



**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.

Legislative and
Regulatory
Services
Department

Legislative Services

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

Tel (250) 361-0571

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www.victoria.ca



June 17, 2014

David Barber
Cindy Barber

Dear David and Cindy Barber:

Re: Work Without Permit – 201 Ontario 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 201 Ontario 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, July 3, 2014, 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, by Thursday, June 26, 2014.

Yours truly,

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

Robert G. Woodland
Corporate Administrator

:jda

Enclosure (1)

c. M. Frankl, Bylaw Officer
M. Hayden, Manager, Bylaw & Licensing Services
Royal Bank of Canada



Planning and Land Use Committee Report

For the Meeting of July 3, 2014

To: Planning and Land Use Committee **Date:** June 3, 2014
From: Robert Woodland, Director of Legislative and
Regulatory Services
Subject: Notice on Land Title – Work without permit at 201 Ontario Street

Executive Summary

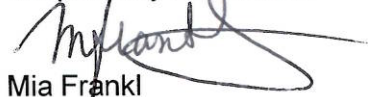
The purpose of this report is to recommend the filing of a notice on the land title in respect to work that has been done without permit to expand the liveable space of this two family dwelling by converting the attic into two bedrooms, a bathroom and a kitchenette. The owner has not made application to obtain a new occupancy permit nor have they sought building, plumbing, or electrical permits to return the property to an approved configuration and are aware the city may place a Notice on the Land 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 201 Ontario Street, legally described as LOT 25, PLAN 733, VICTORIA PARCEL B, W PT, 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,


Mia Frankl
Bylaw Officer
Bylaw and Licensing Services


Mark Hayden
Manager
Bylaw and Licensing Services



Robert Woodland
Director
Legislative and Regulatory Services

Report accepted and recommended by the City Manager: _____



Date: June 17, 2014

List of Attachments

- Appendix A – Map of residential neighbourhood
- Appendix B – Photos of the expansion in the attic – October 11, 2013
- Appendix C – Letter to owner with bylaw direction – October 21, 2013
- Appendix D – Follow up letter to owner with bylaw direction – March 6, 2014

Purpose

The purpose of this report is to advise the Planning and Land Use Committee about the illegal occupancy and unpermitted work at 201 Ontario Street 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 expand the liveable space of this two family dwelling by converting the attic into two bedrooms, a bathroom and a kitchenette.

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 *BC Building Code*.

Issues & Analysis

The property at 201 Ontario Street is located in the James Bay neighborhood, and is zoned as R-2, two family dwelling district. The approved use of the property per the approved building plans is a single family dwelling with a basement suite. The property was inspected originally on October 2, 2008 and again on October 11, 2013. The 2013 inspection confirmed that a substantial amount of work had been completed without permit in the attic. While these inspections confirmed that the building and use do not comply with the City's bylaws, there was

nothing observed by the Bylaw Officer during the inspections that indicated that the work performed represented a risk to the health or safety of the occupants.

Options & Impacts

The filing of a notice on a 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 pursuant to s.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 expand the liveable space of this rental duplex by converting the basement to a finished suite. The notice can be easily removed once the property has been brought into compliance. Additional enforcement measures may be considered in the future should the non-compliance continue, and particularly if additional information comes to the attention of the City that the unlawful work and/or use present a public health or safety concern.

Public Engagement and Consultation

Committee consideration of this matter requires a hearing at which time the affected property owner may make a presentation directly to the Committee in respect to the recommendation or a related issue. Other members of the public who have a direct interest in this matter may also provide input to the Committee, at the discretion of the Committee.

Conclusion

Given the owner's ongoing failure to comply and the uncertainty of how effectively this property may be managed in the future, the investigating Bylaw Officer and the Manager of Bylaw and Licensing Services have determined that the appropriate course of action at this time is to proceed with filing a notice on the land title. Doing so will ensure that full disclosure is made to a prospective purchaser and/or lender should this property be listed for sale or sold.

Recommendation

The Building Inspector recommends:

