

Corporate Report

NO: R126

COUNCIL DATE: May 18, 2005



REGULAR COUNCIL

TO: Mayor & Council DATE: May 6, 2005
FROM: General Manager, Planning and Development
Deputy City Solicitor FILE: 8675-15600
SUBJECT: 8675 – 156th Street, Building Construction without Building Permit

RECOMMENDATION

1. That Council pass a resolution declaring that:
 - (a) The raising of the residence (the "Structure") on the lands located at 8675 156th Street (the "Property") and other construction on the Property contravenes the City's Building By law, as it was undertaken without first obtaining a building permit and other required permits from the City of Surrey ("the City"); and
 - (b) The Structure located on the Property is in and creates an unsafe condition.
2. That pursuant to Section 72 of the *Community Charter*, S.B.C. 2003, c. 26 (the "*Community Charter*") Council pass a resolution imposing a remedial action requirement on the owner and/or occupier of the Property in the following terms:
 - (a) That the owner and/or occupier of the Property immediately discontinue any occupancy of the Structure;
 - (b) That the owner and/or occupier of the Structure immediately secure the perimeter of the Property to prevent unauthorized access to the Property and the Structure;
 - (c) That the owner and/or occupier of the Structure lower the Structure to reinstate it to its original position on the Property on foundations and footings, which reinstatement shall be in compliance with all City by laws and other applicable statutes and regulations within 30 days of delivery of the notice of the remedial action requirement; or alternatively,
 - (d) That if it is not practicable to reinstate the Structure, the owner and/or occupier of the Structure remove or demolish the Structure and dispose of all resulting debris within 30 days of delivery of notice of the remedial action requirement, which removal or demolition and disposal of debris shall be in compliance with all City by laws and other applicable statutes and regulations;

3. That Council pass a 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, 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 will recover the expense, together with interest and costs, in the same manner as municipal taxes.

4. That Council pass a resolution:

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

5. That Council pass a resolution:

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 delivery of the notice of the remedial action requirement

INTENT

It is the intent of this report to provide Council with information regarding the recent usage of the Property and the contravention of the City's building by law and unsafe condition and to recommend actions by Council to address the matter.

HISTORY

February 10, 2005 The City receives a building permit application from Rodica Balaj, (the "Owner"), to raise the house at 8675 156 Street and to add two floor levels to the Structure, which is a rancher style house on a crawl space.

February 11, 2005 The City advises the Owner that the plans submitted in support of the application are inadequate and cannot be approved.

February 15, 2005 The City meets with the Owner to discuss the deficiencies in the plans.

February 16, 2005 The Building Inspector completes a site inspection of the Property and Structure to attempt to ascertain the purpose and intent of the building permit application.

March 7, 2005 The Manager of Field Inspections and the Building Inspector meet the Owner at the Property and request the submission of revised plans in compliance with the City's by laws and the Building Code.

March 14, 2005 A revised list of deficiencies regarding the proposed construction is forwarded to the owner.

March –April 2005 The Owner raises the Structure on temporary cribbing and builds forms without a building permit or approval.

April 8, 2005 The Plan Checker and the Manager, Residential Section meet with the Owner at City Hall, review the proposed plans and caution against any construction on the Property until all of the issues regarding the proposed Structure are identified and resolved.

April 9, 2005 The Owner's Engineer attends the site to inspect the forms and advises by way of Job Site Report to the Owner that access to the raised structure should be removed, the site should be secured, a building permit should be obtained prior to further construction and that the house was not safe for occupancy.

April 11, 2005 The City forwards a further amended list of deficiencies with respect to the proposed Structure to the Owner via e mail.

April 12, 2005 A site inspection by the Building Inspector reveals that concrete for the foundations has been poured in the forms. A Stop Work Order is posted on the Structure.

April 14, 2005 The City's Plan Checker requests additional information regarding a topographical survey from the Owner.

April 28, 2005 The Plan Checker and Manager, Residential Section meet with the Owner at City Hall, review the deficiencies in the plans for the proposed Structure and ask the Owner to provide additional information that will be required in order to consider the building plans relative to issuance of a building permit.

May 5, 2005 An electrical inspection by the City reveals that the Structure was raised without disconnecting the electrical service and unauthorized electrical work has been carried out to facilitate continued occupancy of the raised Structure.

A plumbing inspection of the Property reveals that plumbing for the raised Structure has been temporarily connected to the old services without a Plumbing Permit.

