



**CITY OF VICTORIA  
PROPERTY MAINTENANCE BYLAW HEARING  
HEARING PROCEDURES**

1. The Chair convenes the hearing and advises that City staff, the property owner, and affected members of the public may address this hearing.
2. The Chair explains what recommendation is before the Committee.
3. The Chair asks if the property owner received a letter and report from the City in regards to this matter.
4. The Chair asks if both parties are prepared to proceed with the hearing.
5. The Chair asks the City representative to give an opening statement and to present evidence, which may include calling witnesses.
6. The Chair allows the property owner to ask questions of City staff or of the City's witnesses.
7. The Chair asks the Committee if they want to question City staff or the City's witnesses.
8. The Chair asks the property owner to present his/her evidence, which may include the calling of witnesses.
9. The Chair asks City staff if they have any questions for the property owner or of their witnesses.
10. The Chair asks the Committee if they have any questions for the property owner or of their witnesses.
11. The Chair invites affected members of the public to address the hearing. Following each address, the Chair asks both City staff and the property owner if they have any questions for that member of the public.
12. The Chair asks the property owner if he/she has a closing statement.
13. The Chair asks City staff if they have a closing statement.
14. The Chair invites the property owner to provide any further comments.
15. The Chair closes the hearing and advises both City staff and the property owner that the Committee will now deliberate the matter and render a decision.

**NOTE**     If the staff report recommends a Remedial Action Requirement, and the Committee supports this recommendation, then the Committee must make a motion to Council recommending such action.



## Planning and Land Use Committee Report For the Meeting of April 30, 2015

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**To:** Planning and Land Use Committee  
**From:** Robert Woodland, Director  
Legislative & Regulatory Services  
**Date:** March 25, 2015  
**Subject:** Work without permit and illegal use – 12<sup>th</sup> Floor 865 View St. / Bylaw File #27577

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### 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 reconfigure the layout of the 12<sup>th</sup> floor at 865 View Street and change the use of the space. An inspection conducted by the City's Building, Plumbing, and Electrical Inspector's in November 2012 revealed building, plumbing, and electrical code violations. The property owner completed an electrical safety survey as ordered by the Electrical Inspector, but has failed to obtain the other permits necessary to bring the 12<sup>th</sup> floor into compliance.

### Recommendation:

The Building Inspector recommends:

1. That the Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the property located at 865 View Street, legally described as **Lot A Plan 31096 Victoria of Lots 294/295/296/297** 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.

Respectfully submitted

  
Andrew Dolan  
Senior Bylaw Officer  
Bylaw & Licensing Services

  
Mark Hayden  
Manager,  
Bylaw & Licensing Services

  
Robert Woodland  
Director,  
Legislative & Regulatory  
Services

Report accepted and recommended by the City Manager:

Date:

  
April 7, 2015

## **List of Attachments**

- Schedule A – Directional letter from Bylaw Officer Mia Frankl to owner dated December 6, 2012.
- Schedule B – Letter advising owner that PLUC Hearing was scheduled for August 21, 2014.
- Schedule C – Letter from Officer Frankl to owner dated August 18, 2014, explaining what action the owner was required to take to postpone placing a notice on title.
- Schedule D - Minutes from August 21, 2014 PLUC Hearing where Officer Frankl recommended that the matter be postponed for 30 days due to owners willingness to comply.
- Schedule E – Letter from Senior Bylaw Officer Andrew Dolan to owner dated January 13, 2015 summarizing the City's efforts to obtain voluntary compliance.
- Schedule F – Aerial photograph of the subject property.
- Schedule G – Photographs depicting the work without permit.



## Purpose

The purpose of this report is to advise the Committee about the work that has been completed without permit on the 12<sup>th</sup> floor of 865 View Street and the enforcement action that has been taken in order to secure voluntary compliance with Section 2.2(1) of the *Building Bylaw* and the *Zoning Regulation Bylaw*. This report sets forth a recommendation to the Committee that under Section 57(3) of the *Community Charter* and the provisions of the *Property Maintenance Delegation Bylaw*, that a notice be filed in the Land Title Office in respect to this property to warn prospective purchasers and lenders of bylaw violations in respect to the work that has been done without permit and the resulting illegal use.

## 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*.

Under the provisions of the *Property Maintenance Delegation Bylaw*, Council has delegated the authority to hold hearings and make decisions under Section 57 of the *Community Charter* to the Planning & Land Use Standing Committee.

