

**TO:** CITY MANAGER  
**FROM:** DIRECTOR PLANNING & BUILDING  
**SUBJECT:** 5079 DOVER STREET, BURNABY, B.C.  
LOT 1, D.L. 32, PLAN LMP28846

1997 JANUARY 28

**PURPOSE:** To provide Council with background information regarding 5067 and 5079 Dover Street, Burnaby, B.C.

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**RECOMMENDATION:**

- 1) **THAT** a copy of this report be forwarded to:

Jim and Wendie Tarling  
5067 Dover Street  
Burnaby, B.C.  
V5H 1R4

**REPORT**

**1.0 BACKGROUND:**

On 1996 July 09, Building Permit No. B-82988 was issued for the construction of a new single-family dwelling at 5079 Dover Street, Burnaby, B.C. The construction and inspections proceeded as per the approved plans.

During the final stages of construction, this Department received a written complaint dated 1996 October 27 from Jim & Wendie Tarling, the adjacent property owners, at 5067 Dover Street. The Tarling's concern was that the grade adjacent to their property had been lowered approximately 2' when the excavation for the new construction took place, and that no retaining wall was constructed to support their property. The letter went on to say that the contractor then installed a fence on the low side of the two properties which appeared would act as a retaining wall. The Tarling's concern was that the dirt would eventually push the fence over.

Mr. Tarling spoke to the Building Inspector, Mr. Dave Butler, regarding the altered grade and his concern about the lack of a concrete retaining wall. Mr. Butler advised Mr. Tarling that the Building Department has no authority to have the builder install a concrete retaining wall and that this situation is a private matter between the two property owners. Mr. Butler, however, agreed to Mr. Tarling's request to talk to the contractor and try to come to a compromise.

Mr. Butler met with the contractor and advised him of Mr. Tarling's concern regarding the fence and the altered grade. The contractor was notified that it is the responsibility of the person who alters the grade to also retain the earth along a property line. He was also advised that the fence installed against the grade was not acceptable to his neighbour. Prior to the release of the Occupancy Permit for the new house, staff sought and obtained the cooperation of the builder to correct the situation that was of concern to his neighbour.

As a follow-up to the Tarling's letters and subsequent contact with staff, Mr. Butler met with both the contractor and Mr. Tarling in an attempt to resolve this issue. Following this meeting, the contractor installed landscape ties onto his property, filled in the area with earth to meet Mr. Tarling's grade elevation and reinstalled the fence at the property line. It is our view that any potential problem that may have been of concern to Mr. Tarling would be alleviated by these actions. Since the house construction was completed at this time, the Building Inspector had no justification to withhold the final approval and issued the Occupancy Permit on 1996 December 11.

## 2.0 CONCLUSION:

The Building and Zoning bylaws regarding single-family dwellings do not regulate the landscaping of a property or the placement of retaining walls. It has been the policy of this Department to minimize our involvement in private matters involving neighbour disputes regarding retaining walls. Building officials can only recommend a solution or a compromise between the two parties, but cannot get involved in private matters such as this one.

As a consequence of this Department's involvement, the Tarling's neighbour has made an effort to alleviate their concerns, and in our view, has corrected the problem. The city has no authority to mandate a solution to this dispute.



D.G. Stenson, DIRECTOR  
PLANNING AND BUILDING

DRC:ap

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cc. Chief Building Inspector