



Corporate Report

NO: R103

COUNCIL DATE: May 2, 2005

REGULAR COUNCIL

TO: Mayor & Council DATE: April 28,
2005

FROM: General Manager, Planning FILE: 3280 -16400
and Development

SUBJECT: Unauthorized Construction at 3280 – 164 Street

RECOMMENDATION

The Planning and Development Department recommends:

1. That Council declare that:
 - (a) the carport (the "Structure") constructed on the lands located at 3280 - 164 Street (the "Property") contravenes Surrey Building By-law, 1987, No. 9011 (the "Building By-law"), in that the Structure was constructed without a building permit being obtained from the City to permit such construction; and
 - (b) having been constructed without the required permits and inspections, the Structure is in an unsafe condition; and
2. Pursuant to Section 72 of the *Community Charter*, S.B.C. 2003, c. 26 (the "*Community Charter*"), Council adopt a resolution imposing a remedial action requirement on the owner and/or occupier of the Property, as follows:

"That the owner and/or occupier of the Property demolish and completely remove the Structure, and any works that were constructed as part of the Structure, from the property within 30 days of the date of delivery of notice to the owner of the remedial action requirement, which removal or demolition shall be to the satisfaction of the Manager, Building Division and in compliance with all City of Surrey by-laws and other applicable statutes and guidelines"; and

3. Council adopt the following resolution:

"That if the owner and/or occupier of the Property fails to comply with the remedial action requirement by the date specified, the Manager, Building Division, together with workers employed by the City of Surrey or agents of the City are authorized to enter on the Property and to complete the remedial action requirement. The remedial action will be completed at the expense of the owner and/or occupier of the Property and the City of Surrey will recover all expenses that it incurs, together with interest and costs, in the same manner as municipal taxes;

That notice of the remedial action requirement set out above be sent in the form set out in Appendix "A" to all persons who own or occupy the Property, as well all holders of registered charges in relation to the Property; and

That any person served with notice of the remedial action requirement set out above must provide the City with written notice of a request for Council to reconsider the remedial action requirement within 14 days of the date of delivery of the notice of the remedial action requirement".

INTENT

The purpose of this report is to inform Council about the contravention of the City's Building By-law, in relation to the property at 3280 – 164 Street and about the unsafe condition of the Property and to make recommendations that, if adopted by Council, will act to correct the unsafe condition.

BACKGROUND

On June 10, 2003, the owners of the Property received a building permit (No. B 3 07740 -0) to construct a dwelling on the Property. Final approval for the work covered by the building permit was granted on June 7, 2004.

On September 7, 2004, the Building Division received a complaint from a neighbouring property owner that a detached garage had been constructed on the Property without permits.

On September 8, 2004, Building Division staff attended at the Property and posted a stop work notice, having observed that a carport measuring approximately 14 feet by 18 feet had been constructed on the Property without the required building permit.

On September 16, 2004, a letter was hand-delivered to the owners of the Property that formally advised the owners of the stop work notice on the Property.

On November 22, 2004, Building Division staff attended the Property again and reposted the stop work notice on the Property and on the same date, a second letter advising the owners regarding the stop work notice was hand delivered to one of the owners of the Property.

On March 22, 2005, Building Division staff attended the Property and reposted the stop work notice after observing that construction on the Structure had continued in spite of the previous stop work notices.

On March 25, 2005, Building Division staff forwarded a request to the Legal Services Division to commence the process of taking legal action to correct the unauthorized construction on the Property.

On April 21, 2005, Building Division staff hand delivered a letter to one of the owners of the Property advising that the City has determined the Property is in an unsafe condition, due to the construction of a carport structure without the required building permit, in contravention of the Building By-law. The letter further advised the owners that the unlawful construction is in violation of Surrey Zoning By-law, 1993, No. 12000, since the carport structure exceeds the allowable density for the Property. The owners were directed to take immediate steps to rectify the unsafe condition on the Property by removing the unlawful construction.

Appendix "B" contains information in relation to the ownership of the Property and other parties having a registered charge against the Property.

Photographs of the unauthorized construction are attached as Appendix "C".

DISCUSSION

Section 3 of the Building By-law requires that no structure may be built or altered within the City of Surrey without first obtaining a building permit from the City. In this instance, the Structure was built without application being made to the City for a building permit and without a building permit being issued by the City. As a result, the City has not conducted the inspections required by the Building By-law for such construction and, therefore, the Structure may be in an unsafe condition.

