



## Committee of the Whole Report For the Meeting of September 12, 2019

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**To:** Committee of the Whole **Date:** August 15, 2019  
**From:** Barrie Cockle, Manager-Bylaw & Licensing Services  
**Subject:** Work without permit– 1551 Bay St. / Bylaw File #71170

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### RECOMMENDATION

1. That the Council direct the City Clerk to file a notice in the Land Title Office in relation to the property located at 1551 Bay St, legally described as **LOT 5, SECTION 75, VICTORIA, PLAN 7812**, indicating that a resolution relating to this property has been made under the authority delegated pursuant to Section 57(3) of the *Community Charter* and the provisions of the *Property Maintenance Delegation Bylaw*, and advise that further information regarding this resolution may be inspected at the Legislative & Regulatory Services Department in Victoria City Hall.

### EXECUTIVE SUMMARY

The purpose of this report is to recommend the filing of a notice on title in respect to work that has been done without permit to convert a garage into a residence. City staff became aware of this work in June 2016 upon receipt of a complaint. An inspection conducted on June 1, 2016 and a subsequent review of City records confirmed that all building, plumbing, and electrical work had been done without permit. The property owner was directed to make application for the permits required to bring the property into compliance with City bylaws. Despite on-going communication, the property owner has to date failed to address the building, plumbing, and electrical work completed without permit. As consistent with standard practice staff recommend filing notice on the title of the property to ensure the violation is noted for any current or future owners.

### PURPOSE

The purpose of this report is to advise the Council about the condition of the property at 1551 Bay St, the action that has been taken in order to secure voluntary compliance with the City's bylaws, and to recommend that Council consider the filing of a notice on title in respect to work that has been done without permit to convert the two carports to an office/storage room and an additional bedroom with a bathroom.

### BACKGROUND

Section 57 of the *Community Charter* allows the City to file notice on title of any property where the Building Inspector:

- a) observes a contravention of a municipal bylaw, provincial building regulation, or another enactment that relates to the construction or safety of buildings or other structures; or
- b) discovers that something was done without a permit or inspection.

Before notice may be filed on title under Section 57 of the *Community Charter*, Council must give the Building Inspector and the property owner an opportunity to be heard.

For the purpose of filing notices under Section 57(1) (b) of the *Community Charter*, the Manager of Bylaw & Licensing Services is a Building Inspector under the *Building Bylaw*.

Section 57 of the *Community Charter* provides that the owner of the property must be provided the opportunity to be heard prior to a notice being registered on the title. The property owner has been advised that Council will be considering this matter on March 28, 2019 and that he may appear before Council to make representation at that time.

Section 2.2(1) of the *Building Bylaw* states that a person must not:

- a) construct; or
- b) change the occupancy of a building unless the building's owner has obtained a building permit from the Building Inspector.

The *Building Bylaw* defines "occupancy" as the use or intended use of a building or part of a building for the shelter or support of persons, animals or property, according to the occupancy classifications for buildings set out in the *Building Code*.

## **ISSUES & ANALYSIS**

The property at 1551 Bay Street is located in the Fernwood neighbourhood in the R-2, Two Family Dwelling District. The approved use of the property as per the approved building plans is a single-family dwelling with a garage. City staff became aware of the property in June 2019 upon receipt of a complaint. The property owner was sent a letter, dated June 9, 2016 advising that a complaint had been received, and that the garage was converted into a residence without the necessary permits (see Schedule A).

The property owner did not obtain the necessary permits nor was the garage reverted back to its original purpose. A second letter was sent out on March 4, 2019 with a deadline date of June 2, 2019 (see Schedule B). A ticket was issued for no building permit on August 3, 2019. As of August 15, 2019, no permits have been obtained to legally convert this garage.

## **OPTIONS & IMPACTS**

The filing of a notice on land title is part of a graduated enforcement strategy intended to bring a property into compliance with the applicable bylaws and regulations. A notice on title provides incentive to the property owner to resolve the outstanding issues as it serves to warn lenders or prospective purchasers that work has been done without a permit.

Filing a notice on title under Section 57 of the *Community Charter* is therefore intended to ensure that a potential purchaser is aware of bylaw violations in respect to the work that has been done to enclose two carports and construct an office/storage room and an additional bedroom with a

bathroom. The notice can be easily removed once the property has been brought into compliance.

## **CONCLUSION**

Despite ongoing communication between staff and the property owner and being granted more than adequate time within which to resolve this matter, the property owner has failed to take the action required to bring the property into compliance. As a result, Council may wish to proceed with filing a notice on title.

Respectfully submitted,

John Kitson  
Bylaw Officer

Barrie Cockle  
Leader - Bylaw & Licensing Services

**Report accepted and recommended by the City Manager:** \_\_\_\_\_

**Date:** \_\_\_\_\_

### **List of Attachments** (if relevant)

Schedule A – Compliance letter for June 9, 2016  
Schedule B – Compliance letter for March 4, 2019