



Planning and Land Use Committee Report

For the Meeting of September 4, 2014

To: Planning and Land Use Committee **Date:** August 21, 2014
From: Robert Woodland, Director
Legislative & Regulatory Services
Subject: Work without permit, and illegal use/suite – 821 Princess Ave. / Bylaw File #2889

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 this structure from its approved use as 5 light-housekeeping units to 6 light house-keeping units, 1 bachelor suite, and 1 3-bedroom suite. The property was listed for sale and an enquiry as to the legal use by a prospective purchaser brought the property to the attention of staff. The property owner was directed to make full disclosure to all prospective purchasers and to make application for the building, plumbing, and/or electrical permit(s) required to return the property to an approved use and configuration, however, has thus far failed to comply. It is now believed the property is back on the market and the illegal use continues as before.

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 821 Princess Avenue, legally described as **Lot 19 Block 1 Section 3 Victoria District plan 62** 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:

August 26, 2014

List of Attachments

- Schedule A – Letter to owner regarding disclosure dated March 17, 2014
- Schedule B – Letter from owner confirming removal from market dated March 30, 2014
- Schedule C – Letter to owner regarding safety and compliance inspection dated April 8, 2014
- Schedule D – Directional letter to owner following inspection dated May 29, 2014
- Schedule E – Letter to owner from Electrical Inspector dated July 2, 2014
- Schedule F – Map showing location of subject property
- Schedule G – Aerial photograph of subject property
- Schedule H - Two exterior photographs of the structure
- Schedule I – Six internal photographs depicting work without permit

Purpose

The purpose of this report is to advise the Committee about the condition of the property at 821 Princess Avenue, the 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 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 to convert this structure from its approved use as 5 light-housekeeping units to 6 light house-keeping units, 1 bachelor suite, and 1 3-bedroom suite.

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 821 Princess Avenue is located in the North Park neighbourhood in the R-2, Two Family Dwelling District. The approved use of the property per the approved building plans is 5 light house-keeping units (LHK). A light house-keeping unit contains cooking facilities but no private bathroom; instead, residents share a common bathroom or bathrooms depending upon the number of units. The property was apparently listed for sale in 2014, and an enquiry made by a prospective purchaser as to the approved use of the building brought the property to the attention of staff in Bylaw and Licensing Services.

The real estate information package given to the prospective purchaser, and then provided to staff advertised the property as a "licensed" character conversion offering 6 one-bedroom light housekeeping units, 1 bachelor housekeeping unit, and 1 self-contained three-bedroom suite. The advertised use of the property therefore differed significantly from the approved use which suggested that improvements had been made without the required permits and/or inspections. The owner was advised of the obvious bylaw violations and was directed to make application for the building, plumbing, and/or electrical permit(s) and complete the work required to return the property to an approved use and configuration (see Schedule A).

Because the property was listed for sale and being actively marketed, the property owner was told that full disclosure was to be made to any and all prospective purchasers as the real estate information being provided to prospective purchaser was inaccurate, and staff were concerned that it was likely to mislead a purchaser. Not only was there an illegal use and illegal suite(s), the unpermitted improvements that had been done to convert this structure to the advertised use were not inspected and therefore potentially unsafe.

The property owner subsequently advised staff that the property had been taken off the market and requested additional time within which to bring the property into compliance (see Schedule B). Prior to granting additional time the owner was advised that a multi-agency inspection was required in order to assess the scope of unpermitted improvements made to the structure, and confirm that there were no visible electrical and/or fire safety issues which may have posed an imminent risk to the health and safety of the buildings occupants (see Schedule C).

An inspection on May 15, 2014 confirmed that the use and configuration of this structure had been changed and all of the work was done without any of the required building, plumbing, and/or electrical permits or inspections. The property was in violation of a number of provisions of the City's *Zoning Regulation Bylaw* and, as the owner was renting units without a valid business license was in violation of the *Business License Bylaw*. The owner was again directed to make application for permits and complete all the work required to return the property to a permitted use, pass all follow-up inspections, and obtain a valid occupancy permit (see Schedule D).

