

Planning and Land Use Standing Committee Report

Date: Nov. 22, 2013 **From:** Robert Woodland, Director
Subject: Work without permit – 2315 Forbes Street. / Bylaw File #32430

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 expand the livable space of this rental duplex by converting the basements into suites, making a rental fourplex. The owner was directed to make application for building, plumbing, or electrical permits to return the property to an approved configuration and to date has not complied.

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 2315 Forbes Street, legally described as Lot A Plan 1239 Section 75 Victoria (DD 14081W), 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,

Earl Garner
Senior Bylaw Officer
Bylaw & Licensing Services

Rob Woodland
Director
Legislative & Regulatory Services

Mark Hayden
Manager
Bylaw & Licensing Services

List of Attachments

Appendix A – Two (2) exterior photographs of the subject property taken November 22, 2013

Purpose

The purpose of this report is to advise the Planning and Land Use Standing Committee about the illegal occupancy and unpermitted work at 2315 Forbes 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 livable space of this rental duplex by converting the basements to finished suites.

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 2315 Forbes Street is located in the Fernwood neighbourhood in an R-2, Two Family Dwelling District. The approved use of the property per the approved building plans is a Duplex. The property was inspected on May 22nd, 2013 and it was discovered that there were additional suites located in the basements of both sides of this duplex with address's of 2315 & 2317 Forbes Street..

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 expand the livable 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.

Official Community Plan Consistency Statement

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

Financial and Staff Capacity Assessment

Staff have spent approximately 3 hours working on this file in order to obtain compliance. Filing of a Notice on Title (as recommended) will cost the City \$47.50.

Public Engagement and Consultation

Committee consideration of this matter requires a public hearing at which time the affected property owner may make direct representations to the Committee in respect of 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

The registered owner has made no attempt to address the current occupancy of this location and made no applications for permits to bring the property into compliance as per the registered legal use of Duplex. 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 prospective purchasers and/or lenders in the event that this property be listed for sale prior to the outstanding issues being satisfactorily resolved.

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 2315 Forbes Street, legally described as Lot A Plan 1239 Sec. 75 Victoria (DD 14081W), 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.



May 22, 2013

Legislative and
Regulatory Services
Department

Francisco Medeiros
Emily Medeiros
[REDACTED]
Victoria, BC V8N 6K3

Bylaw and Licensing
Services Division

1 Centennial Square
Victoria BC V8W 1P6

Re: Lot A Plan 1239 Section 75 Victoria(DD 14081W)(2315/17 Forbes Street)

Dear Francisco & Emily Medeiros,

This letter is a follow up to the site inspection that was conducted on your property, at 10:00 am May 22nd, 2013.

I would like to take this opportunity to say that I appreciate the welcome we received by you during this inspection. Your cooperation during the inspection process ensured a continued working relationship for the future.

As per our conversation, and a review of the registered building card within the City of Victoria, it was apparent that construction had been completed without permits being registered with the City of Victoria.

The current registered legal use is "Duplex", however the building is being rented as a fourplex.

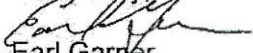
At this time you are directed to attend the Permits & Inspections Division within 150 days from the date of this letter, to make application for a change of use permit. The Permits & Inspection Division is located on the second floor, City Hall, #1 Centennial Square.

Please be advised failure to comply with this direction, will result in regulatory action being taken by the city concerning this matter.

If you require further information on this matter, please contact the Permits & Inspections Division.

Again thank you for your attention to this matter.

Yours truly,


Earl Garner
Senior Bylaw Officer
City of Victoria

To Contact

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

Fax: 250.361.0205
Web: www.victoria.ca

List of Attachments

Appendix A – Two (2) exterior photographs of the subject property taken November 22, 2013
Directional letter dated May 22, 2013

**Legislative and
Regulatory
Services
Department**

Legislative Services

#1 Centennial Square

Victoria

British Columbia

V8W 1P8

Tel (250) 361-0571

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January 6, 2014

Francisco Medeiros

Emily Medeiros

Victoria, BC V8N 6K3

Dear Francisco and Emily Medeiros:

Re: Work without Permit – 2315 Forbes 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 2315 Forbes 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, January 23, 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, January 16, 2014.

Yours truly,

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

Robert G. Woodland
Corporate Administrator

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Enclosure (1)

c. E. Garner, Senior Bylaw Officer

M. Hayden, Manager, Bylaw & Licensing Services



11/22/2013 10:44



11/22/2013 10:45