



Corporate Report

NO: R263

COUNCIL DATE: December 5,

2003

REGULAR

TO: Mayor & Council DATE: December 10, 2003

FROM: City Solicitor FILE: 09265-15600
XC: 5400-80-15600

SUBJECT: Condition of Property at 9265 - 156 Street (the "Property")

RECOMMENDATION

1. That Council give first reading to the by law set out in Appendix "B" (the "Proposed By law") pursuant to Section 698 of the *Local Government Act*, R.S.B.C. 1996, c. 323 (the "*Local Government Act*") to declare the Property to be unsightly and in violation of the *Surrey Community Improvement and Unsightly Property By law*, 1997, No. 13150 (the "Unsightly By law").
2. That the registered owner of the Property (the "Owner") be requested to attend council on January 19, 2004 in order to speak to the Proposed By law.
3. That after affording the Owner an opportunity to be heard, Council pass the Proposed By law and order the removal of the unsightly conditions from the Property.

INTENT

It is the intent of this report to advise Council of the condition of the Property, which staff believe is unsightly and in violation of the Unsightly By law, and to justify the Proposed By law which would require the Owner to bring the Property into compliance with the Unsightly By law.

HISTORY

April 5, 1984

Permits and License Department received a complaint from a neighbour regarding wrecked vehicles, overweight vehicles and the general unsightliness on the Property.

February 21, 1986

Permits and License Department received a complaint from a second neighbour regarding the unsightly condition of the Property, described by the complainant as a "junk yard".

March 27, 1986

An inspection revealed construction material and scrap metal on the Property.

December 4, 1986

Permits and License Department received a complaint regarding the unsightliness of the Property.

March 31, 1988

Letter sent to the Owner from Permits and License Department stating that commercial and industrial goods are being stored on the property contrary to "Uses Limited," Part II of *Surrey Zoning By law*, 1979, No. 5942, and requiring the removal of the material by April 27, 1988.

April 14, 1988

Letter sent to the Owner of the Property from Permits and License Department stating recent inspection of the Property

indicates that commercial and industrial goods are being stored on the Property contrary to "Uses Limited", Part II of Surrey Zoning By law, 1979, No. 5942, and requiring the removal of the material by June 1, 1988.

November 21, 1991

Permits and License Department received a complaint from a different neighbour of old fridges, tires, washers and dryers, describing the Property as "whole place is like a junk yard". An inspection of the Property was conducted and found to contain washers, dryers, propane canisters, fridges, lawnmowers, two unlicensed vans, an old cadillac and tires.

December 6, 1991

Letter sent to the Owner advising of the condition of the Property and the contravention of the Surrey Zoning By law, 1979, No. 5942 and the Unsightly By law.

December 18, 1991

Inspection conducted, no change in condition of the Property.

January 7, 1992

Inspection conducted, no change in condition of the Property.

January 13, 1992

Inspection conducted, no change in condition of the Property.

January 16, 1992

Inspection conducted, no change in condition of the Property.

January 17, 1992

Owner of the Property advised the Permits and License Department by phone that he was selling his business and required an additional month to remove the material. He was given a two week extension to remove the material.

February 5, 1992

Inspection conducted of the Property which noted an improvement and the removal of materials.

February 11, 1992

Owner of the Property advised the Permits and License Department by phone that he was continuing to clean the Property.

March 9, 1992

Inspection conducted of the Property, which noted most of the materials removed.

May 27, 1992

Inspection conducted of the Property, which noted the Property clean of materials.

June 18, 1997

By law Enforcement received two complaints from neighbours of stoves, fridges, vehicles and the unsightliness of the Property.

June 20, 1997

By law Enforcement conducted an inspection of the Property which revealed a quantity of used furniture, appliances, auto parts, propane tanks, vehicles and other debris stored on site. The officer spoke to the Owner and advised him of the contravention of the Unsightly By law and the requirement to remove the materials. The Owner stated he would start to clean up the Property. He was advised by the officer that due to the extreme unsightliness of the Property and the history of the Property the officer would monitor the site to ensure progress of the clean up was maintained.

