



Committee of the Whole Report For the Meeting of November 5, 2020

To: Committee of the Whole **Date:** October 29, 2020
From: Shannon Perkins – Manager of Bylaw Services
Subject: Work without permit – 1834 Stanley Ave. / Bylaw File #156641

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 1834 Stanley Avenue, legally described as **SECTION 75 VICTORIA PLAN VIP206 PARCEL B, E PT LOTS 14/15/16 HERITAGE DESIGNATION** 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 change the approved use of the main structure and upgrade both the main structure and an accessory building. City staff became aware of this work in July 2020 upon receipt of a complaint from an area resident. A preliminary inspection of the exterior of the structures was conducted on October 19, 2020 and a full inspection of the interior of both structures was conducted on October 26, 2020. These inspections revealed that the accessory building had been upgraded and converted from a single car garage to an artist's studio, and that the main structure, a designated heritage building, has been upgraded and converted from a triplex to a duplex. Prior to the inspection dates but after being advised that a complaint had been received and an inspection was required, the owner listed the property for sale. The owner has been advised of the results of the inspections and has been given written direction to bring the property into compliance. In the interim, because the property was recently listed for sale 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 Council about the condition of the property located at 1834 Stanley Avenue, and to recommend that Council may wish to consider filing a notice on title in respect to work that has been done without permit to upgrade and convert the accessory building from a single car garage to an artist's studio, and to upgrade and change the use of the main structure, a designated heritage building, from triplex to a duplex.

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 Services is a Building Inspector under the *Building and Plumbing Regulation 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 November 5, 2020 and that they may appear before Council to make representation at that time.

Section 6 of the *Building and Plumbing Regulation Bylaw* states:

- (1) No person shall commence or continue any construction, alteration, reconstruction, demolition, removal, relocation or change the occupancy of any building, structure or plumbing system, including excavation or other work related to construction unless a building official has issued a valid and subsisting permit for the work.

ISSUES & ANALYSIS

The property at 1834 Stanley Avenue is located in the Fernwood neighbourhood and currently zoned R1-B, Single Family Dwelling District. The approved use of the main structure is 3 suite apartment and/or triplex. The current owner has owned the property since 2003. City staff were alerted to this unpermitted work in July 2020 upon receipt of a complaint from an area resident. Staff reviewed the approved building plans and permit history and found that there was no record of any building, plumbing, or electrical permits since 1977.

The property owner was sent a letter, dated August 20, 2020, advising that a complaint had been received regarding work being done without permit and that an inspection was required to confirm the use and configuration of the structure (see Schedule A). The property owner responded by email on September 19, 2020 and requested that an inspection be postponed for a few weeks as she had suffered a minor injury. Staff agreed to postpone the inspection temporarily and suggested potential inspection dates in late September and early October.

On September 29, 2020 staff were advised by the complainant that the property had been listed for sale. The real estate listing and online advertising stated that this heritage designated home had been converted to a triplex in 1952 and was presently operating as a duplex. The advertising also referred to updated bathrooms and a large new kitchen, a separate single car garage that had been wired and was being used as an art studio, as well as a covered outside patio.

Staff attended on October 19, 2020 to conduct a preliminary inspection of the property and take

exterior photographs of the structures (see Schedule B). The Building Inspector noted that in addition to the conversion of the accessory building, the exterior patio had an unpermitted roof structure attached to the main residence. In addition, it was noted that at the north east corner of the main structure, a shed dormer with windows had been added to the roof of this designated heritage building without any permits or permissions.

Staff attended on October 26, 2020 and conducted a full inspection of the interior of the main structure and the accessory building and documented the findings with photos (see Schedule C). The Building Inspector noted that the layout of the main structure differs from the approved plans as bathrooms have been installed and/or removed and reconfigured/upgraded without permit. In addition, it was noted that a second front door had been added to the main structure and power had been ran to the accessory building and the electrical panel updated without permit. The Building Inspector detailed these findings in a report dated October 26, 2020 (see Schedule D).

The property owner was sent a letter, dated October 29, 2020, advising of the results of both inspections, and detailing the bylaw violations found. The owner was directed to obtain all the permits required to address the unpermitted work within 6 months, and complete the required work and pass the final inspection required to bring this property into compliance with City bylaws within 12 months. The owner was further advised that staff would be recommending that a notice be filed on title (see Schedule E).

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 upgrade and convert the accessory building from a single car garage to an artist's studio, and to upgrade and change the use of the main structure, a designated heritage building, from triplex to a duplex. The notice can be easily removed at no cost to the property owner once the properties have been brought into compliance.

CONCLUSION

In most cases where inspections are conducted to identify and document work that has been done without permit, the property owner is advised of the violations found and then given a reasonable period of time within which to bring the property into compliance prior to enforcement action, such as filing a notice on title, is taken. In this case, the property owner elected to list the property for sale in advance of the inspection, despite being advised that a complaint had been received and that it was the City's intention to conduct an inspection. Because the property was listed for sale, and actively marketed online, staff recommend that Council may wish to proceed with filing a notice on title now in case the property is sold prior to being brought into compliance.

Respectfully submitted,



Andrew Dolan
Supervisor – Bylaw Services



Shannon Perkins
Manager - Bylaw Services



Report accepted and recommended by the City Manager: _____

Date: October 30, 2020

List of Attachments (if relevant)

- Schedule A – Letter to the owner dated Aug 20/20
- Schedule B – Photos taken during inspection on Oct 19/20
- Schedule C – Photos taken during inspection on Oct 26/20
- Schedule D – Building Inspector’s Report dated Oct 26/20
- Schedule E – Letter to owner Dated Oct 29/20