



Item.....
Meeting.....2011 Sept. 12

COUNCIL REPORT

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**TO:** CITY MANAGER **DATE:** 2011 JULY 27

**FROM:** DIRECTOR PLANNING AND BUILDING

**SUBJECT:** 7132/34 CANADA WAY, BURNABY, BC  
LOT: 95, D.L. 90, GROUP 1, NWD, PLAN 30016

**PURPOSE:** To request a Council resolution to file a Notice in the Land Title Office pursuant to Section 57 of the Community Charter, with respect to a property in contravention of City Bylaws.

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**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 has been made under Section 57 of the Community Charter, 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 the following owner:
  - (a) Jan Charles Matous  
7132 Canada Way  
Burnaby, B.C. V5E 3R8

**REPORT**

**1.0 BACKGROUND**

Responding to a complaint from the Fire Department, Building Department staff inspected the subject two family residence on 2010 March 24 and found that extensive alterations had been made to the building without permits and in contravention of the City of Burnaby Building, Electrical, Gas, Plumbing and Zoning Bylaws.

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This included the enclosure of open areas beneath the front and rear balconies, enclosure of the attached carport and various internal alterations made to create two additional basement suites. The internal alterations involved both structural alterations and removal of required fire separation walls.

By letter dated 2010 March 25, the Building Department advised the owner that the two additional suites were not permitted under the Zoning Bylaw and directed the owner to obtain the necessary permits to carry out the required restorative work. The letter set out in some detail the necessary restoration work.

At the request of the owner, the Building Department granted an extension of the initial 2010 May 14 deadline to 2010 June 04 to submit engineering drawings for the structural changes, and 2010 June 25 to arrange for a progress inspection.

On 2010 July 05, the owner submitted floor plans that did not deal with the structural changes and which included floor area in excess of what was permitted under the Zoning Bylaw. Building Department staff met with the owner on 2010 August 04 and advised that he must submit revised floor plans for the restoration of the building to its original two family use.

Despite a further letter from the Building Department and a final letter from the Legal Department, the owner has taken no further steps to obtain the required permits or to remove the unauthorized construction. On 2011 March 15, Burnaby City Council authorized the commencement of legal proceedings against the property owner to obtain compliance with City Bylaws. Numerous attempts by our legal counsel's process server to locate the property owner have been unsuccessful. On 2011 July 25, our legal counsel was advised that the subject property is in foreclosure.

## **2.0 CONTRAVENTION OF BYLAWS**

Any construction or alteration, without first obtaining a permit, is in violation of Section 7(1) of Burnaby Building Bylaw No. 11729 that reads:

*“No person shall commence or continue construction or change the occupancy of any building, structure or part thereof, unless the Building Inspector has issued a permit for the construction and that permit remains in force.”*

## **3.0 CONCLUSION**

Staff will continue working with the property owner to resolve this matter, however, we recommend filing a Notice in the Land Title Office to ensure that any potential future purchasers of the property are aware of the contravention of City bylaws.

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The use of Section 57 of the Community Charter to file Notices in the Land Title Office is consistent with the Housing Committee Report adopted by Council 1992 September 28.

The City Clerk, in keeping with Section 57(2) of the Community Charter, has notified the property owner and provided him with the opportunity to appear before Council to address this staff report.

B. Luksun, Director  
Director Planning & Building

CL:su/ap

*Attach.*

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cc: Deputy City Manager  
Director Finance (*Attn: D. Letkeman*)  
City Solicitor  
City Clerk  
Chief Building Inspector