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 865 View Street is located in the Harris Green neighbourhood and is zoned R3-C-C, Central Area Multiple Dwelling District. The approved use of the 12<sup>th</sup> floor as per the approved building plans is recreation rooms. The inspection(s) conducted in November 2012 revealed that the actual use of the 12<sup>th</sup> floor had changed significantly. The recreation rooms had been converted without permits or permission to a 4 bedroom residential dwelling unit complete with kitchen and bathroom, and two separate offices. What follows is a chronology of the enforcement action taken by bylaw staff in order to gain the owners voluntary compliance;

- Directional letter, dated December 6, 2012 (Schedule A) sent to the property owner detailing the results of the inspection and directing the owner to apply for permits and/or a rezoning in order to bring the property into compliance by March 5, 2013.
- Numerous email exchanges between staff and the owner/representative from January 30, 2013 to March 30, 2013. Owner wanted to just vacate the suites and leave the 12<sup>th</sup> floor empty pending a rezoning at a later date. Staff advised that there were critical building, plumbing, and electrical issues that had to be addressed, including; capping open sewer pipes, and completing an electrical safety survey.
- Additional email exchanges from April 1, 2013 to September 1, 2013 regarding the building, plumbing and electrical permit process. Owner/representative needed clarification of what work needed to be addressed. Plumbing and Electrical contractors were hired and Electrician subsequently obtained the permit necessary to complete the electrical safety survey ordered by the Electrical Inspector.
- Once the electrical safety survey was completed in 2013, staff were advised that the owner was undecided as to which direction he was going to take. The owner took no further action. Upon review of the enforcement file by a Senior Bylaw Officer in May 2014 it was recommended that staff proceed with a report to the Committee recommending a notice on title. This report was completed and the matter was scheduled to be heard at the August 21, 2014 hearing.
- Upon receipt of the letter, dated August 11, 2014 (Schedule B) sent to the owner advising that staff were recommending placing a notice on land title, the property owner contacted staff requesting to know what steps needed to be taken to address the outstanding issues prior to the August 21, 2014 hearing, and whether or not staff would consider withdrawing the item from the agenda.
- A letter, dated August 18, 2014 (Schedule C) outlining what immediate action was required was faxed to the owner. The letter stated that if efforts were made to obtain the necessary permits then the recommendation may be reconsidered. The owner made arrangements to meet with the Building Inspector to discuss the options for bringing the property into compliance with the intent of moving forward with the permit application(s)
- This matter was heard before the Planning and Land Use Committee. Staff requested that the Committee postpone consideration of the matter for 30 days in order to allow the owner additional time to remedy the unauthorized construction. This request was granted and is noted in the minutes of the meeting (Schedule D). Apart from a few email exchanges with staff in the following 2 weeks, the owner took no further action.
- When the original case officer left the City of Victoria, the file was re-assigned to a Senior Bylaw Officer who, due to workload, was unable to review the file until December 2014. A letter, dated January 13, 2015 (Schedule E) was sent to the property owner summarizing the enforcement history dating back to November 6, 2012. The owner was advised that despite being granted additional time by the Committee, and on-going communication between staff and the owner this matter had gone unresolved for more than 2 years. The owner was granted a final 30 days within which to bring the property into compliance before the matter would again be taken before the Committee with a recommendation to place a notice on title. There was no response to this letter by the owner and/or his representative.



## 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 Sec. 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 12<sup>th</sup> floor of this building from its approved use as recreation rooms to a self-contained 4 bedroom suites, and two separate offices. The notice can be easily removed once the property has been brought into compliance.

## Conclusion

Despite ongoing communication between staff and the property owner and being granted more than adequate time within which to resolve this matter, the property owner has failed to take the action required to bring the property into compliance. As a result, this Officer has determined that the appropriate course of action at this time is to proceed with filing a notice on title. Doing so will hopefully provide the owner incentive to bring the property into compliance with City Bylaws.

## Recommendation

The Building Inspector recommends:

1. That the Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the property located at 865 View Street, legally described as **Lot A Plan 31096 Victoria of Lots 294/295/296/297** 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.

# SCHEDULE A



December 6, 2012

Legislative and  
Regulatory Services  
Department

Gill-Am Investments Ltd.  
3437 Mayfair Drive  
Victoria, B.C.  
V8P 1R2

**Re: 865 View Street, Victoria / Bylaw File #27577**

Bylaw and Licensing  
Services Division

Dear Sir,

1 Centennial Square  
Victoria BC V8W 1P6

This letter is a follow-up to the health and safety inspection conducted on the 12<sup>th</sup> floor of 865 View Street on November 6 and 22, 2012. The inspections were conducted by City officials including bylaw officers, electrical, plumbing and building inspectors. In summary, there are a number of zoning violations which need to be addressed in order to bring this property into compliance with the City of Victoria's Zoning Regulation Bylaw.

