NOVEMBER 25

FROM: DIRECTOR PLANNING & BUILDING

SUBJECT: 3867 MARINE DRIVE
LOT 215, D.L. 175, PLAN 46222

PURPOSE: To have Council direct the City Clerk to file a notice in the Land Title Office pursuant to Section 750.1 of the Municipal Act with respect to a property observed to be in contravention of City bylaws.

RECOMMENDATIONS:

- 1) **THAT** Council direct the City Clerk to file a notice in the Land Title Office stating that:
 - (a) A resolution relating to the land at 3867 Marine Drive, Burnaby, B.C., has been made under Section 750.1 of the Municipal Act; and
 - (b) Further information respecting the resolution may be inspected at the offices of the City Clerk, City of Burnaby.
- 2) **THAT** a copy of this report be sent to Mr. Kenneth Anderson at 1786 Western Drive, Port Coquitlam, B.C., V3C 2X4.

R E P O R T

1.0 SUMMARY

The owner of the subject property, Mr. Kenneth Anderson, has completed an addition to the rear of his single family dwelling without calling for building inspections. Mr. Anderson has been directed to correct safety concerns associated with the outstanding building permit but has not made any commitment to bring the property into compliance with Burnaby Building Bylaw No. 6333.

While other legal action may be necessary, the property has recently been listed for sale and a notice on title is now appropriate as it will protect potential third party purchasers. The filing of a notice can be done independently of any other legal action that the City may decide to undertake.

2.0 CONTRAVENTION OF BYLAWS

Pursuant to Sections 10.(3) and 10.(5) of Burnaby Building Bylaw No 6333, the owner of the subject property has maintained and occupied his building contrary to directions given by the Building Department. In order to grant final approval for Building Permit B-65409, the following must be completed:

- 1) Install guardrail at rear landing to meet 1992 B.C. Building Code.
- 2) Call for final inspection.

3.0 BACKGROUND

On 1988 June 24, the property owner, Rita Albanese, applied to the City of Burnaby for a Building permit to construct a garage, mudroom and sundeck addition to the rear of an existing single-family dwelling at 3867 Marine Drive, Burnaby, B.C.

On 1988 August 24, the owner was advised that Building Permit B-65409 for the proposed addition was ready to issue. The property owner apparently made no further effort to obtain the permit.

On 1990 June 06, acting on an enquiry from a neighbour, staff inspected the subject property and noted the unauthorized construction of an addition to the rear of the existing single family dwelling. At that time a Notice of Suspension was posted pursuant to Section 3.(5) of Burnaby Building Bylaw No. 6333.

On 1990 June 11, a double registered letter was sent to Rita Albanese advising that a Notice of Suspension had been posted. This letter also noted that the plans for the proposed construction had been submitted and approved, and requested the property owner obtain a building permit by 1990 July 03.

On 1990 November 29, staff attempted to contact Rita Albanese by telephone. At that time, staff spoke with an unidentified male who refused to allow staff to speak with Ms. Albanese and advised that the permit would not be obtained as required. An inspection of the subject property on 1990 December 14 confirmed the unauthorized addition to the rear of the premises had not been removed.

On 1991 January 17, a double registered letter was sent to Rita Albanese informing her that as a result of her failure to comply with the requirements of Burnaby Building Bylaw No. 6333, the matter was being forwarded to the Provincial Crown Counsel.

On 1991 February 14, subsequent to the service of a Subpoena to appear in Court, the property owner obtained Building Permit B-65409 for the proposed addition. A letter was forwarded to Crown Counsel requesting a stay of proceedings.

As the property owner failed to call for inspection once the permit was issued, staff attended the subject property on 1993 June 22 and noted several safety concerns. In addition to an inspection notice being left on site, the owner was advised by letter on 1993 June 25 and August 05 to correct the guardrails and stairs and to obtain and finalize an electrical permit. As the property owner did not respond, the matter was forwarded to the Bylaw Services Section of the Building Department on 1993 September 22.

Numerous site visits, correspondence and telephone discussions have occurred between staff and the property owner since 1993 September. An electrical permit has since been obtained and finalized. During the course of inspections, it has been noted that the premises are now occupied by tenants. As no further effort or commitment was made to correct the outstanding concerns, the file was referred to the Legal Department on 1995 September 18.

Between 1995 September 19 and 1996 October 29, the City Solicitor has written to the property owner on numerous occasions requesting voluntary compliance.

Mrs. Anderson (nee, Albanese) responded to the City Solicitor by letter on 1995 October 10 to request an extension to the end of the year to complete the work at the subject property, which was agreed to.

An inspection of the subject property on 1996 January 25 confirmed that some of the necessary work had been completed. In addition to an inspection notice being left on site, the owner was advised by letter to correct the guardrails and call for final inspection. No further effort has been made to correct this outstanding safety concern.

To date, the property remains in violation of Building Bylaw No. 6333.

(The property is now registered to the husband of Rita Albanese, Kenneth S. Anderson.)

4.0 CONCLUSION

City staff have been attempting to resolve this outstanding matter for some time but the owner has not completed the necessary work to finalize Building Permit B-65409. The property is now listed for sale and a notice should be registered on title to alert any potential third party purchasers of the outstanding objections and to protect the City's liability.

We will continue to work with the property owner and any potential purchasers to resolve these outstanding concerns.

This use of Section 750.1 of the Municipal Act to file notices in the Land Title Office is consistent with the guidelines set out in the Housing Committee Report adopted by Council on 1992 September 28.



D. G. STENSON, DIRECTOR
PLANNING AND BUILDING

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cc: Deputy City Manager, Corporate Services
City Solicitor
Chief Building Inspector