

I. **REPORTS OF COMMITTEES**

I.1 **Committee of the Whole**

I.1.c **Report from the February 14, 2019 COTW Meeting**

I.1.c.c **Remedial Action Requirement - 1176 Yates Street
/Bylaw File #25483**

Moved By Councillor Potts

Seconded By Councillor Loveday

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; and to level the site and plant grass.
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.

CARRIED UNANIMOUSLY

F. STAFF REPORTS

F.2 Remedial Action Requirement - 1176 Yates Street /Bylaw File #25483

Committee received a report dated January 30, 2019 from the Leader of Bylaw & Licensing Services advising 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 seeking authorization to impose a Remedial Action Requirement on the property to remove the unsafe and unclean conditions by demolishing the building.

Amendment:

Moved By Mayor Helps

Seconded By Councillor Collins

to add to end of paragraph "and to level the site and plant grass".

CARRIED UNANIMOUSLY

On the main motion:

CARRIED UNANIMOUSLY



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.

Schedule A

IN THE MATTER OF THE *COMMUNITY CHARTER* S.B.C. 2003, c. 26

AND

THE PROPERTY LOCATED AT
1176 YATES STREET, VICTORIA BC

TO: Mr. Robin Kimpton
1121 Empress Ave.
Victoria, BC
V8T 1P3

NOTICE OF REMEDIAL ACTION REQUIREMENT

WHEREAS the Council of the City of Victoria (the "Council") has determined and declared that the building (the "Building") located at 1176 Yates Street, legally described as **Lot 1 Plan 740 Section SR Victoria** (the "Lands"), is a nuisance, hazard and creates an unsafe condition pursuant to Section 74 of the *Community Charter*.

THEREFORE under statutory power, including Sections 16, 17, 64, 72 to 74, 79 and 154 to 156 of the *Community Charter*, the Council orders as follows:

1. Within sixty (60) days of February 14, 2019, the registered owner of the lands (the "Owner"), at the Owner's expense, must obtain a building permit, and adhere to the conditions of the building permit, to remediate the unsafe conditions by removing and/or demolishing the Building and removing from the Lands any and all debris or accumulated materials.
2. If the Owner does not take the action required under Section 1 of this Notice, the Council, or any persons authorized by the Council (including private contractors) are authorized to enter upon the Lands pursuant to Section 16 and 17 of the *Community Charter* for the purpose of carrying out the required work.
3. Any action taken by the Council or other authorized person with respect to Section 2 of this Notice will be undertaken at the expense of the Owner, and the City of Victoria may recover the costs incurred in doing so as a debt from the Owner in accordance with Section 17 of the *Community Charter*.
4. If the City takes action and the costs of the action are unpaid on December 31 of the year in which the costs were incurred, the amount owing will be added to the property taxes and deemed as taxes in arrears in accordance with Section 258(1)(c) of the *Community Charter*.
5. Within fourteen (14) days of February 14, 2019, the Owner may request, in accordance with Section 78 of the *Community Charter* that the Council reconsider the remedial action requirement imposed under Section 1. A request that the Council reconsider the remedial action requirement must be given in writing within the time stated to:

City Clerk
City of Victoria
#1 Centennial Square
Victoria, BC
V8W 1P6

Dated at the City of Victoria, this 14th day of February 2019.

Mayor

City Clerk

Schedule B

Planning &
Development
Department



Bylaw Enforcement
Business Licensing

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

Tel (250) 361-0215

Fax (250) 361-0277

danis@city.victoria.bc.ca

November 12, 2003

File: 3904

Robin Kimpton
1936 West 14th Avenue
Vancouver BC V6J 2K2

CERTIFIED TRUE COPY

Dear Sir:

Subject: Bylaw infractions at 1176 Yates Street

On November 10, 2003, I made an inspection of the building at this address accompanied by the Building Inspector, Plumbing Inspector, Electrical Inspector, and officials from the Ministry of Human Resources. Also present was your local manager, Albert Ward.

The approved use of the building at 1176 Yates is 17 housekeeping units. A housekeeping unit is defined as "a room or rooms used or intended to be used for normal living purposes including cooking, eating and sleeping but without separate bathrooms or toilet facilities."