July 10, 1997

Registered letter sent to the Owner of the Property advising of the contravention of the Unsightly By law and the need to bring the Property into compliance, including the consequence of failing to comply with the request. By law Enforcement received confirmation that the Owner of the Property received the registered letter.

February 25, 1998

By law Enforcement continued to inspect the Property since July of 1997 and noted a continued improvement and the removal of material from the Property during this time. However, the Owner of the Property reverts to bringing additional material back to the Property and must be monitored. He has erected a solid fence around the Property to block the material from being observed from the street.

March 13, 1998

By law Enforcement conducted an inspection of the Property and noted continued improvement.

April 15, 1998

By law Enforcement conducted an inspection of the Property and noted continued improvement. However, it was noted that wrecks remain on site and the Property still requires material to be removed.

April 28, 1998

By law Enforcement conducted an inspection of the Property and spoke the Owner who stated he would remove the wrecked vehicles and material right away.

May 22, 1998

By law Enforcement conducted an inspection of the Property and noted continued improvement and removal of the wrecked vehicles.

June 17, 1998

By law Enforcement conducted an inspection of the Property and noted continued improvement.

June 23, 1998

By law Enforcement conducted an inspection of the Property and noted additional vehicles and materials had been placed on the front yard of the Property and were visible from the street. Officers spoke to the Owner who agreed to remove the vehicles and material from the front of the house. Property continued to be monitored.

December 7, 1999

Mayor and Council received a letter dated November 1, 1999, from a neighbour complaining that the Property was unsightly.

December 15, 1999

By law Enforcement conducted an inspection of the Property. Additional materials, vehicles have been added. Appliances, furniture, auto parts, plastic buckets, batteries vehicles, trailers, campers, etc. are stored around the Property.

December 17, 1999

By law Enforcement Officers hand delivered a notice to the wife of the Owner. Letter stated that the Property was in contravention of the Unsightly By law and Surrey Zoning By law, 1993, No. 12000 and ordered the Owner to remove the materials and vehicles and bring the Property in compliance with the by laws.

February 2, 2000

By law Enforcement conducted an inspection of the Property and noted no change in the amount of refuse, material and vehicles on the Property. Surrey Engineering Operations attended location to estimate the cost of removing the refuse and material to bring the Property into compliance.

February 7, 2000

By law Enforcement received an Engineering Operations estimate of **\$29,600.00** to remove the rubbish and material to bring the Property into compliance with the Unsightly By law.

September 13, 2000

By law Enforcement attended the Property to speak with the Owner. The Owner was on the roof repairing it and therefore, was unavailable to speak with the Officer. The Officer left her business card and asked the Owner to call.

September 20, 2000

By law Enforcement attended the Property and spoke with the Owner. The Owner stated he was slowly getting the work done.

February 15, 2001

By law Enforcement conducted an inspection of the Property and noted very little change in the number of items accumulated in the north side yard.

February 21, 2001

By law Enforcement attended the Property and spoke with the Owner and asked him about clean up. The Owner stated he would resume clean up of the Property once the weather warmed up. The Owner was told a

corporate report would be sent to Council to order clean up of the Property.

April 27, 2001

By law Enforcement received two complaints of stoves, fridges, vehicles and the unsightliness of the Property.

September 10, 2002

By law Enforcement conducted an inspection of the Property and noted six wrecked vehicles in the rear of the Property and more debris than could be listed at the rear of the house. The Officer spoke with the Owner who stated he would work harder to get the Property cleaned up. The Owner was again told that if the Property was not cleaned up, the City would take on the work at his cost.

September 25, 2002

By law Enforcement conducted an inspection of the Property and noted an unlicensed vehicle and debris in the front yard. No improvement was noted in the back yard. The Officer attempted to speak with the Owner, but no one would answer the door.

November 28, 2002

By law Enforcement conducted an inspection of the Property and noted what appeared to be more debris than ever. The Officer spoke with the Owner who stated he would not do any clean up until the weather improves next year.

