

owner of 2122 Cook Street, legally described as Parcel B (DD 157320I) of Lots 12 & 13, Section 3, Plan 62, Victoria.

3. That Council authorize Staff to take all appropriate actions in accordance with Section 17 of the *Community Charter* to ensure the Building is 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 owned to the City of Victoria;
4. That Council set the time limit for compliance with the remedial actions detailed in Schedule A to this Report at 12:00 p.m., May 12, 2023.
5. That Council set the time limit for submission of a notice of a request for Council to reconsider the remedial action requirements detailed in Schedule A as 10:30 AM on May 8, 2023.
6. That Council forward this matter to the May 4, 2023 daytime Council meeting for ratification.

PURPOSE

The purpose of this report is to advise Council that the property located at 2122 Cook Street is in such a serious state of disrepair that it poses a significant safety hazard to residents, visitors, and first responders; and seek Council's authorization to impose remedial action requirements on the property to remove the unsafe conditions. Staff is also seeking Council's authority to proceed with the remedial action on the property if compliance is not achieved by the property owner 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 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. A significant reduction in time limits is proposed in this case given the significant risk to health and safety posed by the Building.

Section 17 of the *Community Charter* empowers Council to direct that if a person subject to a requirement fails to take the required action, the City may:

- a) fulfill the requirement at the expense of the person; and
- b) recover the costs incurred from that person as a debt.

Sections 17 and 258(c) hold that such debt may be recovered as property taxes.

ISSUES & ANALYSIS

The building at 2122 Cook Street has been a consistent source of concern and non-compliance for many years. Inspectors have attended for prescribed fire inspections on approximately 98 occasions, and of these visits, only 8 of them were marked as the property being in a minimally satisfactory state. 75 of these inspections were conducted just in the last 5 years, none of which have been marked as completely satisfactory. The commonly deficient items are those fire protection systems that have code required maintenance such as the annual inspection of the fire alarm system, fire extinguishers, emergency lighting, and exit signs. In the past orders were also written to compel the owner to repair the exterior stairs which serve as a required second emergency exit for the occupants.

Part of the difficulty is that the building owner will not engage with the Fire Department on the majority of occasions. Staff attempt contact through phone calls, emails, mailed letters, and registered mail, most of which have gone refused or un-answered. At one point staff did engage with Bylaw Officers for assistance and members sat outside the building on rent day in order to ensure contact was established. Parts of the building are accessible for inspection without escort, but to check the fire alarm system staff require access to the locked basement and with no required key vault on site, Mr. Good or his agent is needed to be in attendance to allow access.

Over the years, multiple complaints have been received from tenants in regards to safety and living conditions within the structure, as there are further issues with rat infestation, an individual with excessive clutter in his unit, and water leaks. These conditions can contribute to the risk of fire in a building. Attempts have been made by other agencies (SPCA, Environmental Health etc.) to address some of these issues with minimal success.

One of the agencies engaged was the Residential Tenancy Branch Compliance and Enforcement Unit. Their attempts to engage and compel Mr. Good with respect to building standards and fire safety requirements resulted in administrative penalties against the property in the amount of \$36,000.00 after he also refused to engage with their officers ([dcn_good_sum.pdf \(gov.bc.ca\)](#)).

Throughout 2022 the assigned Fire Prevention Officer had a standing appointment with Mr. Good in order to inspect for BC Fire Code and Fire Prevention and Regulation compliance. The inspector would send reminders to Mr. Good in the form of an email (to both addresses on file) as well as a phone call to his cell phone (which Mr. Good has now disabled messaging). Currently every re-inspection to this property also generates a \$100.00 re-inspection fee and an additional notice of that fee is mailed to him by support staff. Since the beginning of 2022, there have been 53 re-inspections conducted resulting in these fees.

At the beginning of 2023 Fire Prevention Officers escalated their response and action to this property after Fire Suppression Crews responded there on February 25, 2023 for a public complaint and discovered that the fire alarm system was in disrepair and non-functioning. Instructions were left with the property owner to conduct a fire watch under the Fire Prevention and Regulation Bylaw.