According to the Building, Plumbing, and Electrical Inspectors, there is evidence of substantial construction (including demolition), plumbing, and wiring without valid permits. Each housekeeping unit has had its own bathroom installed without permits, and this work has had the effect of converting the building, illegally, to an apartment building. There is evidence that uncapped or illegal plumbing is allowing sewer gas into the building. There is also evidence of construction of extra apartments, in particular on the top floor and attic, and in the basement. Finally, there has been a substantial amount of demolition work in the basement, involving the cutting of weight-bearing beams and the undermining of weight-bearing posts.

As a result of these findings, the Building Inspector has posted the building "unsafe to occupy" and has informed your manager of this decision.

To comply with building and zoning regulations, you must take immediate steps to terminate occupancy of the building. If you wish to reoccupy the building, you must take steps to return it to its approved layout and use through the permit process.

If you have any questions, please contact the undersigned. Thank you for your cooperation in this matter.

Sincerely,

Dan Scoones
Senior Bylaw Officer

c: VCET

Schedule C



**Planning &
Development
Department**

**Permits &
Inspections
Division**

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

Tel (250) 361-0342

Fax (250) 385-1128

Inspect@city.victoria.bc.ca

November 13, 2003

File: 1176 Yates

Mr. Robin Kimpton
1936 West 14th Avenue
Vancouver BC V6J 2K2

Dear Mr. Kimpton:

Subject: Unsafe – No Occupancy - 1176 Yates Street

On November 06, 2003, I made an inspection of the building at this address to accompany the Electrical Inspector and Bylaw Enforcement Officers. Your local manager, Albert Ward was present. I was prepared to immediately post the building as "Unsafe" due to the scope and nature of the infractions and let Mr. Ward know of my intention.

I returned in the afternoon with my Manager, a fellow Building Inspector, Plumbing Inspector, Senior Bylaw Officer and Officials from the Ministry of Human Resources. We were accompanied, again, by Mr. Ward.

I could find no evidence of any permits, or applications for permits, for the structural, architectural, plumbing or electric work that was either in progress or completed since our last recorded entries. Substantial alterations were underway on all storeys.

The strong smell of sewer gases from numerous sources and the various liberties taken with the integrity of load bearing structural elements were sufficient to invoke section 2.5 of the Building Bylaw to prohibit the occupancy of the unsafe building.

I posted the building and all suites "Unsafe – No Occupancy" and informed your manager of this decision.

Plans, prepared under the seal of a professional architect and structural engineer, must be submitted in support of a building permit application to bring the building into compliance with the intended use. The application should be submitted within 14 days.

If you have any questions, please contact the undersigned. Thank you for your cooperation in this matter.