December 5, 2002

A letter was sent double registered and regular mail to the Owner advising him that the Property was unsightly and that if he did not complete the clean up, the City would perform the work at his cost.

December 6, 2002

By law Enforcement received a complaint of the unsightliness of the Property.

January 7, 2003

By law Enforcement conducted an inspection of the Property. No change in the unsightliness of the Property was noted.

February 25, 2003

By law Enforcement received a copy of a complaint from Engineering stating the fence at the rear of the Property was falling down.

March 20, 2003

By law Enforcement received a complaint of the unsightliness of the Property.

January 24, 2003

By law Enforcement was advised by Engineering that the original clean up estimate of \$29,600.00 quoted in 2002 was still applicable.

March 26, 2003

A letter was sent double registered and regular mail to the Owner of the Property advising him of the cost of clean up.

April 4, 2003

The Owner called By law Enforcement and stated he would work on getting the Property cleaned up.

May 5, 2003

The Owner called By law Enforcement and stated he had sold the Property and would be moving soon, but would continue to clean up.

May 22, 2003

A letter was sent to the Owner giving a deadline of July 15, 2003 for the Property to be cleaned up.

July 15, 2003

By law Enforcement attended the Property. Some clean up had been done and the Owner had a front end loader to help with the clean up. Only two wrecked vehicles remained on the Property.

September 23, 2003

By law Enforcement attended the Property and although it appeared a bit more clean up had been done, the Property remains unsightly.

September 25, 2003

By law Enforcement attended the Property and took the photographs attached as Appendix "D" to this corporate report. The wife of the Owner advised that they planned to move at the end of the year and that the Property would be cleaned up before they leave.

DISCUSSION

The intent of the Unsightly By law is to protect the community from unsightly, hazardous and blighting conditions that contribute to the deterioration of neighbourhoods. By law Enforcement Officers have inspected the Property and have concluded that the Property is "unsightly" contrary to the Unsightly By law.

Given the violation of the Unsightly By law and the failure of the Owner to voluntarily rectify the situation despite repeated attempts to gain voluntary compliance, we recommend that Council pass a by law pursuant to Section 698 of the *Local Government Act*, which provides:

Demolition or Repair of Unsafe Buildings, Structures and Excavations

698 (1) A council may, by bylaw, authorize:

- (a) the demolition, removal or bringing up to a standard specified in the bylaw of a building, structure or thing, in whole or in part, that contravenes a bylaw or that the council believes is in an unsafe condition, or
- (b) the filling in, covering over or alteration in whole or in part of an excavation that contravenes a bylaw or that the council believes is in an unsafe condition.

The proposed by law set out in Appendix "B" requires the Owner to remove all rubbish, garbage and discarded materials from the Property and allows 30 days for completion of the work.

In the event the Owner fails to carry out the necessary work within 30 days, the proposed by law authorizes the City or its agents to enter onto the Property to carry out the required work at the Owner's expense using Section 269 of the *Local Government Act* as its authority. Any unpaid amounts may be collected as a debt or as unpaid taxes pursuant to Section 376 of the *Local Government Act*.

CONCLUSION

Based on the foregoing information regarding the condition of the Property, its effect on the neighbourhood and the continuing history of non compliance with the Unsightly By law, we recommend that Council adopt the proposed by law attached as Appendix "B" after first giving the Owner an opportunity to be heard.

CRAIG MacFARLANE
City Solicitor

KER:mlg
Encls.

c.c. Kelly Rayter, Assistant City Solicitor
John Sherstone, Manager, By law & Licensing Services
Pat Turner, By law Enforcement Officer

"SURREY UNSIGHTLY PROPERTY BY-LAW, 2003, NO. _____"

APPENDIX "A"

NOTICE

TO: Henry Chow
9265 - 156 Street
Surrey, BC V3R 4L1

YOU ARE NOTIFIED that on the ___ day of _____, 2003, by Surrey Unsightly Property By law, 2003, No. _____ (the "By law"), the City Council of the City of Surrey authorized that the work described in the By law (the "Work") be completed by you to bring into compliance with City by laws that parcel of land in the City of Surrey, in the Province of British Columbia, which is more particularly known and described as:

Parcel Identifier 009-749-977
Lot 7 Except: Part Subdivided by Plan 66746; Section 35 Township 2
New Westminster District Plan 12931
(the "Property")

within 30 days.