Following the inspection on May 15, 2014 the Electrical Inspector issued an order to the owner that required him to hire a qualified electrical contractor to complete an electrical safety survey and correct any deficiencies within 30 days. The property owner failed to comply and a follow-up letter was sent to the owner wherein the Electrical Inspector advised that if the electrical safety survey was not completed within an additional 14 days the electrical service could be removed from the structure (see Schedule E). The owner did comply and the electrical safety survey was completed, and deficiencies were corrected with the required electrical permit.

To date, this is the only permit that has been applied for and/or issued for this property. It is also believed that the property owner may once again be trying to sell the property because as recently as July 25, 2014 staff received yet another enquiry as to the approved use of the property from a different prospective purchaser.

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 this structure from its approved use as 5 light-housekeeping units to 6 light house-keeping units, 1 bachelor suite, and 1 three-bedroom suite. The notice can be easily removed once the property has been brought into compliance.

Conclusion

Given the fact that to date, no applications have been made for any of the permits required to bring this property into compliance, and the recent enquiry by another prospective purchaser which suggests that the property may once again be on the market, this Officer has determined that the appropriate course of action at this time is to proceed with filing a notice on title.

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 821 Princess Avenue, legally described as **Lot 19 Block 1 Section 3 Victoria District plan 62** 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.



March 17, 2014

Legislative and
Regulatory Services
Department

Mr. Josef F. Krajc
1146 Mason St.
Victoria, BC
V8T 1A6

Bylaw and Licensing
Services Division

1 Centennial Square
Victoria BC V8W 1P6

Re: 821 Princess Ave. / Bylaw File #2889

Dear Sir,

This letter is to advise you that an individual made contact with this office last week in order to confirm the legal use of your property at 821 Princess Avenue. Reportedly, your property is currently listed for sale and this individual wanted to confirm whether or not the information contained within the real estate information package provided for your property was accurate. This enquiry and my subsequent search of City records indicate that this property would appear to be in violation of a number of City bylaws, including but not limited to; the *Zoning Regulation Bylaw*, and the *Building Bylaw*.

These potential bylaw violations are significant as they will require you and/or a future owner to take the steps required to bring the property into compliance. As a result, the violations will be explained in detail below:

Zoning Regulation Bylaw

This property is zoned R-2, Two-Family Dwelling and the legal use of the structure according to City records is 5 light-housekeeping units (LHK). The real estate information package provided to the prospective purchaser indicates that the structure is comprised of 6 housekeeping units, 1 bachelor suite, and 1 three bedroom suite. The information package being provided, therefore, indicates that the actual use of the property differs significantly from what was originally approved and is on record with the City of Victoria.

As a result, it has been determined that the current use and/or occupancy of the property is likely in contravention. A person must not use or occupy, or allow or permit another person to use or occupy land or a building in contravention of the approved use as per Schedule B, Part 2.1, Section 2 of the *Zoning Regulation Bylaw*. Further, a person may not permit unauthorized use or alteration of a building from its approved use as per Sec. 20 of the *Zoning Regulation Bylaw*. These are offences for which the penalty is a fine of \$200 and \$350 per day for each day that the offence continues.

To Contact

Telephone: 250.361.0215
E-Mail: bylawenforcement@victoria.ca

Fax: 250.361.0205
Web: www.victoria.ca

Building Bylaw

There are no record(s) of any permit (building, plumbing, and/or electrical) to make the structural or mechanical improvements required to convert this structure from its approved use as 5 LHK to its current advertised use as 6 LHK and 2 self-contained suites. There is a record of an approved building permit to convert the property from 5 LHK to 5 suites in 2005; however, this permit was cancelled by the Building Inspector, presumably because it had expired and/or due to inaction on the part of the applicant.

Although no permit(s) were obtained, it is evident from the floor plans contained within the information package that work was done to change the use and reconfigure the approved layout of this structure. Completing work and/or changing the occupancy of a building without a building permit are an offence as per Sec. 2.2(1) of the *Building Bylaw*. Also, occupying or permitting the occupancy of a building without an approved occupancy permit is an offence as per Sec. 2.2(2) of the *Building Bylaw*. These are both offences for which the penalty is fines of \$400 per day for each day that the offence continues.