Yours truly,

Dave Marchment, R.B.O.
Building Inspector

CERTIFIED TRUE COPY

Cc: Dan Scoones- Senior Bylaw Officer

Schedule D

1176 YATES ST.

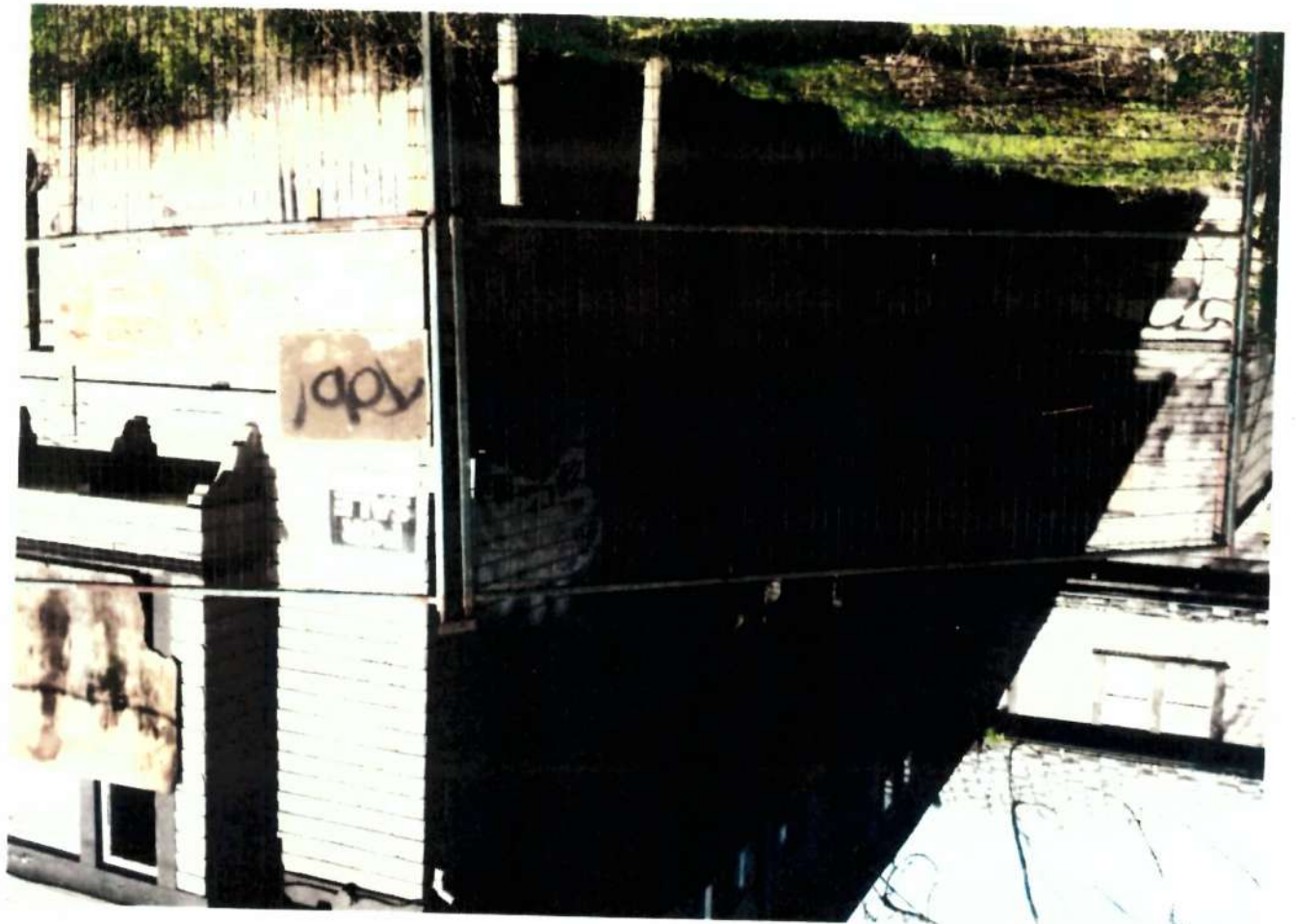


JAN 16/19



Boban.





Schedule E



December 19, 2018

Legislative and
Regulatory Services
Department

Mr. Robin Kimpton
1121 Empress Ave.
Victoria, BC
V8T 1P3

Bylaw and Licensing
Services Division

Re: Abandoned property – 1176 Yates St. / Bylaw File #25483

Dear Sir,

1 Centennial Square
Victoria BC V8W 1P6

This letter is to advise you that the City of Victoria continues to receive complaints regarding the condition of the property located at 1176 Yates Street. As a result of the complaints, and the growing concerns regarding the deterioration of the structure, the unsightly condition of the property, and the possible risk to public safety that it poses, I have been asked to conduct a file review and share my findings with you.

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. You were directed to obtain the permits necessary to correct the deficiencies. To date you have 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 to the point where first-responders have deemed the structure unsafe to enter even in an emergency. Records show numerous Fire and Police calls for service at this address, including 2 fires, and 24 calls in the last 2 years alone related to unwanted persons, drug use, break and enter, and squatters.

This is an unacceptable situation as 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. The City would like to know what you have planned for this building, and if you intend to take any immediate action to address any of the concerns detailed above. Be advised that if you are unwilling or unable to take the necessary action, the City will exercise the authority granted under the *Community Charter* and move forward with whatever action is deemed necessary to ensure public safety.

Please respond and let me know what your intentions are by January 2, 2019. Please don't hesitate to contact me directly by email at adolan@victoria.ca or by telephone at 250.361.0578 during regular business hours.

Regards,

A handwritten signature in black ink, appearing to read "Andrew Dolan", followed by a horizontal line.

Andrew Dolan
Senior Bylaw Officer
Bylaw & Licensing Services
City of Victoria

Cc: Barrie Cockle – Leader, Bylaw & Licensing Services

To Contact

Telephone 250.361.0215

Fax: 250.361.0205

E-Mail: bylawenforcement@victoria.ca

Web: www.victoria.ca

and Esquimalt, Nanaimo, and Victoria, British Columbia, and the territories we live and work in.

"The Swirl"