This property is currently zoned as R3-C-C, Central Area Residential. City records indicate that the legal use of the property as per the approved building plans is "multi family, minimal commercial." The building plans for this address show the 12<sup>th</sup> floor as approved for recreation use only; open space. The inspection revealed that the actual use of the 12<sup>th</sup> floor is dwelling units and office space.

Findings from inspection of Suite 1200 found the following violations:

**Plumbing:**

- North set of washrooms. Both altered from original layout.
- Fixtures have been relocated, added and removed. – Basin relocated, shower added, sink and dishwasher added, toilet and basin removed.
- Fixtures removed without proper cap offs.
- Many plumbing code violation and open sewer piping.
- Require all plumbing work to be permitted, exposed, corrected and inspected

**Building:**

- No permit for change of occupancy from recreational to residential
- Original configuration altered by addition of partitions and relocation of doors

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To Contact

Telephone: 250.361.0215  
E-Mail: [bylawenforcement@victoria.ca](mailto:bylawenforcement@victoria.ca)

Fax: 250.361.0205  
Web: [www.victoria.ca](http://www.victoria.ca)



Findings from inspection of Suite 1202 and 1201 found the following violations:

Building:

- Not as per the original occupancy or layout indicated on the city plans – added walls

Summary of Electrical findings for 12<sup>th</sup> floor:

- Electrical work has been completed without permit since the building was constructed and will require an electrical safety survey

This work will require a permit to change the occupancy or return this space back to its original occupancy. Whether the 12<sup>th</sup> floor can be approved for change of use and occupancy remains unknown at this time. Should you choose to pursue this option, it is recommended that you hire a qualified home design professional to assist you. Another option would be to apply for the necessary permits to decommission the 12<sup>th</sup> floor from use for dwelling and office space. In the interim, you are required to make application for the building, plumbing, and or electrical permit(s) through the City's Permits and Inspections Department (250-361-0344) to address the unpermitted improvements on the 12<sup>th</sup> floor.

**You are granted until March 5, 2013** to make application for the required permit(s) and/or rezoning to bring this property into compliance. Not doing so will result in the issuance of fines, the placing of a notice on land title, and/or further legal action. Thank you in advance for your cooperation in this matter. If you have any specific questions or concerns, please don't hesitate to contact me directly by telephone at 250-361-0540 or by email at [mfrankl@victoria.ca](mailto:mfrankl@victoria.ca).

Regards,



Mia Frankl  
Bylaw Officer

Cc: Andrew Dolan, Senior Bylaw Officer – Bylaw & Licensing Services  
Mike Staples, Electrical Inspector - Permits & Inspections Division  
Ray Berkeley, Building Inspector – Permits & Inspections Division  
Andy Wilson, Plumbing Inspector - Permits & Inspections Division  
Brown Brothers – Brian Siddall





[www.victoria.ca](http://www.victoria.ca)

The City of Victoria recognizes the Songhees and Esquimalt Nations in whose traditional territories we live and work  
"Hav swx ga"

## SCHEDULE C

August 18, 2014

Gill-Am Investments Ltd,  
3437 Mayfair Drive  
Victoria, B.C.  
V8P 1R2

Mr. Gill,

**Re: City of Victoria – Steps to remediate Notice on Title action**

Please find the letter listing the necessary to bring the 12<sup>th</sup> floor of 865 View into compliance with City regulations. The letter is dated December 6, 2012 – Blaine and Tony were working towards completing all the steps but progress seemed to have ended in mid-2013 – emails were sent to prompt continued efforts but unfortunately this did not achieve the desired results of voluntary compliance.

In summary:

- Electrical permit (EP056231) was obtained in April 2013 to remove the cooking equipment from the suite.
- A plumbing permit is still required for safety inspection and removal or upgrades of the plumbing (in the suite and the two washrooms near the offices).
- A building permit is required for the installation of walls and doors throughout the 12<sup>th</sup> floor.

Your inspectors for this address are:

Mike Staples – Electrical Inspector - 250-361-2320

Andy Wilson – Plumbing Inspector - 250-361-2250

Ray Berkeley – Building Inspector - 250-361-2341

Please contact me (250-361-0540 / 250-880-0061) if you require further assistance. If the plumbing and building permits are obtained this week I would consider revoking the action to place a Notice on Title.