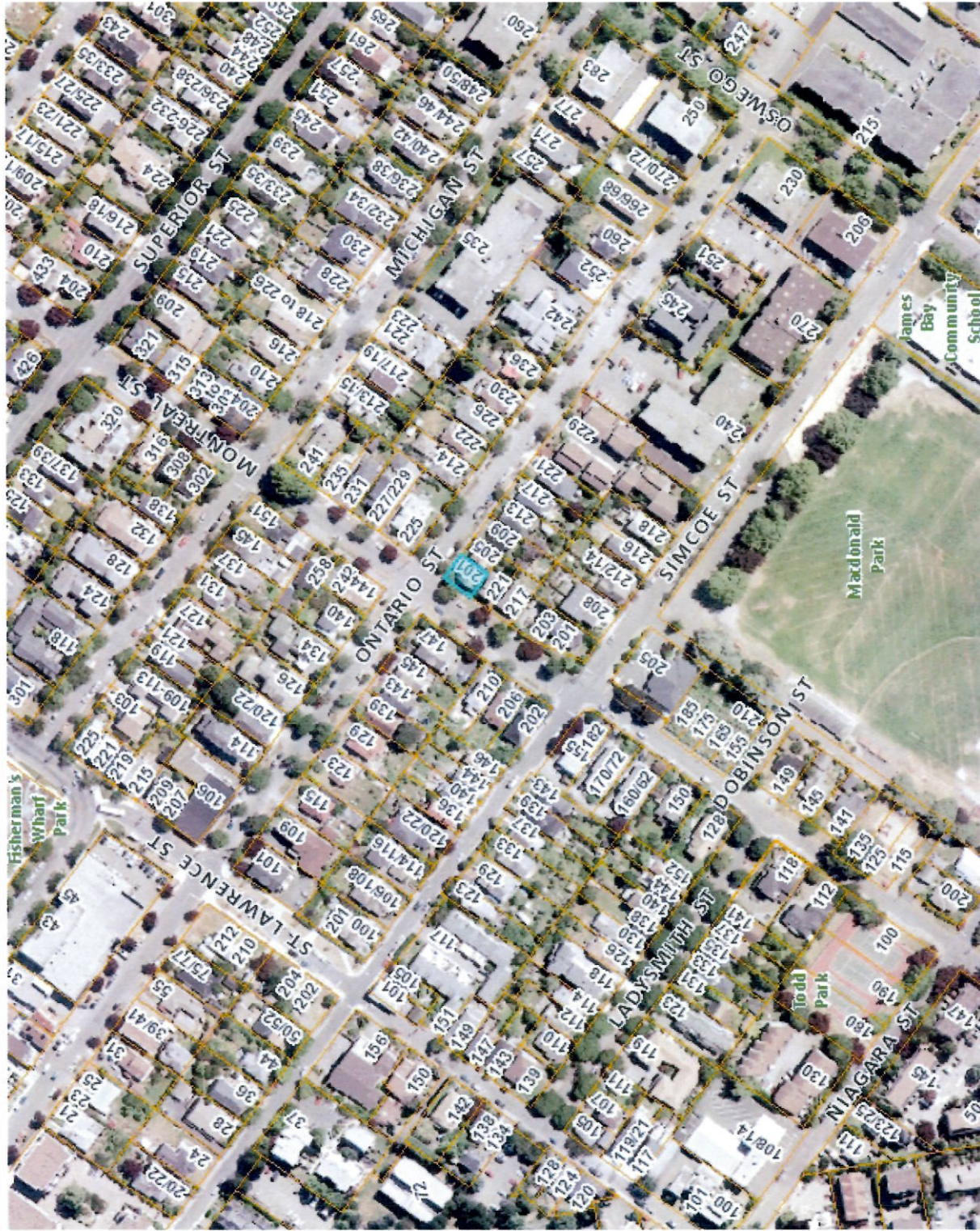
1. That the Committee direct the Corporate Administrator to file a notice in the Land Title Office in relation to the property located at 1060 Queens Ave., legally described as **LOT 25 PLAN 733 VICTORIA PARCEL B, W PT** indicating that a resolution relating to this property has been made under the authority 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.



Legend
 Victoria Parcels

1: 2,692

Notes



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

136.7 68.37 136.7 Meters
 NAD_1983_CSRS_UTM_Zone_10N
 Public domain: can be freely printed, copied and distributed without permission.





10/11/2013 09:46



10/11/2013 09:46



10/11/2013 09:47



October 21, 2013

Legislative and
Regulatory Services
Department

Dave Barber
201 Ontario Street
Victoria, B.C.
V8V 1N1

Re: 201 Ontario Street, Victoria / Bylaw File #36111

Bylaw and Licensing
Services Division

Dear Sir,

1 Centennial Square
Victoria BC V8W 1P6

This letter is a follow-up to the inspection conducted at 201 Ontario Street on October 11, 2013. The inspection confirmed that there has been work completed without permit – namely the addition of two bedrooms and a bathroom in the attic.

As a result, you are hereby directed to make application for the building, plumbing and electrical permits to ensure that the work meets municipal regulations. **You are granted until December 13, 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.

Regards,

A handwritten signature in black ink, appearing to read "Mia Frankl".

Mia Frankl
Bylaw Officer

To Contact

Telephone: 250.361.0215

Fax: 250.361.0205

E-Mail: bylawenforcement@victoria.ca

Web: www.victoria.ca

City of Victoria is a treaty nation. We are located on the traditional territories of the Lekwiltet, Kwakwaka'wakw, and Esquimalt Nations. In whose traditional territories we live and work "Hay swx qa"



Legislative &
Regulatory
Services
Department

March 6, 2014

David Barber
201 Ontario Street
Victoria, B.C.
V8V 1N1

Bylaw & Licensing
Services Division

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

Tel (250) 361-0215

Fax (250) 361-0205

www.victoria.ca

Re: Work without permit at 201 Ontario Street, Victoria B.C.
Bylaw File # 36111

Dear Sir,

This letter is a final notice to you to make application with the City to bring your property at 201 Ontario Street into compliance with the Zoning Regulation Bylaw, Building Bylaw, Plumbing Bylaw and Electrical Safety Regulation Bylaw.

Following the inspection of this property on October 11, 2013 you were directed to make application with the City to correct the expansion of occupancy space in the attic of this property. To date you failed to do so. As a result, you are hereby granted a final 30 days to submit an application and obtain the required permits from Permits and Inspections to legalize this work.

If you fail to make application by **April 14, 2014** a Notice on Title report will be submitted to Council for their consideration. If you have any questions or concerns, please contact me directly by telephone at 250-361-0540 or by e-mail at mfrankl@victoria.ca. Your attention to this matter is appreciated.

Regards,

A handwritten signature in black ink, appearing to read "Mia Frankl", written over a horizontal line.

Mia Frankl
Bylaw Officer

CC Phil Corby, Electrical Inspector
Don Kitchen, Building Inspector
Brian Husband, Chief Plumbing Inspector