



Committee of the Whole Report For the Meeting of November 2, 2017

To: Committee of the Whole **Date:** September 27, 2017
From: Chris Coates – City Clerk, Legislative & Regulatory Services Department
Subject: Work without permit – 2315 Cook St. / Bylaw File #51445

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 2315 Cook Street, legally described as **LOT 25, SECTION 3, VICTORIA, PLAN 1036** 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 rebuild and/or substantially replace the large carport structure at the rear of the property. City staff became aware of this work in January 2015 and contacted the property owner in February 2015 after confirming that there was no record of a building permit to demolish, rebuild, and/or replace the carport structure. The property owner was very cooperative and stated his intention to complete the required permit and inspection process. Despite on-going discussions with various staff regarding the requirements, and the owner's repeated assurances that the matter would be addressed the owner did not obtain an approved permit. In October 2016 the property owner then advised staff that he was not prepared to incur the cost of the improvements required to bring the carport into compliance and instead was considering removing the carport. To date, the owner has not applied for a demolition permit and the carport remains standing. 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 located at 2315 Cook Street, the action that has been taken in order to secure voluntary compliance with the City's bylaws, and to recommend that Council may wish to consider the filing of a notice on title in respect to work that has been done without permit to rebuild and/or substantially replace the large carport structure at the rear of the property.

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 November 2, 2017 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 2315 Cook Street is located in the Fernwood neighbourhood and currently zoned R3-2, Multiple Dwelling District. The approved use of the structure is 4 suite apartment. The newly constructed and/or renovated carport came to the attention of staff on January 7, 2015 and photographs were taken to document the work done without permit (see Schedule A).

The property owner was sent a letter, dated February 12, 2015 (see Schedule B) advising that a search of City records had confirmed that the recent work had been completed without the required building permit and/or inspection process. The property owner was directed to obtain the required building permit(s) and complete the process to bring the structure into compliance within 90 days.

The owner responded by email on May 4, 2015 (see Schedule C) and advised that he had contacted Planning staff and was in the process of obtaining a copy of the approved building plans and getting a structural Engineer to submit a letter verifying the safety of the carport. The owner was advised that the compliance deadline would be extended as long as reasonable progress was being made.

In June 2015 the owner posed a number of technical questions and subsequently attended City Hall for a meeting with the Building Inspector and the permit requirements for plans and engineering

certification were clearly explained. The owner was agreeable and stated his intention to complete the outstanding tasks in order to receive an approved building permit.

On August 26, 2016 staff received an email update (see Schedule D) from the owner apologizing for the delay and advising that there had been some delays due to his travel schedule and his contractor being hospitalized. On September 10, 2015 the owner sent a further email update (see Schedule E) advising that he was having to find another contractor.

In the following couple of months there were a number of email exchanges between the owner and various staff regarding deficiencies with the submitted plans, the need for him to hire a qualified Engineer, and the likely costs involved. On December 9, 2015 the owner was provided with a copy of the deficiency list detailing the outstanding issues (see Schedule F). Between December 2015 and April 2016 there continued to be email exchanges between the owner and staff in Planning.

On April 18, 2016 a bylaw file review revealed that despite this on-going communication, very little actual progress had been made by the owner to bring the structure into compliance. The owner was advised that if no further progress had been made in 2 weeks he would be subject to further enforcement action. The owner replied by email on April 21, 2016 (see Schedule G) and stated his intention to complete the project.

In September of 2016, the Building Inspector sent the owner an email and asked for an update. On October 17, 2016 the owner responded by email (see Schedule H) and stated that he had received price quotes to bring the carport into compliance from contractors, and had decided he did not want to invest that kind of money into the carport. Instead, he stated that he planned on having the carport removed. The Building Inspector then requested that the owner obtain a demolition permit for the removal of the building.

On February 28, 2017 a bylaw file review revealed that the owner had still not applied for a demolition permit, and/or removed the carport structure and an email (see Schedule I) was sent to the owner advising that despite on-going communications, a building permit application, and his repeated assurances that he would comply the matter remains unresolved. The owner was granted a final 30 days to either legalize the structure or demolish the structure. To date, the owner has taken no action and the carport remains standing (see Schedule L).

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 rebuild and/or substantially replace the large carport structure at the rear of the property. The notice(s) can be easily removed at no cost to the property owner once the properties have been brought into compliance.

CONCLUSION

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




Andrew Dolan
Senior Bylaw Officer



Nancy Johnston
Manager, Bylaw & Licensing Services

Chris Coates
City Clerk

Report accepted and recommended by the City Manager:


Date: Oct 25, 2017

List of Attachments (if relevant)

- Schedule A – Photographs of the carport taken January 7, 2015
- Schedule B – Letter to the property owner dated February 12, 2015
- Schedule C – Email from the property owner dated May 4, 2015
- Schedule D – Email exchange with the property owner dated August 26, 2015
- Schedule E – Email exchange with the property owner dated September 10, 2015
- Schedule F – Deficiency list for BP052437 dated December 9, 2015
- Schedule G – Email exchange with the property owner dated April 21, 2016
- Schedule H – Email exchange between the owner and Building Inspector dated October 17, 2016
- Schedule I – Email to the property owner dated February 28, 2017
- Schedule J – Location of property on map
- Schedule K – Aerial photograph of property
- Schedule L – Photograph of the carport taken September 27, 2017