

**TO:** CITY MANAGER

1996 NOVEMBER 19

**FROM:** DIRECTOR PLANNING & BUILDING

**SUBJECT:** 7755, 7785 CLAYTON AVENUE, BURNABY, B.C.  
5079, 5089 CLAUDE AVENUE, BURNABY, B.C.  
LOT C, D.L. 85, GROUP 1, N.W.D. PLAN 4949;  
LOT B, D.L. 85, GROUP 1, N.W.D. PLAN 4949;  
LOT 1 EXC. E. 87 FEET, D.L. 85, GROUP 1, N.W.D. PLAN 4949;  
E. 87 FEET OF LOT A, D.L. 79/85, GROUP 1, N.W.D. PLAN 4949

**PURPOSE:** To obtain council's approval to declare the premises a nuisance and order their removal.

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**RECOMMENDATIONS:**

- 1) **THAT** Council declare all buildings located at the subject addresses a nuisance and order that they be removed by their owner within 30 days after the service of the order.
- 2) **THAT** Council order that:
  - (a) In the case of default by the owner to comply with the order and the period named in it, the City by its employees or others may enter and carry out the demolition of the buildings and the removal of the related debris from the property at the expense of the owner; and
  - (b) In the case of default by the owner to comply with the order, the charges for carrying out the demolition of the buildings and removal of the related debris including all incidental expenses if unpaid on 1997 December 31, shall be added to and form part of the taxes payable on the subject land for real property as taxes in arrears.
- 3) **THAT** a copy of this report be provided to the registered owner of the property:

Taina Developments (Deer Brook) Ltd.,  
Suite 106 - 1008 Beach Avenue  
Vancouver, B.C.  
V6E 1T7

- 4) **THAT** a copy of this report be provided to all parties registered as having an interest in or a charge against this property.

## REPORT

### 1.0 BACKGROUND

The subject properties are currently part of an active rezoning application (RZ #: 61/93) that received Third Reading on 1995 July 24. One of the pre-requisite conditions is the demolition of existing buildings within six months of rezoning, however, the buildings have been vacated and have become derelict.

The Fire Prevention Office has an active file on the subject properties dating back to February 1996. Since that time, they have contacted the Development Manager for Taina Developments, Mr. Mark Bulietta, on numerous occasions regarding the vacant buildings

Burnaby Environmental Health Services also has an active file dating from 1996 May 30, asking that the properties be brought into compliance with the Burnaby Unsightly Premises Bylaw 1969, Amendment Bylaw 1980.

The owners have been ordered to make these premises secure against trespass and to have the areas around these premises made clear of any refuse that would create a fire hazard; however, the owners have not, to date, complied with Fire Prevention Office or Environmental Health Department orders.

Complaints from area residents have been received by both the Fire Prevention Office and the Environmental Health Department citing health and life safety concerns.

These properties are in a state of dis-repair. The area has become a dumping ground and it is a constant problem to keep these premises secure and free from combustible refuse. One property, 5079 Claude, has been involved in a serious fire and the Fire Department states it is very probable that some of the others will similarly be involved in the future.

Detailed chronology of events are outlined in *attached* Appendix "A".

### 2.0 DISCUSSION

All attempts to permanently board up and secure the vacant and abandoned buildings at 7755, 7785 Clayton Avenue, Burnaby, B.C. and 5079, 5089 Claude Avenue, Burnaby, B.C. have proven ineffective. On four separate occasions, City crews were requested by the Fire Prevention Office to board up these buildings, and on two occasions, the areas around the premises were cleared of all refuse that might represent a health or fire hazard. At the request of Environmental Health, the owner removed 24 - 4 litre containers of a hazardous material from one of the sites.

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Recognizing that the buildings remain a constant safety hazard for the community, it is recommended that Council act under the authority provided in Section 936 of the Municipal Act (as per *attached* Appendix "B") and order their removal.

### 3.0 CONCLUSION

To date, demolition permits have not been obtained for these properties. Staff now have no option but to request that Council declare all buildings on these properties to be a nuisance and to order their removal.

Concurrent with this report, the Chief Building Inspector is sending a letter to the owner advising them of these events.

Pictures of the properties are available with the City Clerk.



D. G. Stenson, DIRECTOR  
PLANNING & BUILDING

DWM/LAP:ap  
*Attach.*

claytrep.rev

cc. Chief Building Inspector  
Chief Public Health Inspector  
Chief Fire Prevention Officer  
Director Finance  
Director Engineering

# APPENDIX "A"

## CHRONOLOGY

*1996 February 14*

A letter was sent by the Fire Prevention Office (FPO), to the owner, Taina Developments, ordering them to secure (demolish, or repair) the premises at 5089 Claude Avenue.

*1996 February 16*

A letter ordering the owner to secure (demolish or repair) the premises at 7785 Clayton Avenue was sent by FPO to Taina Developments.

*1996 February 23*

S. Penner, Chief Fire Prevention Officer, contacted the Development Manager, Mark Bulietta, requesting that the properties be secured. Mr. Bulietta stated that he would secure the properties.

*1996 April 23*

An order was sent by FPO to Taina Developments to secure (demolish, or repair) premises at 5089 Claude Avenue.

*1996 May 01*

Inter-Office memo to Jean Levesque, Superintendent, Physical Plant Maintenance, from FPO to arrange for three vacant houses at 5089 Claude to be boarded up and secured against trespass. Owner has not complied with previous orders.

*1996 May 30*

Certified letter mailed to Taina Developments from D. S. Hardy, Burnaby Environmental Health Services, advising the subject properties must be brought into compliance with Burnaby's Unsightly Premises Bylaw by 1996 June 14.

