



## Planning & Land Use Committee Report

For the Meeting of February 19<sup>th</sup>, 2015

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**To:** Planning & Land Use Committee **Date:** January 16, 2015  
**From:** Rob Woodland, Director Legislative and Regulatory Services  
**Subject:** Illegal use and work without permit 315 Langford St. / Bylaw File #18641

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### Executive Summary

This matter has been brought before the Committee on previous occasions for consideration of placing a Notice on Title. The Committee had instructed staff to investigate and report back as to whether or not the use on the property (duplex with an additional dwelling) which violates the current Zoning Regulation Bylaw is a legal non-conforming use. This Report confirms that the use at the property does not comply with zoning regulations and has not complied with the City's zoning regulations since the time both the duplex and the additional dwelling at the rear of the property have all been used for residential purposes (dating back to the 1950's). While the property owner has resolved a number of plumbing and electrical safety issues identified during an inspection, he has failed to make application for any of the permits required to return the property to legal use or make an application to have the property rezoned. As a result, the Committee is being asked to make a final determination regarding the compliance of the property with the zoning regulations and ultimately determine whether or not to place a Notice on the Land Title pursuant to section 57 of the *Community Charter*.

### Recommendation

The Building Inspector recommends:

1. That the Committee determine that the use of the accessory building on the property at 315 Langford Street constitutes "unlawful use" and that permits are not in place to allow such use on the property and that section 57(1)(b) applies to the property.
2. That the Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the property located at 315 Langford Street, legally described as **Lot 127 Block Q Section 31 Esquimalt Plan 549**, 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,



Mark Hayden  
Manager (Building Inspector)  
Bylaw & Licensing Services



Rob Woodland  
Director Legislative and  
Regulatory Services

**Report accepted and recommended by the City Manager:** \_\_\_\_\_

**Date:** \_\_\_\_\_



January 13, 2015

**List of Attachments:**

1. Appendix A -- City of Victoria Revised Zoning Map 1943
2. Appendix B -- Plumbing Card for 315 Langford St.
3. Appendix C -- 1947 Building Permit, floor plan and site map.
4. Appendix D -- Bylaw No 1301
5. Appendix E -- Permit to connect with public sewers 315 Langford St.
6. Appendix F -- Planning and Land Use Committee Report April 3, 2012
7. Appendix G -- Minutes of the Planning & Land Use Standing Committee Meeting Held Thursday, May 3, 2012
8. Appendix H -- Minutes of the Planning & Land use Standing Committee Meeting Held Thursday, May 16, 2013



## **Purpose**

The purpose of this report is to advise the Planning & Land Use Committee of the result of the staff investigation into the property at 315 Langford Street with respect to whether or not the current use of the property is unlawful or is a legal non-conforming use. In addition, if the use is determined to be unlawful under the Zoning Regulation Bylaw, then the Committee is being asked to direct the placing of a Notice on Title pursuant to section 57(3) of the *Community Charter*.

## **Background**

A staff report (Appendix F) was put before the Committee previously in May 2012 and May 2013 (Appendices G and H). While the hearing was largely completed on these 2 dates, the outstanding issue is whether or not the additional dwelling unit on the property, which both parties have agreed does not comply with current zoning regulations, is a "legal non-conforming" use or is simply unlawful.

The property at 315 Langford Street is located in the Victoria West neighbourhood in an R-2, Two Family Dwelling District. The approved use of the property per the approved building plans is "Duplex". The property was inspected on March 31, 2011 after it was reported that there appeared to be an illegal suite being rented in an accessory building. The inspection confirmed the existence of a self-contained dwelling unit. In addition, a number of plumbing and electrical safety issues were identified. The property owner was directed to make application for the required permits and complete the work required to correct deficiencies and return the property to its approved legal use and occupancy – duplex (see attached letter dated May 10, 2011).

The property owner did comply by obtaining permits and completing the work required to resolve the plumbing and electrical safety issues, however, he has failed to make application for any of the permits required to return the property to legal use – convert the secondary building from a dwelling unit back to the approved use as an "accessory building". Instead the owner contends that the current use of the property is the legal use as the secondary structure is and/or should be considered a legal non-conforming cottage. To that end, the property owner has submitted records, City of Victoria bylaws (dated building bylaws) and other material in two previous Planning and Land Use Committee meetings (Appendices G and H) to support his position that the extra self-contained dwelling unit located on the lot is legal non-conforming.

## **Issues and Analysis**

As of 1912 all new buildings in the City of Victoria required a building permit per Bylaw No. 1301 (Appendix D) and they have been required since that time. The City of Victoria Revised Zoning Map - 1943 (Appendix A) shows the zoning for 315 Langford Street as being "single family dwelling". A permit to connect to the City's sewer was taken out on Dec 22, 1947 (Appendix E) which specifically listed a Temporary building. In 1947 a building permit was taken out for 315 Langford St. The building permit, per the floor plans and site map (Appendix C) show it as a duplex on the lot with a garage (separate structure) and tool shed (separate structure) in the backyard. The self-contained dwelling unit in the backyard is not mentioned nor is shown in any of the plans or site map. In April 1954 a City of Victoria Plumbing Inspector made a comment on the City's record (Plumbing Card – Appendix B) that there was a temporary building on the lot. This extra building, used for accommodation purpose was not compliant with the zoning regulations in place when it was constructed. The Plumbing Card is marked as: "Temp Bldg" and states in part: "Temp. accom. at rear of 315 Langford April 1954". The review of City records has determined this building was never legal and therefore the argument put forward by the property owner that this self-contained dwelling unit is a "legal non-conforming" use is incorrect.

