



## Planning and Land Use Committee Report

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**Date:** March 28, 2014      **From:** Robert Woodland, Director  
Legislative and Regulatory Services  
**Subject:** Work without permit – 1060 Queens Ave. / Bylaw File #4375

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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 that has been done without permit to expand the livable space of this rental duplex by converting one basement into a suite, making a rental fourplex. 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 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 1060 Queens Ave., legally described as Lot 18, Block D, Section 3, Victoria, Plan 957, 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,

A handwritten signature in black ink, appearing to read "Earl Garner".

Earl Garner  
Senior Bylaw Officer  
Bylaw & Licensing Services

A handwritten signature in blue ink, appearing to read "Mark Hayden".

Mark Hayden  
Manager  
Bylaw & Licensing Services

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

Robert Woodland  
Director  
Legislative & Regulatory Services

Report accepted and recommended by the City Manager:

Date:

A handwritten signature in blue ink, appearing to read "Mark Hayden".  
March 30, 2014

## **List of Attachments**

- Appendix A – Bylaw enforcement letter to property owner dated October 17, 2013
- Appendix B – Two (2) exterior photographs of the subject property taken October 2, 2008
- Appendix C – Three (3) exterior photographs of the subject property taken October 11, 2013
- Appendix D - Two (2) interior photographs of the suspected suite taken October 11, 2013
- Appendix E – Map showing location of subject property – VicMap (Internal Version)

## **Purpose**

The purpose of this report is to advise the Planning and Land Use Standing Committee about the illegal occupancy and unpermitted work at 1060 Queens Ave., 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 basement to a finished 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 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 *BC Building Code*.

## **Issues and Analysis**

The property at 1060 Queens Ave. 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 triplex. The property was inspected originally October 2nd, 2008 and again on October 11th, 2013. Upon inspection it was discovered that there was an additional suite located in the basement of this dwelling, and it was also revealed that a substantial amount of work had been completed without permit. 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 and 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 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. 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.

## 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 have spent approximately 23 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 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 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 18, Block D, Section 3, Victoria, Plan 957**, 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.



COPY

October 17, 2013

Legislative and  
Regulatory Services  
Department

Raymond W. Campbell  
Barbara Kennelly  
[REDACTED]

Bylaw and Licensing  
Services Division

1 Centennial Square  
Victoria BC V8W 1P6

**Re: Lot 18, Block D, Section 3, Victoria, Plan 957(1060/1062 Queens Ave)**

Dear Raymond Campbell & Barbara Kennelly,

This letter is a follow up to the site inspection that was conducted on your property, at 11:00 am October 11<sup>th</sup>, 2013.

As per our conversation, and a review of the registered building card within 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

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To Contact

Telephone: 250.361.0215  
E-Mail: [bylawenforcement@victoria.ca](mailto:bylawenforcement@victoria.ca)

Fax: 250.361.0205  
Web: [www.victoria.ca](http://www.victoria.ca)





02.10.2008 10:29





02.10.2008 10:29





10/11/2013 11:34





10/11/2013 11:36





10/11/2013 11:35

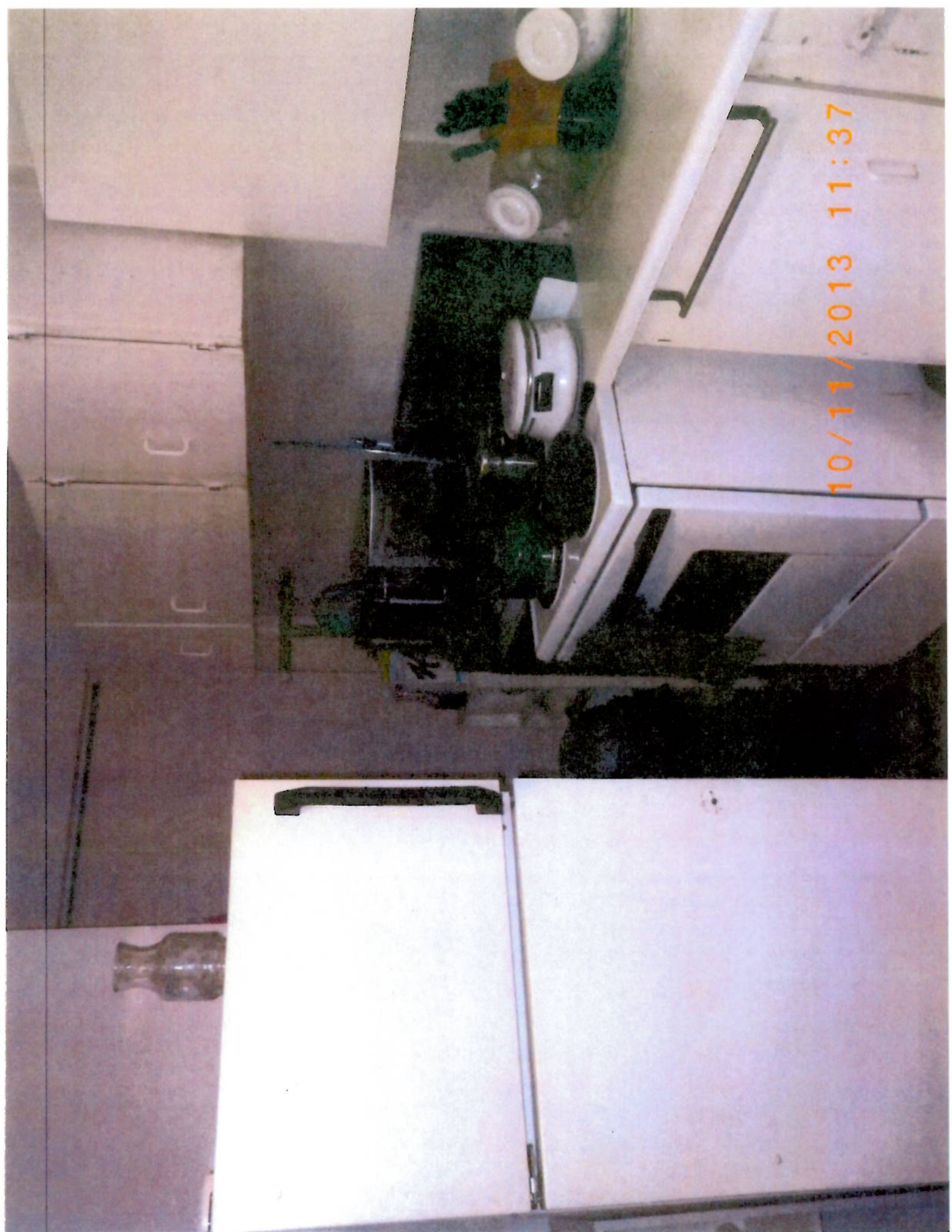




10/11/2013 11:37



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**Legend**  
Victoria Parcels

1: 449



**Notes**

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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.

NAD\_1983\_CSRS\_UTM\_Zone\_10N

Public domain: can be freely printed, copied and distributed without permission.

THIS MAP IS NOT TO BE USED FOR NAVIGATION



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Department**

Legislative Services

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British Columbia

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April 1, 2014

Raymond W. Campbell  
Barbara Kennelly

Dear Raymond W. Campbell and Barbara Kennelly:

**Re: Work Without Permit – 1060 Queens 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 1060 Queens Avenue. 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, April 17, 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, April 11, 2014.

Yours truly,

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

Robert G. Woodland  
Corporate Administrator

:jda

Enclosure (1)

c. E. Garner, Senior Bylaw Officer  
M. Hayden, Manager, Bylaw & Licensing Services