AND IF YOU FAIL to complete the Work within 30 days, the City Council has authorized the Manager, By law & Licensing Services, together with workers employed by the City of Surrey, to enter on the Property and to complete the Work as required by the By law. The Work will be done at your expense and the City of Surrey will recover the expense of the Work, together with interest and costs, in the same manner as municipal taxes as provided in Sections 269 and 376 of the *Local Government Act*, R.S.B.C. 1996, c. 323.

AN APPEAL against this action may be made by you to a Judge of the Supreme Court, but your appeal must be made and notice of it given pursuant to Section 698 of the *Local Government Act*, R.S.B.C. 1996, c. 323.

THIS NOTICE is given by the City of Surrey this _____ day of _____, 2003.

CITY CLERK

APPENDIX "B"

CITY OF SURREY

BY LAW NO. _____

A by law to authorize the removal of rubbish and discarded materials that the Council of the City of Surrey has determined to be in contravention of Surrey Community Improvement and Unsightly Property By law, 1997, No. 13150, pursuant to Section 698 of the *Local Government Act*, R.S.B.C. 1996, c. 323
.....

WHEREAS Henry Chow of 9265 - 156 Street, in the City of Surrey, Province of British Columbia, is the registered owner (the "Owner") of the lands and premises located within the City of Surrey at 9265 - 156 Street and more particularly known as:

Parcel Identifier 009-749-977

Lot 7 Except: Part Subdivided by Plan 66746; Section 35 Township 2

New Westminster District Plan 12931

(the "Property");

AND WHEREAS the presence of rubbish and discarded materials on the Property is not in compliance with Surrey Community Improvement and Unsightly Property By law, 1997, No. 13150 (the "Unsightly By law");

AND WHEREAS the Owner of the Property has failed to comply with the directions of the By law Enforcement & Licensing Section of the City of Surrey to remove rubbish and discarded materials from the Property;

NOW THEREFORE, the Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. The removal of rubbish and discarded materials from the Property is required to bring the Property into compliance with the Unsightly By law.
2. The removal of rubbish and discarded materials must be completed by the Owner and the Property must be brought up to the applicable standard by the Owner (the "Work") within the period of time specified in Section 3 of this By law and the Work is authorized.
3. The Work must be completed by the Owner within a period of 30 days from the time the notice, which is Appendix "A" and forms part of this By law, is served on the Owner.
4. If the Work is not completed to the standard required by the Unsightly By law within the period of time specified in Section 3, the Manager, By law & Licensing Services, together with workers employed by the City of Surrey, or their agents, are authorized to enter on the Property to complete the Work to the standard required by the Unsightly By law. The Work will be done at the expense of the Owner, and the City of Surrey will recover the expense of the Work, together with interest and costs, in the same manner as municipal taxes as provided in Sections 269 and 376 of the *Local Government Act*, R.S.B.C. 1996, c. 323.
5. Thirty days notice of the action contemplated by the City of Surrey must be given to the Owner by serving a notice in the form set out in Appendix "A" to this By law.
6. This By law shall be cited for all purposes as "Surrey Unsightly Property By-law, 2003, No. _____."

PASSED THREE READINGS on the _____ day of _____, 2003.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ day of _____, 2003.

_____MAYOR

_____CLERK

APPENDIX "C"

LEGAL DESCRIPTION OF THE PROPERTY:

Parcel Identifier 009-749-977
Lot 7 Except: Part Subdivided by Plan 66746; Section 35 Township 2
New Westminster District Plan 12931

CIVIC ADDRESS OF THE PROPERTY:

9265 - 156 Street

REGISTERED OWNER OF THE PROPERTY:

Henry Chow

REGISTERED OWNERS OF CHARGES AGAINST THE PROPERTY:

Canada Trustco Mortgage Company – No. BG185784
Charanjit Rattan – Caveat – No. BV411449