Regards,

Mia Frankl  
Bylaw Officer



## 6. PROPERTY MAINTENANCE BYLAW HEARING 1:00 P.M.

### 6.1 Work Without Permit – 865 View Street, 12<sup>th</sup> Floor

Committee received a report dated July 16, 2014, in respect to work that has been done without a permit at 865 View Street, 12<sup>th</sup> Floor. An inspection completed by City electrical, plumbing and building inspectors confirmed code violations. The building managers did complete an electrical survey but have failed to obtain the other necessary permits to legalize the remaining work without permit.

*The Chair asked staff to provide an update.*

M. Frankl (Bylaw Officer): The Property Owner of 865 View Street, contacted her earlier this week, after receiving the Notice of Hearing and is very interested in taking the proper steps to correct the contravention. Therefore she is recommending that the matter be postponed for 30 days to allow the owner to remedy the unauthorized construction.

**Action:** It was moved by Councillor Thornton-Joe, seconded by Councillor Coleman, that Committee postpone consideration of this matter for 30 days.

CARRIED UNANIMOUSLY 14/PLUC0199



January 13, 2015

Legislative and  
Regulatory Services  
Department

Gill-Am Investments Ltd.  
3437 Mayfair Drive  
Victoria, BC  
V8P 1R2

Bylaw and Licensing  
Services Division

Re: 865 View St. / Bylaw File #27577

1 Centennial Square  
Victoria BC V8W 1P6

Dear Sir,

This letter is to advise you that the bylaw enforcement file for your property at 865 View Street has been re-assigned to me as Bylaw Officer Frankl is no longer employed by the City of Victoria.

The file indicates that upon receipt of a formal complaint in October 2012 an inspection of the 12<sup>th</sup> floor of your property at 865 View Street was conducted. The inspection and the subsequent search of city records confirmed that the property was in violation of a number of city bylaws, including but not limited to; the *Zoning Regulation Bylaw*, and the *Building Bylaw*.

The violations relate to improvements that have been made to the 12<sup>th</sup> floor to convert the space from its approved "recreation" use to that of self-contained residential units and office space. This work appears to have been completed without the required permits or approvals. These findings were detailed in a letter to you dated December 6, 2012.

The December 6<sup>th</sup> letter advised you that would have to make application for the permit(s) and complete the work required to return the 12<sup>th</sup> floor to its approved use and/or another use permitted under the R3-C-C zoning. The deadline for compliance was set as March 5, 2013. It was recommended that you retain a qualified home designer or Architect to assist you in this process.

Between December 6, 2012 and September 5, 2013 there were numerous email exchanges between Bylaw Officer Frankl and Anthony DeCesare from Brown Bros. who was acting as your agent. Despite regular email correspondence and additional information being provided there is no record that any steps were taken to address the unpermitted improvements to the 12<sup>th</sup> floor.

On July 26, 2014, after approximately 18 months having elapsed since the initial inspection, Bylaw Officer Frankl submitted a report to the City of Victoria's Planning and Land Use Committee recommending that a notice be filed in the Land Title Office in regard to the unpermitted improvements. The filing of a notice on title is intended to provide incentive to solve the outstanding issues and warn prospective purchasers and/or lenders that work has been done without permit.

To Contact

Telephone: 250.361.0215

Fax: 250.361.0205

E-Mail: [bylawenforcement@victoria.ca](mailto:bylawenforcement@victoria.ca)

Web: [www.victoria.ca](http://www.victoria.ca)

The City of Victoria recognizes the Songhees and Esquimalt Nations in whose traditional territories we live and work  
"Hlay swx qa"



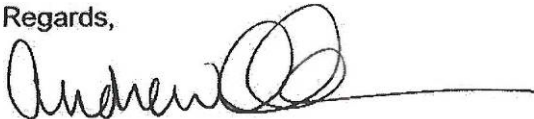
You were sent a letter, dated August 11, 2014, advising you that staff had recommended placing a notice on title and requesting that you attend the Planning and Land Use Committee meeting on August 21, 2014. On August 18, 2014 Bylaw Officer Frankl received a telephone call from the owner and/or agent enquiring as to what steps needed to be taken to correct the outstanding issues, and whether consideration would be given to withdrawing the matter from the Committee's agenda in order to allow time for compliance.

You were advised that it was too late to withdraw the item from the meeting agenda, however, told that having discussed the matter with management she would attend the meeting and recommend granting you a 30 day extension within which you could obtain the permits necessary to legalize the work. In addition, you were sent a letter via email dated August 18, 2014 which summarized the permits and work that was required.