As this property is currently listed for sale and is being actively marketed it has been identified as a priority for enforcement action. Therefore, it is necessary that you ensure full disclosure is made to any and all prospective purchasers and/or other interested parties. Further, you are hereby directed to take the following action:

1. Make application for the building, plumbing, and/or electrical permit(s) required to return this property to a permitted use under the current zoning by April 30, 2014.
2. Complete all the work required to return this property to a permitted use under the current zoning and pass the final building inspection by June 30, 2014.

Failure to comply with the above direction will result in the issuance of fines, the placing of a notice on land title, and/or further legal action.

If you have any questions or require additional information please do not hesitate to contact me directly by telephone at 250.361.0578 or by email at adolan@victoria.ca

Regards,



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

Cc: Mark Hayden, Manager – Bylaw & Licensing Services
Ray Berkeley, Building Inspector
Mike Staples, Electrical Inspector
Andy Wilson, Plumbing Inspector
Lt. Brad Sifert, Fire Prevention Officer
Thom Pebernat, Zoning Administrator
Kim Ferris, Business License Inspector
Bylaw File #2889

Schedule B

J. Krajc
1146 Mason st.
Victoria BC, V8T1A6

March 30, 2014

Mr. Andrew Dolan:
Senior Bylaw Officer
City of Victoria
1 Centennial Square
Victoria, BC, V8W 1P6

Rec'd
APR 7/14
Dolan

RE: #821 Princess, Bylaw File #2889

Mr. Dolan,

As per your letter dated March 17th, I am writing to confirm that I have temporarily withdrawn the property from the market. Moving forward, I will need some time to properly research, and respond to your request.

Therefore, I would very much appreciate an extension of your deadline of June 30, 2014 to deal with this matter, which I trust will not pose any problem.

Sincerely,



J. Krajc



April 8, 2014

Legislative and
Regulatory Services
Department

Mr. Joseph F. Krajc
1146 Mason St.
Victoria, BC
V8T 1A6

Bylaw and Licensing
Services Division

Re: 821 Princess Ave. / Bylaw File #2889

1 Centennial Square
Victoria BC V8W 1P6

Dear Sir,

This letter is to confirm that I am in receipt of your letter dated March 30, 2014, and acknowledge that you have removed the property from the market pending the remediation of the work done without permit and the return to a legal use. I am, however, unable to grant you an extension to the established compliance deadline without first conducting a safety and compliance inspection.

The purpose of this inspection is to confirm that there are no immediate health and/or fire safety issues which may pose a risk to the safety of the residents occupying the building. Authority to conduct such an inspection is contained within Section 16(6) of the *Community Charter*. This inspection will be conducted by a small team of city, regional, and/or provincial inspectors.

In addition, the inspection will serve to determine the scope of the improvements made to the property without permit and/or inspection, which once completed, will assist you in determining an appropriate course of action. This inspection should take approximately 60 minutes and will require full access to all areas of the building, including each dwelling unit.

This is an important matter and your cooperation would be appreciated. Please contact me by April 17, 2014 in order to arrange a convenient date and time for this inspection. I can be reached at 250.361.0578 or by email at adolan@victoria.ca

Regards,

A handwritten signature in black ink, appearing to read "Andrew Dolan", followed by a horizontal line.

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

To Contact

Telephone: 250.361.0215
E-Mail: bylawenforcement@victoria.ca

Fax: 250.361.0205
Web: www.victoria.ca



May 29, 2014

Legislative and
Regulatory Services
Department

Mr. Josef F. Krajc
1146 Mason St.
Victoria, BC V8T 1A6

Re: 821 Princess Ave. / Bylaw File #2889

Bylaw and Licensing
Services Division

Dear Sir,

1 Centennial Square
Victoria BC V8W 1P6

This letter is a follow-up to the safety and compliance inspection that was conducted at 821 Princess Avenue on May 15, 2014. The inspection revealed a number of safety issues, and the subsequent search of city records have confirmed that this property is in violation of a number of city bylaws, including but not limited to, the *Zoning Regulation Bylaw*, *Building Bylaw*, *Plumbing Bylaw*, and the *Electrical Safety Regulation Bylaw*. These safety issues and bylaw violations are significant and so they will be explained in detail below:

Zoning Regulation Bylaw

This property is zoned R-2, Two Family Dwelling and the legal use of the structure according to City records is 5 light-housekeeping units (LHK). The inspection revealed that there are currently 7 light-housekeeping units, and one 3 bedroom self-contained suite at the rear of the structure. Not only has the use and occupancy changed, but the physical layout of the structure differs significantly from that which was originally approved by the City of Victoria.