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 and 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 construct a secondary structure that is configured and used as a self-contained dwelling unit. The Notice can be easily removed should the property be brought into compliance in the future.

## Conclusion

The purpose of this report and a Property Maintenance Hearing is solely to determine whether there is sufficient cause to place a Notice on Title with regard to work that has been done without permit. The two previous hearings on this matter have shown there is a difference of opinion between the property owner and staff with regard to the legality of the structure and its residential use. Further investigation by City staff has determined that the current use of the accessory building as a dwelling place is unlawful and there is cause to place a Notice on the Land Title.

## Recommendations

The Building Inspector recommends:

1. That the Committee determine that the use of the accessory building on the property at 315 Langford Street constitutes "unlawful use" and that permits are not in place to allow such use on the property and that section 57(1)(b) applies to the property.
2. That the Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the property located at 315 Langford Street, legally described as **Lot 127 Block Q Section 31 Esquimalt Plan 549**, 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.



# CITY OF VICTORIA

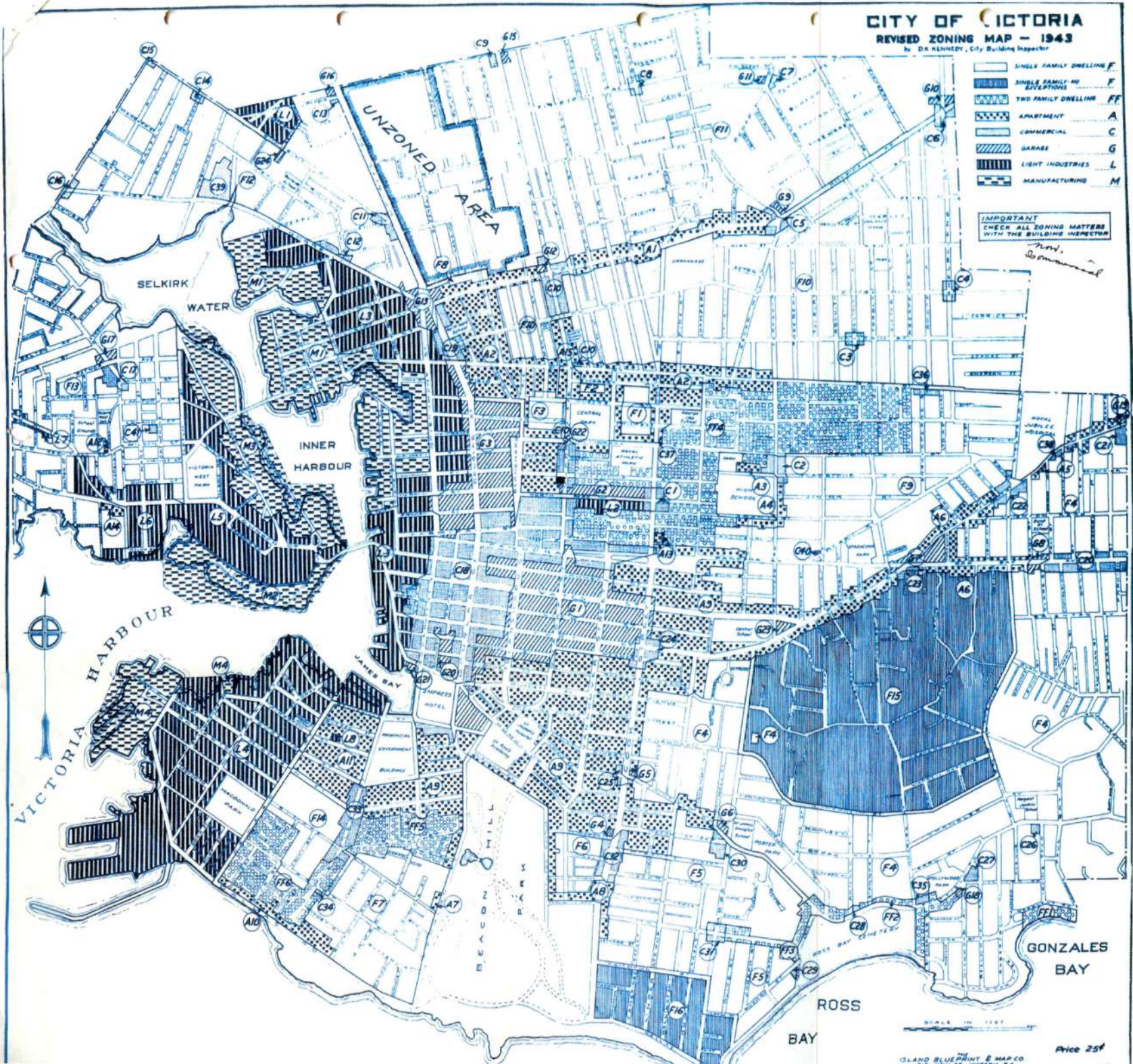
REVISED ZONING MAP - 1943

by DR KENNEDY, City Building Inspector

	SINGLE FAMILY DWELLING	F
	SINGLE FAMILY DWELLING WITH EXCEPTIONS	F
	TWO FAMILY DWELLING	FF
	APARTMENT	A
	COMMERCIAL	C
	GARAGE	G
	LIGHT INDUSTRIES	L
	MANUFACTURING	M