Fire Prevention Officers then attended issued a formal order on March 1, 2023. That order was for four specific violations:

Violation 1: The fire alarm system has not been serviced and is currently in a condition of disrepair and has been turned off, providing no fire detection, or alerting to your tenants. This is a violation under both the BC Fire Code and Victoria Fire Prevention and Regulation Bylaw 14-100, s. 18 (1)(a-c).

Violation 2: GOOD has failed to attend either in person or through an agent in order to provide the fire department access in order to conduct fire and life safety inspections as required by the Fire Services Act and Fire Prevention and Regulation Bylaw 14-100, s. 21.

Violation 3: GOOD must install a lock box (key vault) and keep it in good repair and it must contain the required keys to access all common areas and service rooms per Fire Prevention and Regulation Bylaw 14-100, s.26.

Violation 4: You must produce and submit for review a fire safety plan for your building as was ordered in the 2017 and subsequent fire inspections. This is a requirement of Fire Prevention and Regulation Bylaw 14-100, s. 27.

Under this order Mr. Good was to have done what was necessary to bring the property into compliance as noted in the full order by March 10, 2023, at 11:00 AM. This timeline was deemed appropriate given the seriousness of the items and the previous history.

On March 10, 2023, inspectors re-attended 2122 Cook Street to ascertain compliance with the order issued March 1st, and to issue a second order on March 10th. Inspectors found that Mr. Good had not complied with the first order, nor was he conducting a fire watch as previously

instructed by suppression officers on February 25th. The violations of the first order were reviewed and reinforced in full detail to ensure Mr. Good was in full comprehension of his requirements. Tickets were issued to him on this day for failure to maintain fire watch for March 6th through 10th.

The second order issued March 10th, 2023, was for an additional two violations:

Violation One: The portable fire extinguishers in the building are overdue for servicing and the cabinet on the main floor is missing its glass break device in contravention of the BC Fire Code s 2.1.5.1 and Victoria Fire Prevention and Regulation Bylaw 14-100 18(1)(c).

Violation Two: Storage of items must be removed from the emergency exits and they must remain clear at all times per the BC Fire Code Section 2.7.1, and Fire Prevention and Regulation Bylaw 14-100 18(1)(c)

Under this second order Mr. Good was to have done what was necessary to bring the property into compliance as noted in the full order by March 17, 2023, at 11:00 AM.

Inspectors returned as indicated on March 17th for a compliance inspection. Mr. Good had an electrician attend to his alarm, but that electrician was not qualified to perform the overdue annual service. Assistant Chief Sabell asked for a demonstration of the alarm in the form of a bell test to ensure that it was in working order. It appeared to work, but still required the overdue annual service. At the end of the inspection on March 17th, a full inspection report was generated to be given to Mr. Good and an email was forwarded to him with a consolidated list of items that were still outstanding from both the two orders and regular inspections:

1. Fire alarm system - overdue for annual service, no record of monthly bell test.
2. Portable extinguishers - overdue for annual service, break device missing from cabinet on first floor.
3. Emergency lighting - overdue for annual service.
4. Exit signage - overdue for annual service.
5. West fire escape blocked - remove planters and lumber from stairs.
6. West fire escape in disrepair - replace rotted sections of the fire escape.
7. South entry/ exit door missing auto close device - replace auto close device so door remains closed when not in use.
8. South stair second floor stairwell door propped open - remove items that can be used to prop open doors and keep closed when not in use.
9. Key vault installation - waiting on service provider.
10. Fire safety plan - either complete or provide documentation of service agreement with qualified company.

On March 22nd, staff attended the property while the fire alarm service technician was performing the annual service. During this visit, the alarm technician advised that the alarm was in fact non-functioning due to damage to some circuit boards. After follow up with the company owner, it was advised that the only resolution was a full fire alarm panel replacement, of which they did have one in stock. Mr. Good was left that day with a new Order of Firewatch Requirement and in subsequent conversations advised that he was required to engage with his service provider to contract them to perform this repair.

