

## Planning and Land Use Standing Committee Report

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**Date:** December 5, 2013      **From:** Robert Woodland  
Director, Legislative & Regulatory  
Services  
**Subject:** Illegal accessory building – 732 Front Street / Bylaw File 33965

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### Executive Summary

The purpose of this report is to recommend the filing of a Notice on Title in respect to work completed without permit for the construction of an accessory building at 732 Front Street. The owner recognizes that this work was completed without permit and has stated that the process to bring the structure into compliance with City bylaws is too onerous for her to complete.

### Recommendation

The Building Inspector recommends:

- That the Committee direct the Corporate Administrator to file a notice on title in the Land Title Office in relation to the property located at 732 Front Street, legally described as LOT 3, SECTION 31, VICTORIA, PLAN 2344 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 and Regulatory Services Department in Victoria City Hall.

Respectfully submitted,

Mia Frankl  
Bylaw Officer  
Bylaw & Licensing Services

Mark Hayden,  
Building Inspector, Manager  
Bylaw & Licensing Services

Robert Woodland  
Director  
Legislative & Regulatory Services

## **List of Attachments**

Appendix A – Letter to owner dated July 29, 2013

Appendix B – Photos of the accessory building taken on October 16, 2013

Appendix C – Email from Building Inspector Berkeley with list of deficiencies dated November 19, 2013

## Purpose

The purpose of this report is to advise the Planning & Land Use Committee about the construction of an accessory building without permit at 732 Front Street and of the enforcement action that has been taken in order to secure voluntary compliance with Section 2.2(1) of the Building Bylaw and Schedule F of the Zoning Regulation Bylaw. This report sets forth a recommendation to the Committee that under Section 57(3) of the *Community Charter* and the provisions of the Property Maintenance Delegation Bylaw, a notice be filed in the Land Title Office in respect to the illegal accessory building in the backyard.

## 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 under Section 57 of the *Community Charter*, Council must give the Building Inspector and 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 decision under Section 57 of the *Community Charter* to the Planning and Land Use 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 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 732 Front Street is located in the Victoria West neighborhood in a R1-B, Single Family Dwelling District. The approved use of the property per the approved building plans is Single Family Dwelling and the residence conforms to this zoning regulation. However, there is an accessory building in the backyard which was built without permit and as a result violates the Zoning Regulation Bylaw and the Building Bylaw.

The owner was advised that the construction of the accessory building did in fact require a Building Permit from the City. A letter was sent to the owner on July 29, 2013 directing her to apply for a Building Permit. Upon receipt of the letter the owner and the investigating Bylaw Officer entered into a dialogue of the process involved to comply with the City's Bylaws. A Building Inspector attended on November 19, 2013 and was able to provide a list of the deficiencies under the British Columbia Building Code. Upon notifying the owner of the list of deficiencies, she stated she is unwilling to undertake the necessary steps to make the building comply with the Zoning Regulation Bylaw and the Building Bylaw as it is too much work and expense.



## Options and Impacts

The filing of a notice on 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 completed 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 violation in respect to the accessory building in the yard. 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 in compliance with the provisions of the Zoning Regulation Bylaw and Building Bylaw as appropriate. This in turn helps ensure congruency with the OCP.

## Financial and Staff Capacity Assessment

Staff has spent approximately 7 hours working on this file to obtain compliance. Filing 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 direct representations to the Committee in respect of the recommendation or 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 extensive list of deficiencies with the accessory building, the owner has indicated that she is not interested in pursuing the necessary steps to bring the building into compliance. As a result 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 provide incentive to the owner to bring the property into compliance.

## Recommendation

The Building Inspector recommends:

- That the Committee direct the Corporate Administrator to file a notice on title in the Land Title Office in relation to the property located at 732 Front Street, legally described as **LOT 3, SECTION 31, VICTORIA, PLAN 2344** 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 and Regulatory Services Department in Victoria City Hall.

Legislative &  
Regulatory  
Services  
Department

Bylaw & Licensing  
Services Division

#1 Centennial Square

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July 29, 2013

Tricia Holden  
732 Front Street  
Victoria, B.C.  
V9A 3Y4

**Re: 732 Front Street , Victoria BC/ Bylaw File # 33965**

Dear Madam,

The purpose of this letter is to advise you that the City of Victoria Bylaw & Licensing Services Division has received a formal complaint regarding the rebuilding of a structure in your back yard at 732 Front Street.

My investigation has included a review of building permits for said work and none were found as confirmed by you on our telephone conversation of July 24, 2013. You are hereby directed to contact the City's Permits and Inspections Department at 250-361-0344 to apply for a building permit.

Be advised that work without permit is in contravention of the City's Building Bylaw for which may result in the laying of charges for violating section 2.2(1) of the Bylaw, for which under the Ticket Bylaw a fine of \$400.00 per day can be assessed.

Regards,

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

Mia Frankl  
Bylaw Officer  
[mfrankl@victoria.ca](mailto:mfrankl@victoria.ca)  
250-361-0540



## Mia Frankl

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**From:** Ray Berkeley  
**Sent:** Tuesday, Nov 19, 2013 2:19 PM  
**To:** Mia Frankl  
**Subject:** RE: re: 732 Front St summary

Hi Mia,

Please see the items below.

Regards  
Ray

732 Front Street  
November 07, 2013

Upon a walkthrough of the rear yard of the above noted address are requested by the Bylaw Department I noted the below observations.

The Chicken coup is of the size that would not require a building permit as it is under the size that is required to comply with the building code.

The larger accessory building is of the size that a building permit is required. The below may not be a complete list but this is what I was able to observe from a walk through.