Given the possible unsafe condition of the Structure and the failure on the part of the owner and/or occupier to voluntarily rectify the situation, it is recommended, pursuant to Section 72 of the *Community Charter*, that Council adopt the declaration and resolutions contained in the "Recommendations" section of this report. These resolutions

will give staff authority to deliver the written notice, attached as Appendix "A", to the owners, occupants and those having a registered charge on the title to the Property, requiring the owners and/or occupiers to remove the Structure from the Property within 30 days of delivery of notice to the owners that the Structure is to be removed from the Property. In the event that the owners and/or occupiers fail to carry out the required remedial action within 30 days, the resolutions provide authorization for the City and/or its agents to enter onto the Property to carry out the required work at the expense of the owners and/or occupiers, using the authority of Section 17 of the *Community Charter*. Any expenses incurred by the City may be collected from the owners of the Property as a debt or unpaid taxes, pursuant to Sections 17 and 258 of the *Community Charter*.

Under Section 77 of the *Community Charter*, notice of the remedial action requirement must be given to the owners of the Property, any occupiers of the Property and the holders of any registered charges in relation to the Property.

Legal Services has reviewed this report and appendices.

CONCLUSION

Based on the foregoing information regarding the Structure on the Property, its non compliance with the City's by-laws and its unsafe condition, it is recommended that Council adopt the declaration and resolutions set out in the "Recommendations: section of this report, pursuant to the authority granted Council under the *Community Charter*.

Murray Dinwoodie
General Manager,
Planning and Development

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Attachments:

Appendix "A" – Notice

Appendix "B" – Description of the Property

Appendix "C" – Photographs of the Property

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Appendix "A"

NOTICE

TO: Paramjit Singh Jagpal
Kulvir Kaur Jagpal
3280 – 164 Street
Surrey, BC V3S 0G5

Mehanga Singh Jagpal
Gurdev Kaur Jagpal
3280 – 164 Street
Surrey, BC V3S 0G5

RE: Remedial Action Requirement on that parcel of land in the City of Surrey, Province of British Columbia, which is more particularly known and described as:

Parcel Identifier: 025-332-384
Lot 5 Section 25 Township 1 New Westminster District Plan LMP52605

(the "Property")

YOU ARE NOTIFIED that on the ____ day of May, 2005, the City Council of the City of Surrey adopted a resolution requiring that you carry out the following remedial action requirement on the Property, within 30 days of the date of this

notice:

The carport located at 3280 – 164 Street in the City of Surrey (the "Structure") and any works that were constructed as part of the construction of the Structure, are to be demolished and completely removed from the Property to the satisfaction of the Manager, Building Division of the City of Surrey and in compliance with all City of Surrey by-laws and other applicable statutes and guidelines.

AND, IF YOU FAIL to complete the remedial action requirement within 30 days, the City Council has authorized the Manager, Building Division, together with workers employed by the City of Surrey or agents of the City, to enter on the Property and to complete the remedial action requirement. The remedial action requirement will be done at your expense and the City of Surrey will recover all of the expenses it incurs in completing the remedial action requirement, together with interest and costs, in the same manner as municipal taxes against the Property, as provided in Sections 17 and 258 of the *Community Charter*, S.B.C. 2003, c. 26.

YOU MAY REQUEST A RECONSIDERATION of this remedial action requirement by City Council, in writing, within 14 days of the date of this Notice, but your request must comply with Section 78 of the *Community Charter*, S.B.C. 2003, c. 26.

THIS NOTICE is given by the City of Surrey this _____ day of May, 2005.

Marg Jones
City Clerk

cc HSBC Bank of Canada
(HSBC No. 1101478)
10388 – 135 Street
Surrey, BC V3T 2W6

Appendix "B"

Legal Description of Property

Parcel Identifier: 025-332-384
Lot 5 Section 25 Township 1 New Westminster District Plan LMP52605

Civic Address of Property

3280 –164 Street
Surrey, BC V3S 0G5

Registered Owners of the Property

Paramjit Singh Jagpal
Kulvir Kaur Jagpal
3280 – 164 Street
Surrey, BC V3S 0G5

Mehanga Singh Jagpal
Gurdev Kaur Jagpal
3280 – 164 Street
Surrey, BC V3S 0G5

Occupiers of the Property

N/A

Registered Holders of Charges in Relation to the Property:

HSBC Bank of Canada
(HSBC No. 1101478)
10388 – 135 Street
Surrey, BC V3T 2W6

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Appendix "C"



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