Staff have been following up with this file by both attending the property, consulting with service providers, and investigating compliance through tenants. Through these investigations, it was found that Mr. Good is still not complying with the fire watch requirements, and logs that he had

provided indicating he was conducting them were not valid. Mr. Good has also not contracted with the service company to perform the fire alarm panel replacement, and the west stair was mostly removed sometime before April 14, 2023, without the provision of a temporary replacement or alternative solution.

An email was sent to Mr. Good on April 14, 2023, advising that he must immediately post a notice to all tenants that the stairs were not to be used and to also re-establish (rebuild) those stairs as having a second means of egress was required.

Throughout these interactions and orders, Mr. Good was provided with clear instructions and sufficient timelines in order to correct the most immediate life safety infractions. Mr. Good had been issued several tickets and offered an incentive that should he complete the required work by an established date those tickets would be waived. The deadline communicated to Mr. Good by letter on March 31, 2023 was May 1st, 2023, for completion of work. That date has since passed, and Mr. Good has failed to engage the service company for the panel replacement or the repair of the west emergency exit. Of the ten infraction items noted above, the current conditions of each as of May 2, 2023, is as follows:

1. **Fire alarm system – Panel requires replacement, Mr. Good has not engaged service provider.**
2. Portable extinguishers – completed.
3. Emergency lighting - completed.
4. Exit signage - completed.
5. **West fire escape blocked - remove planters and lumber from stairs.**
6. **West fire escape in disrepair - replace rotted sections of the fire escape.**
7. South entry/ exit door missing auto close device - completed.
8. South stair second floor stairwell door propped open - completed.
9. Key vault installation – partially completed, waiting on delivery from Prices.
10. **Fire safety plan – No correspondence has been receive indicating engagement or completion.**

OPTIONS & IMPACTS

The building at 2122 Cook Street has been a in a regular state of disrepair and required fire safety protection systems maintenance has not been consistently maintained in the recorded history on file (1994). Mr. Good fails to not only perform the maintenance, but resists orders of inspectors when given, to the point that our staff have enlisted outside agencies to attempt to motivate Mr. Good perform his required maintenance to ensure the minimum fire and life safety conditions as prescribed by the BC Fire Code and Fire Prevention and Regulation Bylaw.

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

1. Components of the buildings designed life safety systems has been allowed to reach such a dilapidated condition that it is unsafe;
2. In the event of a fire, any occupants of the building are at risk as there is no detection or alarm system that is operational;
3. In the event of a fire, any occupants of the second floor of the building are at risk due to a failure of being able to escape from the building after the removal of the secondary

means of egress;

4. Repairs to the life safety systems of the building as outlined in the recommendation and in Schedule A is the only certain and effective remedy for the current unsafe and unhealthy conditions;
5. There is a significant risk to safety if action is not taken immediately.

Accessibility Impact Statement

n/a

2019 – 2022 Strategic Plan

n/a

Impacts to Financial Plan

n/a

Official Community Plan Consistency Statement

n/a

CONCLUSIONS

Due to the significant risk to public safety posed in the event of a fire, and the need to take effective and timely action to remediate the conditions, this Officer has determined that the appropriate course of action at this time is to proceed with issuing a Remedial Action Order to the property owner. Doing so will not only provide the property owner incentive to act voluntarily, but it would also allow the City to take the required action should the owner fail to do so themselves.

Respectfully submitted,

Megan Sabell
Assistant Fire Chief, Prevention

Dan Atkinson
Fire Chief

Report accepted and recommended by the City Manager

List of Attachments

Schedule A – Remedial Action Order
Schedule B - 2023 03 01 2122 Cook Order
Schedule C - 2023 03 10 2122 Cook Order
Schedule D - 2023 03 17 2122 Cook Inspection Report
Schedule E - 2023 03 31 Follow up letter
Schedule F - 2023 05 02 2122 Cook Street - Site Photos