IMPORTANT  
CHECK ALL ZONING MATTERS  
WITH THE BUILDING INSPECTOR

*Not to be removed*





313-315-97 NO. ALEX B. MOWATT  
 ANG-FORD 315 OWNER ~~Mr. Hank~~ Mrs. Duxton P. PLAN No. 12281  
 BRUCE D. TALBOT (22.12.47)  
 BLOCK Q Sec. 31 MAP 549 ROLL No. 118997  
 DATE 26-12-47  
 12-820-008  
 it + Hall- S. INSP. Aug. 19-1948 S.R. Δ INSP. FINAL S. I. & Δ

it + Hall- JOURNEYMAN L. Anderson CARD No. 10

Aug. 19-1948 S.R. FINISH INSP.

06 + 20543 P. PERMIT No. 11835 NEW RECORD ✓

ALLATION OF Duplex RECORD OF EXISTING PROP:

W. C 's	BATHS	SINKS	BASINS	L. TRAYS	URINALS	OTHER FIXTURES
1	1	1	1	1		Shower
1	1	1	1			
City Eng Dept clearing blocked San Sewer Lateral 212-60 R.H. ✓ Color test confirms conn. of S.D. system to S.H. m. Let-pout roofwater to be conn. to exist R.H. 25- See attached. Conn. line temp. dec. at rear See letter in call file 20/1/56 F.B.						
MICROFILMED						FEB 16 1959

POSITION OF HOUSE SEWER

Mary + Catherine

HOUSE

2'6"

12' See plan

St.

10' 6" line

ADDITIONS AND ALTERATIONS

DATE 25.1.60 B.P. No. — P.P. No. 19618

PLUMBER D. DANIELSON JOURNEYMAN CARD No. 196

RENEW IN BASE: 1 SINK.

R.P.I. 4 F.P.I. 3-2-60 R.H.



<b>MILFORD</b>		<b>P. PLAN No.</b> 12281				
BLOCK <b>Q</b> Sec. 31 MAP 549	ROLL No. 2066T	DATE 26-1-49				
S. INSP.	△ INSP.	FINAL S.I. & △				
JOURNEYMAN F. Anderson	CARD No. 1					
FINISH INSP.						
P. PERMIT No. 11425-	NEW RECORD -					
INSTALLATION OF Temp Bldg.						
W.C's	BATHS	SINKS	BASINS	L. TRAYS	URINALS	OTHER FIXTURES
1		1				Storm Sewer
Temp. accom. at rear of 315 Langford						
April 1954. These "temp accommodations" still occupied at date as well as duplex in front, Mr I.W.D. & C.M.P. know of this arrangement. JTB						



POSITION OF HOUSE SEWER

ADDITIONS AND ALTERATIONS

DATE

B. P. No.

P. P. No.

PLUMBER

JOURNEYMAN

CARD No.

HOUSE

C.S.A. installed

B137.1 Double 50409-L

1404 Series

75 P.S.I. 70° F.

By [signature] - [signature]  
598-1359

8'  
St.

TIONS & REPAIRS

BP# PP#14872, JIM NOADE

Storm Drain 250' on Langford St. property. INSP. 90-11-20



ATIONS & REPAIRS

LANGFORD STREET

SOUTH

LOT 127  
BLOCK Q  
MAP 549

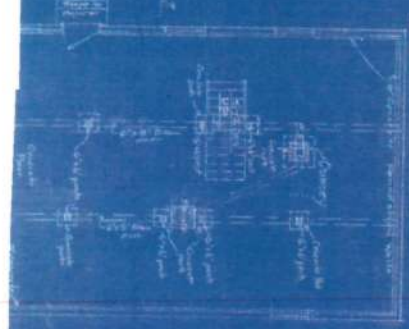
MAIN FLOOR PLAN

PROPOSED HOME FOR M/OLE  
Langford Street - Victoria  
Scale 1 inch = 10 feet

EAST

WEST

NORTH





NO. 1301

# A BY-LAW

## FOR THE REGULATION OF BUILDINGS

1912 BUILDING BY-LAW  
FIRST TO REQUIRE  
PERMITS FOR ALL  
NEW BUILDINGS  
IN THE CITY

The Municipal Council of the Corporation of the City of Victoria enacts as follows:

### Interpretation

1. Where no special meaning is given to words or terms used in this By-law, the interpretation clause contained in the Municipal Act shall apply, but not so as to detract from the plain meaning of any such word or term used with due regard to the context thereof, but in general the following terms shall have the meanings respectively given to them:

"Building Line" shall mean the line of demarcation between public and private space.

"Areas Outside of Building Line": Sub-surface excavations adjacent to building line for lighting or ventilation of cellars or basements or to provide cellar or basement space.

"Foundation" means that portion of a wall below the street line, and where the wall is not on a street that portion of it below the highest ground next to the wall. The foundation of a party wall may mean that portion below the level of the cellar floor.

"Cellar" means the basement or lower storey which is wholly below the level of the street, or of which half or more of the height from the floor to the ceiling is below the level of the street adjoining.

