



Committee of the Whole Report For the Meeting of October 26, 2017

To: Committee of the Whole **Date:** September 25, 2017
From: Chris Coates – City Clerk, Legislative & Regulatory Services Department
Subject: Work without permit - 2360 & 2370 Forbes St. / Bylaw File(s) #46560 & #46514

RECOMMENDATION

1. That the Council direct the City Clerk to file a notice in the Land Title Office in relation to two properties located at 2360 Forbes Street, legally described as **LOT 6, SECTION 75, VICTORIA, PLAN 8111**, and 2370 Forbes Street, legally described as **LOT 7, SECTION 75, VICTORIA, PLAN 8111** indicating that resolutions relating to these properties have 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 these resolutions 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 the structures located on these two properties from their approved use as single family dwellings (SFD) to their current use as; an SFD with a self-contained 1 bedroom suite; and an SFD with an accessory building/garage containing a self-contained bachelor suite. Both of these properties have the same owner(s) and are located side by side. Following receipt of a complaint from an area resident in 2014, an inspection revealed that extensive work had been done without permit to upgrade the existing structures and add additional dwelling units to both properties. The property owner(s) was very cooperative and forthcoming with information, and did hire an Electrician to complete an Electrical Safety Survey when requested to do so, however, have opted not to take any action to obtain permits and/or legalize the additional dwelling units. The property owner(s) is fully aware and accepting of graduated enforcement action. As consistent with standard practice staff recommend filing notice on the title of both properties to ensure the violations are noted for any current or future owners.

PURPOSE

The purpose of this report is to advise the Council about the condition of the properties located at 2360 Forbes Street and 2370 Forbes 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 convert the structures on these two properties from their approved use as single family dwellings (SFD) to their current use as an SFD with an additional self-contained dwelling unit, and an SFD with accessory

building/garage containing an additional self-contained dwelling unit.

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 October 26, 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 properties at 2360 and 2370 Forbes Street are located in the Fernwood neighbourhood and are both currently zoned R-2, Two Family Dwelling District. The approved use of both main structures is SFD and the approved use of the accessory building at 2370 is garage. Both of these properties came to the attention of staff upon receipt of a complaint in August 2014.

The property owner(s) was sent a letter, dated August 11, 2014 advising that a complaint had been received, the nature of the complaint, and the need to conduct an inspection of the property (see Schedule A). A follow-up letter was sent, dated September 25, 2014 requesting that he contact staff to arrange a safety and compliance inspection (see Schedule B). The owner(s) did respond and contacted staff on October 9, 2014 to schedule an inspection of the properties.

An inspection of both properties was conducted on October 30, 2014. The inspection of 2360 Forbes St. revealed that building, plumbing, and electrical work had been done without permit to finish what would have been an unfinished basement when the home was built in 1949. While unoccupied upon the date of the inspection the basement was configured as a self-contained one

bedroom secondary suite complete with a kitchen. Additional upgrades had been made to the structure, including the installation of a solar panel on the roof, and the construction of a new deck at the rear. Photographs were taken to document the work done without permit (see Schedule C).

The inspection of 2370 Forbes St. also revealed that building, plumbing, and electrical work had been done without permit to finish what would have been an unfinished basement when the home was built in 1949. This basement did not, however, contain a secondary suite but would require a building permit for the improvements made. The accessory building/garage in the rear yard was constructed with permits in 1963, with an addition constructed in 1968. While, unoccupied on the date of the inspection the accessory building contained a separate dwelling unit complete with a kitchen and full bathroom. There is no record of any permits to make these improvements. Photographs were taken to document the work done without permit (see Schedule D).

While, no imminent safety hazards were found, the owner(s) were directed to retain a certified Electrician to conduct an electrical safety survey and load calculation of the structures on both properties and correct any and all deficiencies within 30 days. The owner(s) complied immediately and the work was completed to the satisfaction of the Electrical Inspector. There was also discussion concerning various options for bringing the properties into compliance.

Two letters, dated November 17, 2014 were sent to the property owner(s); one letter for each of the two properties, directing that they obtain the required building, plumbing, and/or electrical permits required to return the structure to an approved use and configuration. The letter also directed that the "use" of each of the structures remain in compliance with the approved use until such time as the unpermitted improvements were made legal and/or removed (see Schedule E and F).

In a letter, dated August 30, 2016 the owner(s) were advised that there was no record that they had applied for any permits to legalize either of the 2 unpermitted suites and/or to remove them. He was advised that the matter had gone unresolved for more than a year and a half and that the City needed to see progress being made to bring the properties into compliance or it was prepared to commence the next step in progressive enforcement action to compel compliance with City bylaws. The property owner(s) was granted a final 30 days within which to take action (see Schedule G).

On September 1, 2016 staff attended the home of the property owner(s) to hand deliver the August 30th letter. The property owner was home and there was a lengthy conversation concerning the various options available to the property owner(s), including; changing the use of the structure at 2360 Forbes St. from SFD to SFD with a secondary suite, and making application to convert the accessory building at 2370 Forbes St. from garage/workshop to a garden suite. Staff also conveyed the purpose of placing a notice on title and the potential ramifications should that occur. The property owner stated that he and his wife had decided to take no action to bring either property into compliance, had no intention of selling either property, and were okay with a notice being filed on title.

On October 20, 2016 staff sent an email to the property owner summarizing the action taken in order to obtain compliance, and confirming the prior statement made by the owner. The following day, October 21, 2016 the property owner replied and confirmed the situation and his acceptance of the filing of a notice on title for 2360 and 2370 Forbes St. (see Schedule H).

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 convert the structures located on these two properties from their approved use as single family dwellings (SFD) to their current use as; an SFD with a self-contained 1 bedroom suite; and an SFD with an accessory building/garage containing a self-contained bachelor suite. 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,

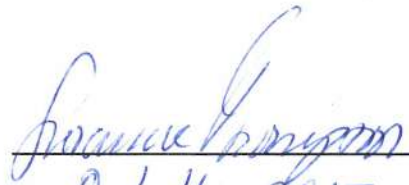

Andrew Dolan
Senior Bylaw Officer


Nancy Johnston
Manager, Bylaw & Licensing Services


Chris Coates
City Clerk

Report accepted and recommended by the City Manager:

Date:


04.16.2017

List of Attachments (if relevant)

Schedule A – Letter to the property owner dated August 11, 2014
Schedule B – Letter to the property owner dated September 25, 2014
Schedule C – Photos taken of property at 2360 Forbes St. prior to and on date of inspection
Schedule D – Photos taken of property at 2370 Forbes St. prior to and on date of inspection
Schedule E – Letter to the property owner dated November 17, 2014 re: 2360 Forbes St.
Schedule F – Letter to the property owner dated November 17, 2014 re: 2370 Forbes St.
Schedule G – Letter to the property owner dated October 30, 2016
Schedule H – Email exchange with the property owner October 21, 2016
Schedule I – Location of properties on map
Schedule J – Aerial photos of properties