



Committee of the Whole Report

For the Meeting of February 14, 2019

To: Committee of the Whole **Date:** January 30, 2019
From: Barrie Cockle – Leader, Bylaw & Licensing Services
Subject: Remedial Action Requirement – 1176 Yates St. / Bylaw File #25483

RECOMMENDATION

That this matter be risen and reported on by way of a staff report to the February 14, 2019 Committee of the Whole meeting to consider the following:

1. That Council, under the authority provided in Section 73 of the *Community Charter*, declare the building (the "Building") located at 1176 Yates Street on lands legally described as Lot 1 Plan 740 Section SR Victoria (the "Lands"), to be in an unsafe condition and creates a hazard to the public that requires remedial action to demolish and remove it from the Lands;
2. That Council, under the authority of Section 74 of the *Community Charter*, declare the Building located on the Lands as being in a condition so dilapidated and unclean that it is offensive to the community and declare it a "nuisance" that requires remedial action to remove and/or demolish the Building;
3. That Council, under the authority of Section 72 of the *Community Charter*, impose the remedial action requirements as set out in Schedule A to this Report (see attached);
4. That Council authorize Staff to take all appropriate actions in accordance with Section 17 of the *Community Charter* to ensure the Building and Lands are brought into compliance with the remedial action detailed in Schedule A subject to the following:
 - a. The property owner has not fully complied with the remedial action order on or before the compliance date specified in this Council Resolution; and
 - b. That all costs incurred by the City of Victoria to bring the property into compliance shall be at the expense of the property owner and, as per Section 17 of the *Community Charter*, these costs shall be treated as a debt owed to the City of Victoria;
5. That Council set the time limit for compliance with the remedial action detailed in Schedule A at 60 days commencing February 14, 2019;
6. That Council set the time limit for a notice of a request for Council to reconsider the remedial action requirements detailed in Schedule A at 60 days, commencing February 14, 2019.

7. That, in the event of non-compliance by the owner, Council authorize the City Solicitor, at his discretion, to initiate legal proceedings to enforce compliance with this remedial action requirement, including prosecution or proceedings seeking injunctive relief.

EXECUTIVE SUMMARY

The property at 1176 Yates Street has been the subject of bylaw enforcement action related to the provisions of the City's *Property Maintenance Bylaw* and *Abandoned Properties Bylaw* on an on-going basis for the last 15 years. In addition, other City resources including Police and Fire are continually being called upon to manage incidents directly related to the derelict condition of this property, and the criminal and nuisance activity that it attracts.

Occupancy of this residential building was revoked and the structure posted unsafe to occupy in 2003 after an inspection revealed that unpermitted demolition work in the basement, involving the cutting of weight bearing beams and the undermining of weight bearing posts, had severely compromised the structural integrity of the building. The condition of the building has been in steady decline ever since as the property owner has done nothing to address the unpermitted work and restore occupancy.

The *Community Charter* provides Council the authority to order remedial action if the Council consider that the structure is in or creates an unsafe condition. The *Community Charter* also provides Council the authority to declare a Building on private property, including structures that are so dilapidated or unclean as to be offensive to the community, to be a "nuisance" and impose remedial action requirements, including the removal or demolition of a building.

PURPOSE

The purpose of this report is to advise Council that the property located at 1176 Yates Street is in an unsafe and unclean condition which poses a significant safety hazard to the community; and seek Council's authorization to impose a Remedial Action Requirement on the property to remove the unsafe and unclean conditions by demolishing the building. Staff is also seeking Council's approval to proceed with the remedial action on the property if the property owner does not comply as directed within the time limit set by Council.

BACKGROUND

Section 72 of the *Community Charter* allows Council to impose remedial action requirements in relation to:

- a) matters or things referred to in Section 73 (*hazardous conditions*), or
- b) matters or things referred to in Section 74 (*declared nuisances*).

In the case of matters or things referred to in Section 73 or 74 a remedial action requirement may require the owner or occupier of the land to:

- a) remove or demolish the matter or thing,
- b) fill it in, cover it over or alter it,

- c) bring it up to a standard specified by bylaw, or
- d) otherwise deal with it in accordance with the directions of council or a person authorized by Council.

Section 73(2) of the *Community Charter* allows Council to impose remedial action requirements under Section 73(1) (*hazardous conditions*) if

- a) the Council considers that the matter or thing is in or creates an unsafe condition, or
- b) the matter or thing contravenes the Provincial building regulations or a bylaw under section 8 (3)(1) (*spheres of authority – buildings and other structures*) or Division 8 (*Building Regulation*) of this part.