The term "First Floor" shall be understood to mean the storey of the building next above the basement or cellar.

The term "Second Floor" shall mean the floor next above the first floor.

The term "Third Floor" means the floor next above the second floor, and so on.

"Footing Course": Projecting course or courses of concrete, stone or brick work under base of foundation, cellar, basement, or other walls.



## GENERAL REGULATIONS AS TO BUILDING PERMITS

2. Except as hereinafter provided in the next succeeding Section, any person intending to carry out the erection of or any structural repairs or alterations to any building shall, before the commencement of such erection, repairs or alterations or of any excavations, erection of scaffolding or other preparations upon the ground whatsoever, deposit in the office of the Building Inspector such plans and specifications as may, in the opinion of the Building Inspector, be necessary to sufficiently describe the construction and equipment of any building to be erected or the nature and extent of any repairs or alterations to be carried out, and such erection, repairs, or alterations shall not be carried out until the Building Inspector shall have certified, in writing (such writing in this By-law being referred to as a "permit"), that the proposed erection, repairs or alterations is or are in accordance with the provisions of this By-law and will not involve a violation of any statute, or any By-law or regulation of the City relating to the prevention of fires, the erection, repair or alteration of buildings, public health or safety, or any regulation governing the location of the proposed building. An appeal will lie from the refusal of the Building Inspector to grant a permit to a Board consisting of the Chairman of the Wardens, City Engineer and Fire Marshall, to be called the Board of Supervisors, and whose decision shall be final. Said Board shall be convened by the City Clerk whenever necessary on a two days' notice, and two shall constitute a quorum.

3. Without derogating from the provisions contained in the next succeeding sections, the following plans shall be deposited, namely:

- (a) Buildings estimated to cost less than \$500, a sufficient sketch plan.
- (b) Buildings estimated to cost more than \$500 and less than \$5000, sufficient floor, sectional and elevational drawings and plans.
- (c) Buildings estimated to cost more than \$5000, sectional and elevational drawings and plans.

4. The said plans and specifications shall be accompanied by a statement of the estimated cost of the proposed building, and said plans shall remain on file in the office of the Building Inspector.

5. All plans required by this By-law to be deposited with the Building Inspector shall be drawn to a scale of not less than  $\frac{1}{8}$ th of one inch to the foot.

6. No permit shall be issued for the value of such repairs.

7. Before construction of a highway, the owner of the land to be constructed shall apply for a permit, and shall pay the fee therefor, and upon the issuance of a sufficient plan.

8. Upon application for a permit, the provisions of this By-law in accordance with the following:

(a) For a permit for a building within the fire limits, the sum of

(b) For a permit for a building outside the fire limits, the sum of

(c) For a permit for a building within the fire limits, the sum of one per cent of the estimated cost of the proposed building: Provided, that the fee payable under this section shall not exceed

9. Plans of any building shall receive the sanction of the Building Inspector, and such building shall be constructed under the conditions as may be prescribed by the Building Inspector.

10. If any work shall be commenced without a permit, such permit shall be issued upon the work to be commenced until a fresh permit is issued, and the fee as upon an application for a permit.

11. The Building Inspector shall be governed by Section 3 of the City Charter.

(a) Whenever a permit is issued, it shall comply with the provisions of this By-law.

(b) On the application of the Building Inspector any plan, specification or drawing deposited under the provisions of this By-law shall be retained by the Building Inspector.



(c) Whenever it shall appear that the proposed building or erection is intended to be used for the purpose of any manufactory, trade or occupation whereby the present or prospective assessable value of the surrounding property would, in the opinion of the Building Inspector, be prejudicially affected.

12. Whenever it shall be necessary during the progress of any building or construction to make any deviation from the original plan or specifications thereof, thereby affecting the structural work, it shall be the duty of the owner, builder or his agent to file a correct and sufficient plan and specifications of such deviation before commencing any work thereon, and to obtain a permit therefor, which may be granted to him upon the Building Inspector approving plan and specifications and upon payment of the fee of \$1.00.

#### DEFINITION OF FIRE LIMITS

##### Fire Limits No. 1

13. Fire Limits No. 1 shall mean all that portion of the City contained within the following boundaries, viz.:—Commencing at the intersection of the centre lines of Douglas and Cormorant Streets; thence easterly along the centre of Cormorant Street to a point 120 feet easterly from the eastern street line of Douglas Street; thence parallel with the said eastern street line of Douglas Street until it comes to the centre line of Courtney Street; thence westerly along the centre line of Courtney Street to the centre line of Douglas Street; thence southerly along the centre line of Douglas Street to the centre line of Humboldt Street; thence westerly by the centre line of Humboldt Street until it intersects the prolonged centre line of Langley Street; thence along the said prolonged centre line and the centre line of Langley Street to Yates Street; and thence parallel with the western line of Government Street to the centre line of Cormorant Street; thence easterly along the centre line of Cormorant Street to place of beginning.