A person must not use or occupy, or allow or permit another person to use or occupy land or a building in contravention of the approved use as per Schedule B, Part 2.1, Sec. 2 of the *Zoning Regulation Bylaw*. This is an offence for which the penalty is a fine of \$200 per day for each day that the offence continues. Further, a person may not permit unauthorized use or alteration of a building from its approved use as per Sec. 20 of the *Zoning Regulation Bylaw*. This is an offence for which the penalty is a fine of \$350 per day for each day that the offence continues.

Building Bylaw

The inspection revealed a number of safety issues and violations related to a substantial amount of building work that has been done without permit and/or inspection. The Building Inspector's report of his findings is very comprehensive and includes a list of items that require correction in order to bring this property into compliance. The complete report is enclosed for your review.

Completing work and/or changing the occupancy of a building without a building permit are an offence for which the penalty is a fine of \$400 per day as per Sec.

To Contact

Telephone: 250.361.0215
E-Mail: bylawenforcement@victoria.ca

Fax: 250.361.0205
Web: www.victoria.ca

2.2(1) of the *Building Bylaw*. Occupying or permitting the occupancy of a building without an approved occupancy permit is an offence with an additional fine of \$400 per day as per Sec. 2.2(2) of the *Building Bylaw*.

Plumbing Bylaw

The inspection revealed a number of safety issues and violations related to a substantial amount of plumbing work that has been done without permit and/or inspection. The report prepared by the Building Inspector also serves to describe the scope of the unpermitted plumbing work. This unpermitted work constitutes numerous offences for which there are penalties. The fine for completing work without a valid plumbing permit alone is \$400 per day as per sec. 6(1) of the *Plumbing Bylaw*.

Electrical Safety Regulation Bylaw

The inspection revealed a number of safety issues and violations related to a substantial amount of electrical work that has been done without permit and/or inspection. The Electrical Inspector has already provided you with a copy of his certificate of inspection and ordered you to retain a certified Electrician to conduct an electrical safety survey of the structure and correct all deficiencies. Electrical permits and follow-up inspection will be required as completing electrical work without a valid electrical permit is an offence for which the penalty is a fine of \$400 per day as per Sec. 5(1) of the *Electrical Safety Regulation Bylaw*.

Notwithstanding the order that has already been given you by the Electrical Inspector and/or the Fire Inspector, you are hereby directed to take the following action:

1. Make application for the building, plumbing, and/or electrical permits required to return this property to a permitted use by July 31, 2014.
2. Complete all the work required to return this property to a permitted use, pass all follow-up inspections, and obtain a valid occupancy permit by September 30, 2014.

FAILURE TO COMPLY WILL RESULT IN THE ISSUANCE OF FINES, THE PLACING OF A NOTICE ON THE LAND TITLE, AND/OR FURTHER LEGAL ACTION.

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

Regards,



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

Cc: Ray Berkeley, Building Inspector
Philip Corby, Electrical Inspector
Andy Wilson, Plumbing Inspector
Lt. Brad Sifert, Fire Inspector
Karen Brown, Coordinator – Permits/Office Administration

Top floor:

Some of these conditions may have been approved when the City approved the use of the 5 Light House Keeping units (LHK). Conditions that were approved at the time the building was made a 5 LHK may be retained as legal nonconforming as per page 6 of the BCBC under 1.1.1.2.(1). if the building is returned to its original use with the same layout as original.

Top floor:

1. Top Floor South side there is a room being used for storage that has no fire separation from the LHK room beside. There has been some insulation and vapour barrier installed somewhat recently as a maintenance project. No fire separation to unit E and no fire separation to the corridor.
2. Unit E is a 1 sleeping room unit that has a low ceiling height that is at the entry of the sleeping room.
3. Unit D has a low door way into the kitchen as well as a low ceiling height.