Section 74 of the *Community Charter* allows Council to declare that any of the following is a “nuisance” and may impose a remedial action requirement in relation to the declared nuisance:

- 1. a building or other structure, an erection of any kind, or a similar matter or thing.

This applies in relation to a thing that Council considers so dilapidated or unclean as to be offensive to the community.

Section 76 of the *Community Charter* stipulates that the minimum time period that Council may set for compliance with a remedial action order must not be less than 30 days from the date of the notice to the owner. Section 78 allows the owner to request that Council reconsider its decision to impose remedial action and an opportunity to make representations directly to Council, provided such request is received within 14 days from the date of the notice.

Section 79 grants Council the authority to reduce the time limits stated in Sections 76 and 78 if Council considers that there is a significant risk to health or safety if action is not taken earlier.

ISSUES & ANALYSIS

This property is zoned R3-1 and the approved use of the structure is 17 light house-keeping units. The structure was posted “unsafe to occupy” in 2003 after an inspection by City staff revealed that substantial demolition work in the basement, involving the cutting of weight bearing beams and the undermining of weight bearing posts, had severely compromised the structural integrity of the building. The structure was fully tenanted at the time and due to the safety concerns those tenants had to be displaced. The property owner was given written direction to obtain the permits necessary to correct the deficiencies (see Schedule B and C).

To date the owner has taken no action to repair the structure and return it to a state where it can be occupied. Instead, the structure has remained vacant for the last 15 years and the unsafe conditions have only deteriorated further. The City receives public complaints regarding this property on a regular basis, and as a result, City resources are continually being called upon to manage incidents directly related to the derelict condition of this property, and the criminal and nuisance activity that it attracts (see Schedule D). Records show numerous Bylaw, Fire, and Police calls for service at this address, including 2 fires. Information provided by the Victoria Police show 24 calls for service in the last 2 years alone related to unwanted persons, drug use, break and enter, and squatters. A number of these police calls have come from the property owner himself.

The unsafe conditions are such that anyone who enters the structure is at risk, including first responders who have deemed the structure unsafe to enter even in an emergency. The property owner takes only minimal action to maintain the property, and only as a result of repeated enforcement action taken by staff under the provisions of the *Property Maintenance Bylaw* and the *Abandoned Properties Bylaw*. On December 19, 2018 a letter was sent to the property owner regarding the on-going issues upon this property and requesting that he provide staff with his intentions in regards to the property (see Schedule E). Although, the owner has confirmed receipt of the letter he has not provided a formal response.

OPTIONS & IMPACTS

The essential elements that must be considered in this case are as follows;

1. The structure was deemed unsafe and the occupancy was revoked in 2003 because the property owner carried out demolition work which significantly undermined the structural integrity of the building and placed the tenants at risk;
2. The property owner has taken no action to remediate the unsafe conditions and restore occupancy to the building despite having 15 years to do so, and has instead allowed the building to deteriorate which increases the risk that it poses to the public;
3. The property owner has taken no action to maintain the condition of the property and has allowed it to become so unclean that City resources are continually being called upon to manage the criminal and nuisance activity that it attracts.
4. Demolition of the building as outlined in Schedule A is the only certain and effective remedy for the current unsafe and unclean conditions;
5. There is a significant risk to public safety if action is not taken immediately to remediate these conditions.

CONCLUSIONS

Due to the significant risk to public safety posed by the unsafe and unclean condition of this property, and the need to take effective and timely action to remediate the hazardous conditions, staff have determined that the appropriate course of action at this time is to proceed with issuing a Remedial Action Requirement to the property owner. Doing so will not only provide the property owner incentive to act voluntarily, it would allow the City to take the required action should the owner fail to do so themselves.

Respectfully submitted,



Andrew Dolan
Senior Bylaw Officer



Barrie Cockle
Leader – Bylaw & Licensing Services

Report accepted and recommended by the City Manager:

Date:


Feb 5, 2019

List of Attachments (if relevant)

Schedule A – Notice of Remedial Action Requirement.

Schedule B – Letter to the owner from the Senior Bylaw Officer dated November 12, 2003.

Schedule C – Letter to the owner from the Building Inspector dated November 13, 2003.

Schedule D – Photographs of the subject property taken on January 16, 2019.

Schedule E – Letter to the owner from the Senior Bylaw Officer dated December 19, 2018.