##### Fire Limits No. 2

14. Fire Limits No. 2 shall mean all that portion of the City which is contained within the following boundaries, except such parts thereof as are within the boundaries of Fire Limits No. 1: Commencing at the water line on the southern limit of Russell Street, thence along the east side of Russell Street to Dundas Street, thence along the south side of Dundas Street to Esquimalt Road, thence easterly along the southerly side of Esquimalt Road to Bridge Street, thence northerly along Bridge Street to John Street, thence along John Street to a street known as Tannery Street, thence southerly along Tannery Street to Bay Street, thence along Bay Street to Rock Bay Avenue; thence northerly along Rock Bay Avenue to Hillside Avenue, thence easterly along Hillside Avenue to the lane between Rose and Douglas Streets, thence south along the said lane in a straight line to meet McBride Avenue, thence along McBride Avenue to Queen's Avenue; thence easterly along Queen's Avenue to Blanchard Avenue, thence southerly along Blanchard Avenue to Pembroke

Street, thence east southerly along Queen's Avenue to North Park Street; thence southerly along Mears Street, thence southerly along McClure Street to Humboldt Street; thence in a straight line to Heywood Avenue; thence southerly along Heywood Avenue, thence southerly along Susan Menzies Street to Montreal Street; thence westerly along Montreal Street; thence southerly along Simcoe Street; thence west of St. L. Dallas Hotel, thence water front; thence westerly in a straight line to point of commencement.

#### DEFINITIONS

15. "Class A" shall be construed to mean all buildings constructed in accordance with the specifications set forth in the By-law and none other shall be so construed.

16. "Class B" shall be construed to mean all buildings constructed in accordance with the specifications set forth in the By-law such as are comprised within the area of Fire Limits No. 1.

17. "Class C" shall be construed to mean all buildings constructed in accordance with the specifications set forth in the By-law to be erected within the area of Fire Limits No. 2 constructed in accordance with the specifications of this By-law.



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plan and specification  
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from the eastern  
d eastern Street  
Courtney Street  
the centre line  
Douglas Street  
the centre line  
line of Lang  
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he western  
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side of Russell  
undas Street  
Esquimalt Road  
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southerly along  
k Bay Avenue  
thence easterly  
Streets, thence  
Avenue, thence  
ing Queen's Avenue  
ue to Pembroke

Street, thence easterly along Pembroke Street to Quadra Street; thence southerly along Quadra Street to North Park Street, thence easterly along North Park Street to Cook Street, thence southerly along Cook Street to Mears Street, thence westerly along Mears Street to Vancouver Street; thence southerly along Vancouver Street to McClure Street, thence westerly along McClure Street to Rupert Street, thence southerly along Rupert Street to Humbolt Street; thence westerly along Humbolt Street two hundred feet, thence in a southerly direction and parallel with Rupert Street to Heywood Avenue; thence easterly along Heywood Avenue to Rupert Street, thence southerly along Rupert Street to the north line of Beacon Hill Park; thence westerly along the north line of Beacon Hill Park to Blanchard Avenue, thence southerly along Blanchard Avenue to Superior Street; thence easterly along Superior Street to Menzies Street, thence northerly along Menzies Street to Quebec Street; thence westerly along Quebec Street to Montreal Street; thence southerly along Montreal Street to Superior Street; thence westerly along Superior Street to a point 120 feet east of St. Lawrence Street; thence southerly along a line parallel with St. Lawrence Street to Simcoe Street; thence westerly along Simcoe Street to a point Four hundred feet west of St. Lawrence Street; thence to a point Five feet east of the Dallas Hotel, thence southerly and at right angles to Simcoe Street to the water front; thence westerly along the shore line to the most southerly point; thence westerly in a straight line at the foot of Russell Street, being the point of commencement.

## DEFINITION AND SEGREGATION OF BUILDINGS

15. "Class A Building" or "Building of Class A" shall be held and construed to mean and include a building constructed according to the specifications set forth in Section 18 of this By-law, and buildings so constructed and none other shall be constructed within the area of Fire Limits No. 1. Definition of  
Class A Buildings

16. "Class B Building" or Building of Class B" shall be held and construed to mean and include a building constructed according to the specifications set forth in Section 19 of this By-law, and no buildings other than such as are comprised in Classes "A" and "B" shall be constructed within the area of Fire Limits No. 2. Definition of  
Class B Buildings

17. "Class C Building" or "Building of Class C" shall be held and construed to mean and include a building constructed according to the specifications set forth in Section 20 of this By-law, and such buildings shall not be erected within the Fire Limits. Brick, stone or concrete buildings constructed within the City of Victoria, if outside the Fire Limits, shall be constructed according to the specifications set forth in Section 18 or Section 19 of this By-law and not otherwise. Definition of  
Class C Buildings



"Streets By-law 1911".....Sections 11, 11, 48,  
49, 50, 54 and 55

"Fire Prevention By-law Amendment  
By-law 1912" .....The whole By-law

662. This By-law may for all purposes be cited as "The Building <sup>Short title</sup>  
law 1912."

Passed the Municipal Council on the 8th day of July, 1912.

Reconsidered, adopted and finally passed by the Council this 15th day  
of July, 1912.

(L.S.)

E. W. BRADLEY,  
Acting C.M.C.

J. L. BECKWITH,  
Mayor.

I hereby certify that the above is a true copy

of "The Building By-law, 1912"

*E. W. Bradley*

ACTING Clerk of the Municipal Council.