Main floor:

1. LHK A and B both have sliding doors that would not comply with the requirement of egress doors to swing on a vertical access.
2. Unit B has an existing coal burning open mouth fire place.
3. Unit A has a hasp on the outside of the egress door. I mentioned to the owner that this is a serious concern as anyone can lock the occupant in the LHK.
4. Unit 1 (the 3 bedroom unit at the rear of the building)
5. Unit 1 has low door heights.
6. There are residential smoke alarms in unit 1 but only in 1 bedroom.
7. Unit 1 has doors to the lobby that have been boarded over.

Lowest floor level/basement

1. There is one step down into the shared laundry room from the exterior of the building that is not fire separated from the balance of the corridor or to the 2 LHK units that are adjoined to the corridor that appear to be WWP.
2. None of the Plumbing on the basement floor area was permitted.
3. There are storage areas in the basement as well as a furnace room. It is unclear as to how many units the forced air furnace serves at this time. The ceiling and walls are not complete in the furnace room. In one place there is a batt of insulation that is part of the fire separation. This is a lack of fire separation. There may be other concerns of fire separations in the storage rooms as well as in line duct smoke detectors that would be required to be connected to the Central Fire Alarm System.
4. The basement has a bathroom that was WWP.
5. The LHK on the East side has a residential smoke alarm.

6. There is a duct that has 1.9 m or 6'-3" of ceiling height under it.
7. In the basement West side LHK has a bedroom but has no bedroom window for egress purposes as required by 9.9.10.1. of the BCBC.

Main Building conditions:

1. None of the units have rated doors.
2. Number of units is currently is: Top floor 3 LHK units, main Floor 2 LHK as well as one 3 bedroom apartment and there are also 2 LHK in the lowest floor level/basement. This is a total of 7 LHK and one 3 bedroom apartment compiling an possible occupant load of 20. This occupant load combined with the number of units would require a Central Fire Alarm System that would need to meet the requirements of the current BCBC as the occupant load has been increased without permit from what the City has originally approved.
3. There are egress/exiting issues that do not comply with each floor
4. There are protection of exit issues that do not comply with 9.9.4. of the BCBC on both sides of the building.
5. There is an interconnected floor spaces between the main and top floor.
6. None of the units have rated doors on any floors.
7. There is a existing fire escape.
8. Only a few units have smoke alarms.
9. There is a lack of compliant fire separations between units and other areas such as storage areas; this includes fire stopping of service penetrations.
10. There were no emergency lights noted on site.
11. The building has a very basic 2 wire Fire Alarm System.
12. Two of the LHK doors were covered up at the rear of the main lobby.
13. The lobby is not rated as an exit even though it is being used as one.
14. There are no graspable rails in or outside.
15. There are not BCBC compliant guards on the stair in or outside.
16. There is a small storage room at the rear wall of the building that is not fire separated to the balance of the floor area of the basement and the ceiling of this room is not Fire Separated to the unit above. This room is currently full of wood storage.
17. The fire escape is subject to protection of exit issues that do not comply with 9.9.4. of the BCBC.



**Sustainable
Planning and
Development
Services
Department**

Permits and Inspections

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

Tel (250) 361-0342

Fax (250) 385-1128

www.victoria.ca

July 2, 2014

Josef Krajc
1146 Mason Street
Victoria BC V8T 1A6

Re: 821 Princess Avenue

An electrical inspection was conducted at this address on May 15, 2014. This revealed a number of electrical code and safety issues.

As a consequence, a certificate of inspection was issued requiring you to hire an electrical contractor to conduct a safety survey and make any required corrections. The work was to be done with an electrical permit before June 16, 2014.

This date has past and we have no record of this survey being done. If not completed within the next two weeks, we may remove electrical energy from this address.

If you have any questions please don't hesitate to contact me.

Yours truly,

A handwritten signature in dark ink, appearing to read 'Philip Corby', with a long horizontal stroke extending to the right.

Philip Corby
Electrical Safety Officer

PC/sp



THIS MAP IS NOT TO BE USED FOR NAVIGATION



Legend
 Victoria Parcels

1: 440



Notes

22.4 0 11.18 22.4 Meters
 NAD_1983_CSRS_UTM_Zone_10N
 Public domain: can be freely printed, copied and distributed without permission.

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Schedule H



821 PRINCESS AVE.

Dolan.

Schedule I





