



Committee of the Whole Report For the Meeting of April 18, 2019

To: Committee of the Whole **Date:** April 1, 2019
From: Barrie Cockle – Leader, Bylaw & Licensing Services
Subject: Work without permit – 1162/1164 Kings Rd. / Bylaw File #74282

RECOMMENDATION

1. That the Council direct the City Clerk to file a notice in the Land Title Office in relation to a property located at 1162/1164 Kings Road, legally described as **LOT 15 SECTION 4 VICTORIA PLAN 971** 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 construct two additional dwelling units. City staff became aware of this work in July 2016 upon receipt of a complaint. An inspection conducted on September 22, 2016 revealed that a third dwelling unit had been constructed in the basement of the main structure, and a fourth dwelling unit had been constructed in an existing accessory building. The property owner was directed to make application for the permits required to bring the property into compliance with City bylaws. Despite a follow-up letter and 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. It is notable that this is not the first time that this type of enforcement action has been taken against the owner. In 2016 a notice was placed on title for work done without permit to construct an additional dwelling unit at another of the owner's properties.

PURPOSE

The purpose of this report is to advise the Council about the condition of the property located at 1162/1164 Kings Road, 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 construct two additional dwelling units.

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 owners have been advised that Council will be considering this matter on April 18, 2019 and that they 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 1162/1164 Kings Road is located in the Oaklands neighbourhood and currently zoned R-2, Two Family Dwelling District. The approved use of the structure is duplex. City staff became aware of this work in July 2016 upon receipt of a complaint and a Building Inspector attended to investigate and take photographs. Although unable to gain entry to the structure at that time, the inspector observed building materials and debris that indicated that there was active construction (see Schedule A).

The property owner was sent a letter, dated August 4, 2016 advising that a complaint had been received, and a search of City records failed to show any approved permits for the construction activity observed by the Building Inspector. The property owner was advised that the City intended to conduct a safety and compliance inspection to assess the scope of the current renovation, and confirm that there was no immediate health, electrical, or fire safety issues which might have posed a risk to the occupants (see Schedule B).

An inspection conducted on September 22, 2016 revealed that there were in fact 4 separate self-contained dwelling units on the property; the third unit located in the basement of the main structure, and the fourth unit within the accessory building. The City had no record of an accessory building, however, it appeared to be old construction and would have originally been a coach house and/or horse stable. The Building Inspector observed that considerable work had been done without permit throughout the main structure, and within the accessory building. All building and plumbing work had been done without permit and no occupancy permit had been issued for either of the two illegal suites. The Electrical Inspector observed that considerable electrical work had been done without permit and immediately issued the owner an order requiring that she hire a qualified Electrician to complete a safety survey including a load calculation. The purpose of the safety survey was to identify and correct any deficiencies related to electrical safety, but not to legalize the work.

The property owner was sent a letter, dated October 12, 2016 detailing the results of the inspection and explaining the violations found. In addition to violations under the *Building and Plumbing Bylaw*, additional offences were found under the *Zoning Regulation Bylaw*, *Electrical Safety Regulation Bylaw*, and the *Business License Bylaw*. The owner was directed to make application for, and obtain approved building, plumbing, and/or electrical permits necessary to bring the structure into compliance with City bylaws within 90 days (see Schedule C).

The property owner did eventually comply and hire a qualified Electrician who obtained an electrical permit and completed the electrical safety survey and load calculation as required. The owner did not, however, hire any other contractors and/or make application for any of the other permits required to address the unpermitted improvements and bring the property into compliance. A follow-up letter, dated February 22, 2018 was sent to the owner advising that more than 16 months had passed since she was directed to take the action necessary to bring the property into compliance and that unless some progress was made, additional enforcement action including the placing of a notice on title would commence (see Schedule D).

On October 31, 2018 staff met with the property owner in regards to another property, but had a brief discussion regarding bringing this property into compliance. The owner stated that she was unable to take the action required to bring the property into compliance, was aware that the next step in progressive enforcement would be to place a notice on the land title, and had no objection to this action being taken.

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 without permit to construct two additional dwelling units. The notice can be easily removed at no cost to the property owner once the property has been brought into compliance.

CONCLUSION

Despite ongoing communication between staff and the property owner and the owner being granted appropriate time within which to resolve this matter, the property owner has not taken 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,



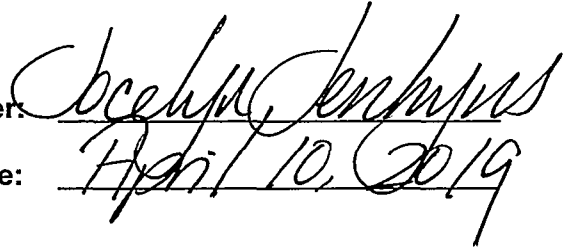
Andrew Dolan
Senior Bylaw Officer



Barrie Cockle
Leader - Bylaw & Licensing Services

Report accepted and recommended by the City Manager:

Date:


April 10, 2019

List of Attachments (if relevant)

- Schedule A – Photos taken Jul 6/16 and Sep 22/16
- Schedule B – Letter from staff to the property owner dated Aug 4/16
- Schedule C – Letter from staff to the property owner dated Oct 12/16
- Schedule D - Letter from staff to the property owner dated Feb 22/18
- Schedule E – Map showing the location of the property
- Schedule F – Aerial photograph showing the location of the structures on the property