Extent of Repeal

.....The whole By-law

.....The whole By-law

.....The whole By-law

.....The whole By-law

.....The whole By-law

.....Sections 18 to 22  
inclusive, 24, 31

.....The whole By-law

12281

CITY OF VICTORIA

Nº 3907

Sewers By-Law and Amendments

APPLICATION FOR A PERMIT TO CONSTRUCT HOUSE SEWERS AND CONNECTIONS WITH PUBLIC SEWERS

the Building \_\_\_\_\_ and premises located on the \_\_\_\_\_ side of  
\_\_\_\_\_ Street, between \_\_\_\_\_ Street  
\_\_\_\_\_ Street, on Lot No. \_\_\_\_\_ Block No. \_\_\_\_\_  
No. \_\_\_\_\_ Estate or Registered Plan No. \_\_\_\_\_  
Plan submitted, Numbered \_\_\_\_\_ Street No. \_\_\_\_\_  
Owner \_\_\_\_\_ Address \_\_\_\_\_  
Pipe Layer \_\_\_\_\_ Address \_\_\_\_\_  
Plumber \_\_\_\_\_ Address \_\_\_\_\_  
Purpose of Premises \_\_\_\_\_  
How Many Buildings \_\_\_\_\_

Pursuant to the provisions of Sewers By-Law of the City of Victoria, application is hereby made to the Plumbing Inspector of the said City for permission to construct sewers, storm sewers, plumbing and drainage on the above mentioned premises in accordance with the Sewers and Storm Sewers By-Law and to connect the said sewers and storm sewers, plumbing and drainage with the public sewer and storm sewer in \_\_\_\_\_

\_\_\_\_\_ Street, the undersigned hereby agreeing to cause the work to be done in accordance with the aforesaid By-Law, and the standard specification provided for in the By-Law, the material to be furnished in accordance therewith and such modifications as may be required by Plumbing Inspector, and further that all work herein contemplated will be executed in a workmanlike

Following schedule sets out the class and position of Plumbing Fixtures to be installed under this and no alterations or additions to same shall be made without permission from the Plumbing Inspector

	CLOSETS	BATHS	SINKS	BASINS	URINALS	TRAYS	OTH'
Basement -							
Ground Floor							
1st Floor -							
2nd Floor -							
3rd Floor -							
4th Floor -							
5th Floor -							
6th Floor -							
7th Floor -							
8th Floor -							
9th Floor -							
10th Floor -							

Total \_\_\_\_\_

\_\_\_\_\_ Owner

Dated \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ Agent for Owner

REPORT AND RECOMMENDATION OF INSPECTOR.

I report that I examined the foregoing application and find the same to be in compliance with the requirements of Sewers By-Law. I therefore recommend that a permit be granted for the construction of the work.

\_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Inspector of Plumbing and Sewerage.

Fee \$4.00

This form when stamped by the City Treasurer with his official stamp becomes an accepted application for permit to connect as above under the Sewers By-Law and Amendments.





## Planning and Land Use Standing Committee Report

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**Date:** April 3, 2012      **From:** John Kitson, Bylaw Officer  
**Subject:** No building permit/zoning contravention for residence at 315 Langford St. / Bylaw File #18641

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### Executive Summary

The purpose of this report is to recommend the filing of a notice on title in respect to a secondary building that is being used as a residence at 315 Langford St. This secondary building has no building permit and is being used as a residence, which changes the zoning from R-2, Two Family District Zone to a triplex which is contrary to the Zoning Regulation Bylaw.

### 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 315 Langford Street and legally describe as **Lot 127, Block Q, section 31, Esquimalt District, Plan 549**, indicating that a resolution relating to this property has been made under Section 57(3) of the *Community Charter* and the provisions of the Property Maintenance Hearing Delegation Bylaw, and advise that the information regarding this resolution may be inspected at the Legislative & Regulatory Services Department in Victoria City Hall.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Kitson".

John Kitson  
Bylaw Officer  
Bylaw & Licensing Services

A handwritten signature in black ink, appearing to read "Mark Hayden".

Mark Hayden  
Manager  
Bylaw & Licensing Services

A handwritten signature in black ink, appearing to read "Robert Woodland".

Robert Woodland  
Director  
Legislative & Regulatory  
Services

A handwritten signature in black ink, appearing to read "Jocelyn Jenkins".

Jocelyn Jenkins  
Acting General Manager  
Corporate Services

Report accepted and recommended by the City Manager

A handwritten signature in black ink, appearing to read "G. Stephens".

## Purpose

The purpose of this report is to advise the Planning & Land Use Standing Committee about the conditions of the property at 315 Langford Street, that enforcement action that has been taken in order to secure voluntary compliance with the Zoning Regulation Bylaw and Section 2.2(1) of the Building Bylaw, and to recommend to the Committee that under Section 57(3) of the *Community Charter* and the provisions of the Property Maintenance Hearing Delegation Bylaw, that a notice be filed in the Land Title Office in respect to this property to warn prospective purchasers of bylaw violations in respect to the existence of the illegal secondary building.

## Background

Section 57 of the *Community Charter* gives the City the authority 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 Sec. 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 Sec. 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 Hearing 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 building set out in the *Building Code*.

## Issues & Analysis

The property at 315 Langford Street is located in the Vic West neighbourhood in an R-2, Two Family District Zone. The legal use of the property as per the approved building plans is a Duplex. In response to a complaint, an inspection was organized for March 31, 2011. The inspection revealed the auxiliary building was being used as a residence and that there were electrical safety issues identified throughout the structure.

