

Planning and Land Use Standing Committee Report

Date: Jan 16, 2014 **From:** Robert Woodland, Director
Legislative and Regulatory Services
Subject: Request for Notice on Title for Work without permit – 252 Richmond Ave.

Executive Summary

The purpose of this report is to recommend the filing of a notice on title with respect to work that has been completed without a building permit (the construction of a carport). The property owner was directed to either remove the structure or to obtain approval for a zoning variance, to successfully comply with the building permit process for the work completed without a permit. The owner obtained approval from the Board of Variance on May 23, 2013, but as of this date, has not submitted a building permit application.

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 252 Richmond Avenue, legally described as **Lot 13 Plan 2114 Section 19 Victoria**, 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,

John Kitson
Bylaw Officer
Bylaw & Licensing Service

Mark Hayden
Manager, Bylaw and Licensing
Services (Building Inspector)

Robert Woodland
Director
Legislative & Regulatory Services

List of Attachments

Appendix A – Bylaw enforcement letter to property owner dated October 19, 2012

Appendix B – One (1) exterior photograph of the subject property taken October 15, 2012

Purpose

The purpose of this report is to advise the Planning and Land Use Standing Committee about the conditions and illegal use of the property at 252 Richmond 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 create a carport by erecting a roof over a portion of the driveway.

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 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 Delegation Bylaw, Council has delegated the authority to hold hearings and make decisions under Sec. 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 and Analysis

The property at 252 Richmond Ave. is located in the Gonzales neighbourhood in the R1-G, Gonzales Single Family Dwelling District. The approved use of the property per the approved building plans is single family dwelling (SFD). The City received a written complaint from an adjoining neighbour about the erecting of a roof over the driveway. An investigation revealed that a carport had been created without a building permit and was in violation of the Zoning Regulation Bylaw.

The property owner was directed to either remove the said roof or to get approval from the Board of Variance and to complete the building permit process. An extension was granted to the property owner in November 2012 so she could submit the application to the Board of Variance. The owner obtained approval from the Board of Variance on May 23, 2013 but as of this date has not submitted a building permit application.

Options and 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 create a carport. The notice can be easily removed once the property has been brought into compliance.

Official Community Plan Consistency Statement

The enforcement action recommended in this report is being sought in order to ensure that improvements made on the property and the use of the property are in compliance with the provisions of the Zoning Regulation Bylaw and the Building Bylaw as appropriate. This in turn helps ensure congruency with the OCP.

Financial and Staff Capacity Assessment

Staff has spent approximately 4 hours working on this file in order to obtain compliance. Filing of a Notice on Title (as recommended) will cost the City \$47.30.

Public Engagement and Consultation

Committee consideration of this matter requires a public 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 failure to comply and the continuing unpermitted use 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 ensure that full disclosure is made to a prospective purchaser and/or lender should this property be listed for sale.

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 737 Princess Avenue, legally described as **Lot 13 Plan 2114 Section 19 Victoria**, 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.



**Legislative &
Regulatory
Services
Department**

Bylaw & Licensing
Services Division

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

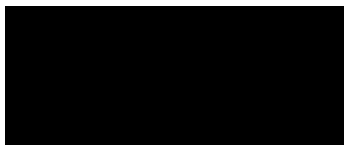
Tel (250) 361-0577

Fax (250) 361-0205

jkitson@victoria.ca

www.victoria.ca

Oct 19, 2012



RE: 252 Richmond Ave, Victoria BC/ Bylaw File # 27283

Dear Rochelle Eveleigh,

This letter is to advise you that the City of Victoria Bylaw & Licensing Services Division has received a formal complaint regarding the carport that has been erected at 252 Richmond Avenue. I attended your property on October 15th, 2012 and confirmed the allegations and documented the bylaw contraventions (see enclosed photo). This carport was completed without a building permit and is too close to the property line which violates the Zoning Regulation Bylaw.

The purpose of the City's Building Bylaw and Zoning Regulation Bylaw are to regulate, prohibit, and impose minimum standards. Copy of the pertinent sections of the Zoning Regulation Bylaw and the Building Bylaw are attached for your information.

Your immediate attention to this matter is required as I am providing you notice that you have until November 30th, 2012 to remove the carport from your property and ensure you are in compliance with section 2.2(1) of the Building Bylaw and section 20 of the Zoning Regulation Bylaw. You also have the option of applying for a building permit for this carport. An application to the board of variance is required. For the building permit to be approved the Board of Variance will have to grant an exception for this illegal construction. The deadline for the applications to be submitted is November 30, 2012.

Failure to comply by November 30, 2012 may result in:

- the laying of charges for violating section 2.2(1) of the Building Bylaw, and/or
- the laying of charges for violating section 20 of the Zoning Regulation Bylaw.

Under the Ticket Bylaw a fine of \$400.00 per day can be assessed for the Building Bylaw and \$350 for the Zoning Regulation Bylaw.

If you have any questions or concerns, please contact me directly by telephone at 250.361.0577 or by e-mail at jkitson@victoria.ca.

Your attention to this matter is appreciated.

Yours truly,

A handwritten signature in black ink, appearing to read "John Kitson". The signature is written in a cursive style with a large initial "J" and "K".

John Kitson
Bylaw Officer



252

10/15/2012 10:42

Legislative and
Regulatory
Services
Department

Legislative Services

#1 Centennial Square

Victoria

British Columbia

V8W 1P6

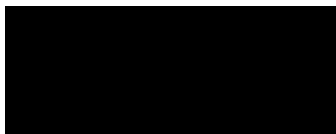
Tel (250) 361-0571

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January 30, 2014



Dear Rochelle Eveleigh:

Re: Work without Permit – 252 Richmond Avenue

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 252 Richmond Avenue. A copy of the report is attached for your records.

A hearing will be held before the Planning and Land Use Standing 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 Standing Committee meeting on **Thursday, February 20, 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 Christine Havelka, Committee Secretary, at (250) 361-0571 local 2306, if you have any written materials you wish added to the agenda, by Thursday, February 13, 2014.

Yours truly,

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

Robert G. Woodland
Corporate Administrator

:jda

Enclosure (1)

c. J. Kitson, Bylaw Officer
M. Hayden, Manager, Bylaw & Licensing Services