1. No foundation as per BCBC.
2. The exterior landing are not compliant with BCBC.
3. Windows do not appear to be A44o approved.
4. Bearing of the roof joists not as per BCBC. The roof framing has no purlins as per BCBC. This will make the roof ventilation difficult to meet the BCBC.
5. There is no light as per 9.34. of the BCBC.
6. The Cladding is not yet in place.
7. The floor framing is not able to be seen as the floor sheathing is in place and there is no crawl space access under the building.
8. The skylight is currently leaking and might not conform to the A44o standard as per BCBC.
9. There is a wall built over another wall with no floor system between. This is not compliant with 9.3. of the BCBC.
10. There is a lintel over the window that is likely over span and the location and number of the cripples does not comply with 9.23. of the BCBC.
11. The roof sheathing is not blocked and has no H clips. I could not see the thickness of the sheathing but it is possible that it is not as per the BCBC for the spacing of the joist and the thickness of the sheathing.
12. The owner does not have a BCLS so it I am unsure the setback from the PL to ensure compliance with the BCBC.
13. It may be prudent to discuss the required setbacks with the Zoning Department.

Ray Berkeley, RBO  
Building Inspector  
Permits & Inspections Division  
Sustainable Planning and Community Development Department  
City of Victoria  
1 Centennial Square, Victoria, BC V8W 1P6  
t: 250.361.0344 E 3 e: [rberkeley@victoria.ca](mailto:rberkeley@victoria.ca)

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Legislative Services

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January 7, 2014

Patricia Anne Holden  
732 Front Street  
Victoria, BC  
V9A 3Y4

Dear Ms. Holden:

**Re: Work without Permit – 732 Front 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 732 Front 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

:ja

Enclosure (1)

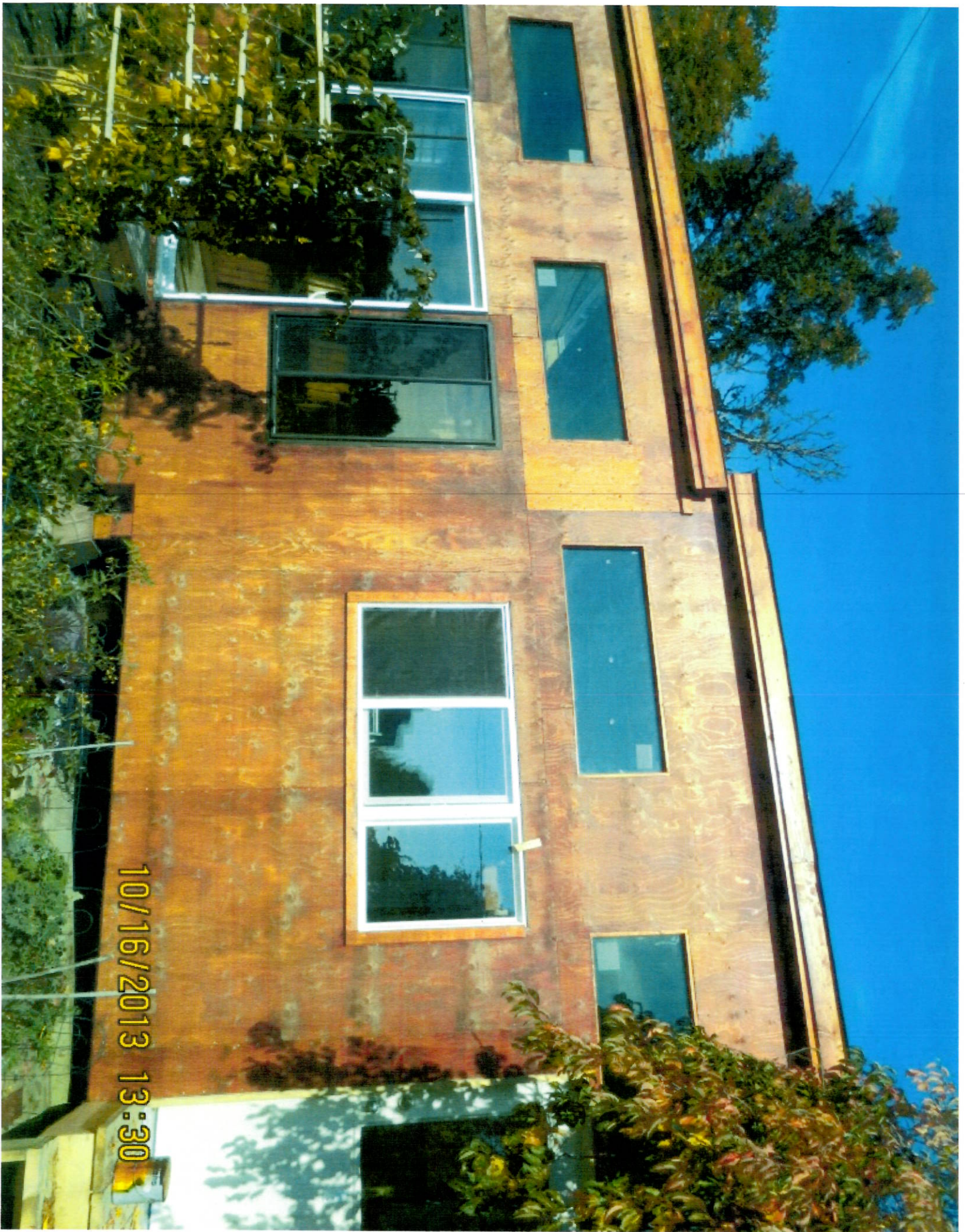
c. M. Frankl, Bylaw Officer  
M. Hayden, Manager, Bylaw & Licensing Services

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The City of Victoria recognizes the Songhees and Esquimalt Nations in whose traditional territories we live and work  
"Hay swx qa"



10/16/2013 13:30





10/16/2013 13:31