The property owner was ordered to make application for the required permits and complete the inspection process required to return the property to legal use within 30 days as of May 10, 2011. The property owner stated that he would resolve all safety issues with the secondary building. As of



August 2, 2011 all electrical and plumbing issues were resolved. He also stated that he believes that the secondary building to be a legal duplex with a legal nonconforming cottage. The City did not accept the property owner's argument and letters were sent to the property owner in May 2011 and Feb 2012 (see attached Feb 29, 2012 letter) requesting him to bring the property into compliance with the Zoning Regulation Bylaw and the Building Bylaw.

### **Conclusion**

The City has determined that the structure has no building permit and is in violation of the Zoning Regulation Bylaw. This has been confirmed in discussion with the City Solicitor. The owner was given another opportunity in 2012 by the February 29 letter to rectify the zoning violation and to obtain a building permit for the secondary structure. The owner has not complied.

### **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 of 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 occupancy of the secondary building. The notice can be easily removed once the property has been brought into compliance.

### **Recommendations**

The Building Inspector recommends that:

1. That the Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the property located at 315 Langford Street, legally described as **Lot 127, Block Q, Section 31, Esquimalt district, Plan 549**, indicating that a resolution relating to this property has been made under Section 57(3) of the *Community Charter* and the provisions of the Property Maintenance Hearing Delegation Bylaw, and advise that further information regarding this resolution may be inspected at the Legislative & Regulatory Services Department in Victoria City Hall.

### **Attachments**

1. Bylaw enforcement letter dated February 29, 2012.

*The Chair called at recess at Recess a 9:34 AM  
The Chair reconvened the Meeting at 9:40 AM*

## **6. PROPERTY MAINTENANCE BYLAW HEARING**

### **6.1 No Building Permit / Zoning Contravention – 315 Langford Street**

*The Chair convened the Hearing at 9:40 AM and advised that City staff, the property owner, and affected members of the public may address this Hearing.*

Committee received a report dated April 3, 2012, with respect to filing a Notice on Title in respect to a secondary building that has been constructed without a building permit and is being used as a residence at 315 Langford Street.

*The Chair explained the recommendation before the Committee:*

#### Recommendation:

The Building Inspector (Manager of Bylaw and Licensing Services) recommends: That the Committee direct the Corporate Administrator to file a Notice in the Land Title Office in relation to the property at 315 Langford Street, legally described as Lot 127, Block Q, Section 31, Esquimalt District, Plan 549, indicating that a resolution relating to this property has been made under Section 57(3) of the Community Charter and the provisions of the Property Maintenance Hearing Delegation Bylaw, and advise that the information regarding this resolution may be inspected at the Legislative & Regulatory Services Department at Victoria City Hall.

*The Chair asked if the property owner had received notice of this Hearing?*

Mr. Rob Angus (Property Owner): Yes

*The Chair asked if both parties are prepared to proceed with the Hearing?*

Both parties agreed.

*The Chair asked the City representative to give an opening statement to present evidence, which may include calling of a witness.*

J. Kitson, Bylaw Officer: advised that a complaint had been received about a garage being converted to a residence and it turns out there are holes in what was found. The original plumbing, electrical and building card were searched. There was no original building permit and the zoning was always the same for this property. Since 1911 it has been a duplex, since it is a single family dwelling with a suite. Now with the new building (garage) it is considered a triplex. Part of his research shows comments in building, electric and plumbing cards for work in the backyard garage. The building has always been contrary to the zoning and in 1948 no building permit was taken out for the building in question for use as a dwelling.

*The Chair asked if the property owner has any questions of City staff?*

Mr. Rob Angus: No

*The Chair asked the Committee if they want to question City staff?*



Committee: No

*The Chair asked the property owner to present his / her evidence, which may include the calling of witnesses.*

Mr. Rob Angus: Stated that he does not deny that the cottage is contrary to zoning however does not agree with the building permit. He gave evidence of permits issued by the City that apply to the cottage. Mr. Angus detailed his history with the property, noting that he was approached by the owner and listed the property for sale March 26<sup>th</sup>, 2007. He was advised by the City that the property was a duplex plus a cottage (triplex use) and was permitted in the R-2 Zone. He advised that the City maintained that this was a legal duplex with a legal non-conforming cottage. He presented the Multiple Listing Contract and his written confirmation as evidence. Permits were issued for the duplex and for the cottage. A permit was issued for the cottage for a temporary accommodation, for the period of one year, and it has been occupied for 64 years. City permits were also modified to reflect three addresses. The cottage has its own permitted sewer, water and utility hook-ups and was built with City authority and allowed to continue. The previous owner has also submitted a letter advising that, prior to purchasing the property in 1990, the City told him three dwellings on the subject property were permitted. In 2007 Mr. Angus confirmed this as well, and in 2012 the answer is different. He maintained that this is a legally (complete with permits) non-conforming use. There are holes in the City record and enforcement systems, from 1949 to present, and this should not stick with him.

*The Chair asked if City staff have any questions for the property owner?*

J. Kitson, Bylaw Officer: No.

*The Chair asked Committee if they have any questions for the property owner?*

No questions.

*The Chair invited affected members of the public to address the hearing.*

There were no public addresses.

*The Chair asked if there were any closing statements?*

J. Kitson (Bylaw Officer): No

Mr. Rob Angus: The Building Permit Number is 20543.