There some email exchanges between Anthony DeCesare from Brown Bros. and the Building Inspector in late August 2014; however, none of the permits necessary to bring the property into compliance were obtained. This matter has now gone unresolved for over 2 years, and while the preferred course of action is to have you voluntarily comply and bring your property into compliance in the next 30 days from the date of this letter, failure to do so will result in the recommendation to place a Notice on Title.

If you have any questions or require additional information please don't hesitate to contact me directly at 250.361.0578 or by email at [adolan@victoria.ca](mailto:adolan@victoria.ca).

Regards,

A handwritten signature in black ink, appearing to read 'Andrew Dolan', with a long horizontal line extending to the right.

Andrew Dolan  
Senior Bylaw Officer  
Bylaw & Licensing Services  
City of Victoria

Cc: Ray Berkeley - Building Inspector  
Mike Staples - Electrical Inspector  
Andy Wilson - Plumbing Inspector  
Karen Brown - Permits/Office Administration



Victoria Parcels

1: 1,352

## 865 View St. / Bylaw File #27577

Printed from VicMap (Internal Version)



68.7 Meters

34.35

O.

68.7

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

NAD\_1983\_CSRS\_UTM\_Zone\_10N

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**Legend**  
 Victoria Parcels

1: 2,705



**Notes**

865 View St. / Bylaw File #27577



137.4 Meters

68.70

0

137.4

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NAD\_1983\_CSRS\_UTM\_Zone\_10N  
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# Unit 1200 – Front entrance facing bdrm 1





# Unit 1200 photo of bdrm 1



# Unit 1200 photo of kitchen, to right of entrance

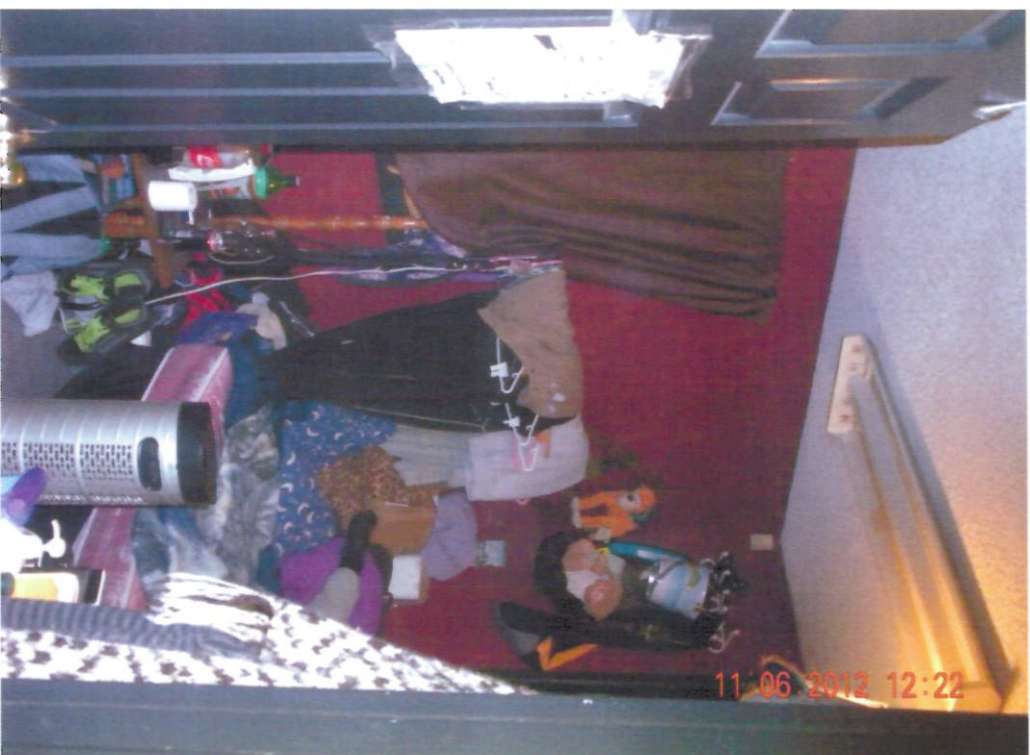




# Unit 1200 Photo of bathroom off kitchen



# Unit 1200 bdrm 2 - off kitchen





Unit 1200 hallway to left of entrance, leads to 2 bedrooms and one shared living space



# Unit 1200 bedroom 3 – to left of hallway





# Unit 1200 bedroom 4 - to right of hallway



# Unit 1200 half of living room leading to deck





# Unit 1202 photo 1

2 OFFICES