*1996 June 19*

Letter "Hand Delivered" by FPO to Taina Developments ordering the owner to secure (demolish, or repair) the premises at 7785 Clayton Avenue.

*1996 June 19*

Inter-Office memo from Chief Environmental Health Officer to Director Engineering requesting the removal of offending materials from Claude Avenue and Clayton Avenue properties. Owner failed to comply with the direction as stated out in the letter dated 1996 May 30.

***1996 July 03***

Order sent by FPO to Taina Development to secure (demolish, or repair) the premises at 7785 Clayton Avenue.

***1996 July 04***

Letter to Taina Developments from FPO requesting confirmation of demolition permit for 7785 Claude Avenue.

***1996 July 08***

Further to letter of July 04, owner said he would board up forthwith and that the other houses were scheduled for demolition

***1996 July 10***

Inter-Office memo to Jean Levesque, Superintendent, Physical Plant Maintenance from Sam Penner, FPO, to arrange to have the vacant house at 7785 Clayton Avenue boarded up and secured against trespass. Owner had not complied with previous orders.

***1996 July 16***

Inter-Office memo to J. Levesque, Superintendent, Physical Plant Maintenance, from J. Bruce Kendrick, Acting Fire Investigator, to have the vacant premises at 7785 Clayton Avenue and the three houses at 5089 Claude Avenue boarded up and secured against trespass.

***1996 July 17***

J. Bruce Kendrick, FPO, left message for owner notifying him that arrangements were being made to board up the houses as no instruction had been received. Fax was also sent.

***1996 August 30***

Letter from an Area Resident is sent to the Fire Department complaining about properties at 5000 and 5100 blocks of Claude Avenue. The complainant cited serious health and safety concerns about the properties, in particular, 5079 Claude Avenue.

***1996 September 04***

A copy of the August 30 complaint is forwarded to the Building Department.

***1996 September 06***

Inter-Office memo to Jean Levesque, Superintendent, Physical Plant Maintenance, from Peter MacNeil, Assistant Chief Fire Prevention Officer, to arrange to have the vacant premises at 7785 Clayton Avenue and 5089 Claude Avenue boarded up and secured against trespass.

***1996 September 10***

Building Department staff attended the site and took pictures of the properties.

***1996 September 16***

Certified letter mailed to Taina Developments from D. S. Hardy, Burnaby Environmental Health Services, advising the property at 5089 Claude Avenue must be brought into compliance with Burnaby's Unsightly Premises Bylaw before 1996 September 30.

***1996 October 30***

As the subject buildings had again become unsecured and open to trespass, Building Department staff coordinated a meeting with staff from FPO, the Health Department and Planning Department. At that meeting, it was determined that immediate steps must be taken to secure the buildings and that the Building Department would initiate measures to have the buildings demolished.

***1996 October 31***

Inter-Office memo to Jean Levesque from S. Penner at FPO to board up the vacant houses on Claude Avenue and Clayton Avenue. Boarding was confirmed by the Fire Department staff on the afternoon of 1996 October 31.

***1996 November 05***

Staff from the Planning Department met with representatives for the property owners to discuss a pending rezoning application for the subject properties. At this meeting, staff requested that for reasons of public health and safety, the buildings be demolished.

***1996 November 06***

Inter-Office memo from the Chief Environmental Health Officer to Director Engineering requesting the removal of offending materials from 5079 Claude Avenue and 5089 Claude Avenue. Owner failed to comply with the direction as stated in the letter dated 1996 September 16.

***1996 November 07***

Mr. Mark Bulietta, Development Manager for Taina Developments, sent a letter to the Planning Department indicating that subject to the approval of their President, Dominic Soave, the homes would be demolished within two weeks.

***1996 November 08***

An area resident called the Health Department to advise that the material used to board up the buildings had again been removed from some of the buildings leaving them open to trespass.

*1996 November 08*

Health Department staff contacted the Building Department to confirm that a Council report requesting that the buildings be ordered demolished, was being prepared.

*1996 November 13*

Letter to Taina Developments from Fire Prevention Division ordering that the subject properties again be secured against trespass (demolish or repair) within 48 hours.

## APPENDIX "B"

### AUTHORITY - SECTION 936 OF THE MUNICIPAL ACT

#### AUTHORITY:

Section 936 of the Municipal Act states:

"936:

- (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) The council shall give notice of an order under subsection (1) to the following persons, either by serving the order or by sending the order by registered mail:
  - (a) the owner of the land where the nuisance exists;
  - (b) all other persons who are recorded in the land title office as having an interest in the land;
  - (c) the agent, if known, of the registered owner of the land;
  - (d) the lessee or occupier of the land.
- (2.1) The Supreme Court may, on application, order that service required by subsection (2) may be made by substituted service in accordance with the order.
- (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 dealing at the expense of the person 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.



- (4) Where the nuisance so declared is a building , structure or erection, the council may, after the expiration of 60 days from the date of the mailing of the notice to the owner under subsection (2) and after the expiration of the period named in the order, sell by auction, or by public or private tender, or otherwise dispose of the building, structure or erection so ordered to be dealt with, or any part or material in it. From the proceeds of the sale or disposal, there shall be deducted for municipal use the actual costs, including incidental expenses, incurred by the municipality in carrying out the order, and the remainder of the proceeds shall be paid by the municipality to the owner or other person lawfully entitled.
- (5) This section applies to any building, structure or erection of any kind which the council believes is so dilapidated as to be offensive to the community."