*The Chair invites the property owner to provide any further comments.*

*The Chair closed the hearing at 9:53 AM and advised both City staff and the property owner that the Committee will now deliberate the matter and render a decision.*

Councillor Helps: sympathized with the position of the property owner, particularly in view of the permits issued and addresses attached to the three units. Notice on Title will however serve to alert the next property owner so the mistake will not be repeated.



Councillor Alto: noted that the history associated with the property implies the use is permitted and questioned whether this has any weight on Committee's ability to consider the recommendation?

R. Woodland, Corporate Administrator: advised that the permit to get water, sewer or electricity supplied to a shop or garage may have been done and permits issued. If the shop or garage was converted to a cottage at some point, this would be a question best directed to the City Solicitor.

**Action:** Councillor Madoff moved that consideration of the recommendation to file a Notice on Title for no Building Permit / Zoning Contravention at 315 Langford Street be postponed pending the receipt of legal advice from the City Solicitor as to whether the facts support the owner's claim that the cottage use (dwelling) is a legal non-conforming use.

CARRIED UNANIMOUSLY  
12/PLUSC057

## **5. PROPERTY MAINTENANCE HEARING AT 9:28**

### **5.1 No Building Permit / Zoning Contravention – 315 Langford Street**

At the May 3, 2012, Planning and Land Use Committee meeting, the recommendation to file a Notice on Title for no Building Permit / Zoning Contravention for 315 Langford Street be postponed pending receipt of legal advice from the City Solicitor as to whether the facts support the owner's claim that the cottage use (dwelling) is a legal non-conforming use.

*The Chair opened the hearing at 9:33 a.m.*

*The Chair explained the conditions leading to today's proceedings to consider new evidence.*

*The Chair asked if the property owner was present.*

Rob Angus (Homeowner): Yes

*The Chair asked the City representative to give an opening statement and to present any new evidence.*

John Kitson (Bylaw Officer): The City received a complaint regarding an illegal building site, and when they attended the address they found that there was no building permit plus safety issues with the building. The plumbing and electrical were done but no building permit was ever applied for. The owner has stated that he does not need one.

*The Chair asked the property owner if he wished to speak.*

Rob Angus (Homeowner): Stated he believes no building permit is required and provided a history of those who have lived at the address. He provided documentation the original buildings were constructed prior to any regulations requiring building permits or limiting the number of buildings on a lot. Mr. Angus further detailed his history with the property noting that the City advised that the property was a duplex plus a cottage (triplex use) and was permitted in the R-2 Zone. He provided a copy of an application for a plumbing permit dated 1908, which he indicated illustrates that the cottage was the original building and predates the duplex that is currently on the property. He concluded by stating that this was a legal duplex with a legal non-conforming cottage.

*The Chair questioned if the hearing could be postponed to be able to receive a legal opinion on the materials presented.*

Robert Woodland (Director of Legislative Services): Advised that in this case the City may wish to view the materials Mr. Angus has provided and ask for advice from the City Solicitor. Committee may adjourn the hearing and obtain advice and once that is received the hearing Committee may deliberate and reach a decision.



**Action:** Councillor Helps moved that Committee adjourn the meeting.

CARRIED UNANIMOUSLY 13/PLUSC089

**Action:** Councillor Helps moved that Committee request a legal opinion be obtained as to whether the documents provided by Mr. Angus support his contention that the cottage is a legal non-conforming use.

CARRIED UNANIMOUSLY 13/PLUSC090

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**Folio:** 12820008  
**Civic:** 315 LANGFORD ST  
**Size:** 60.0 132.0 WIDTH/DEPTH

**Pid:** 000-366-773  
**Legal:** LOT 127, BLOCK Q, SECTION 31, ESQUIMALT, PLAN 549

**Owner:** ANGUS, ROBERT G  
1008 RUSSELL ST  
VICTORIA BC V9A 3X9  
(FB208257)

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**Legislative and  
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January 26, 2015

Mr. Robert G. Angus  
1008 Russell Street  
Victoria, BC V9A 3X9

Dear Mr. Angus:

**Re: Illegal Use and Work without Permit – 315 Langford Street**

Please be advised that City of Victoria staff is recommending to the Planning and Land Use Committee that the Corporate Administrator file a Notice in the Land Title Office regarding work without permit for 315 Langford Street. A copy of the report is attached for your records.

A hearing will be held before the Planning and Land Use Committee to grant the applicant an opportunity to address this matter. Therefore, the registered owner is hereby requested to attend the Planning and Land Use Committee meeting on **Thursday, February 19, 2015, at 10:30 a.m.**, in the Council Chambers, at Victoria City Hall, #1 Centennial Square (corner of Douglas and Pandora) to be heard by the Committee.

Further information respecting this matter may be obtained from the offices of the City of Victoria, Legislative & Regulatory Services, #1 Centennial Square, Victoria, BC between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

The agenda for this meeting will be produced on the Monday prior to the meeting and available from this office. Please advise Janice Appleby, Committee Secretary, at (250) 361-0598, if you have any written materials you wish added to the agenda.

Yours truly,

A handwritten signature in black ink, appearing to read "R. G. Woodland", written over a horizontal line.

Robert G. Woodland  
Corporate Administrator

:ja

Enclosure (1)

c. M. Hayden, Manager, Bylaw & Licensing Services