May 10, 2005 The City serves a letter, dated May 4, 2005, at the Property requesting the Owner and the Owner's family to immediately vacate the premises.

May 10, 2005 The City receives correspondence from the Owner's structural Engineer regarding the April 7, 2005 inspection, which correspondence indicates that the Structure and the Property are not safe.

May 13, 2005 The Owner acknowledges receipt of the May 4, 2005 letter during a telephone conversation with City staff.

DISCUSSION

Surrey Building By law, 1987, No. 9011, Section 3, requires that no structure may be built or altered without first obtaining a building permit from the City. In this instance, the Structure was raised without a building permit, electrical connections and alterations have been completed without electrical permits and plumbing connections were completed without plumbing permits. The City has never conducted the required inspections and the City has issued no approvals for occupancy. The Owner's Engineer, the electrical inspector, the plumbing inspector and the building inspector have all indicated that the Structure is unsafe for occupation and that the site is hazardous. Attached as Appendices "A" and "B" are copies of the letter from the Engineer and the City's recent correspondence with the Owner requiring the Owner to immediately vacate the premises.

On February 10, 2005 when the Building Permit application to raise the existing rancher house was received by the City, the building plans accompanying the application were not adequate to properly describe the proposed

construction. Nonetheless, the Building Permit application was received to facilitate staff's efforts to assist the Owner in preparing appropriate building plans since the Owner had previously made several unsuccessful attempts to produce acceptable plans. Since that time, despite a number of meetings between City staff and the Owner, the Building Permit application has not been completed and no Building Permit or other required permits have been issued.

The alteration to the Structure is complicated and the Owner has been unable to submit plans that contain the detail and specifications required to assess whether the alterations to the Structure will comply with the Building By-Law, the Zoning By-Law and the B.C. Building Code. The number of deficiencies in the submissions has made it difficult to provide advice to the Owner as to how the deficiencies are to be remedied. City staff members have attended the Property on a number of occasions to attempt to gain a better understanding of the project to better assist the Owner and have concluded that it would be prudent for the Owner to retain a consultant with appropriate expertise to assist in preparing the plans and documents required to complete the Building Permit application. The Owner has been so advised on a number of occasions. The Owner has in turned complained that the City staff have been uncooperative and unduly bureaucratic and has indicated that the City left her no choice but to commence building without a Building Permit.

The Owner has raised the Structure on cribbing and has formed and poured concrete foundations for the proposed alterations to the Structure. The cribbing on which the Structure is sitting, is in some cases leaning, does not provide support for the centre of the house and the raised Structure does not appear to be adequately supported laterally. The electrical system does not appear to be properly grounded which creates an additional hazard for the inhabitants of the Structure. (See Appendix "C" for photographs of the current condition of the house.) With respect to the new foundations, it is not known if, among other things, such foundations are adequate to support the Structure, whether they have been properly constructed, whether they will permit the construction of the basement, whether they can be drained by gravity into the City's storm drainage system, whether the bottom floor elevation is sufficiently low to be considered an "in ground" basement (i.e., for floor area calculations) and whether the proposed footings will be subject to frost damage.

Based on the appearance of the new foundations it is apparent that the Owner is seeking approval to not only raise the Structure, but to expand the footprint of the house. If such an expansion is proposed, there is a concern that the proposed structure will exceed the FAR for the lot and the roof will have to be redesigned and consequently re engineered.

While it might be possible to address these and numerous other deficiencies, the primary concern at this time is the continued occupation of the Structure and the hazard the raised Structure creates for occupants of the Structure, workers on the site, visitors or trespassers on the site and adjacent properties. Despite the advice the Owner received from her Engineer in early April to vacate the Structure she has continued to reside in the raised Structure with her children. After the Owner failed to vacate the Structure upon receiving a demand to that effect from the City, the City, pursuant to its obligations under the *Child, Family and Community Service Act*, R.S.B.C. 1996, c. 46 (the "*Child, Family and Community Service Act*"), contacted the Ministry of Children and Family Development and asked that they review the situation and utilize their statutory powers to ensure the health and safety of the children. The Ministry has confirmed to the City that it is aware of the situation and the Ministry has assumed its responsibilities under the *Child, Family and Community Service Act*. City staff understand that Ministry staff has contacted the Owner in this regard.

Given the illegal nature and unsafe condition of the Structure, and the failure on the part of the Owner to voluntarily rectify the situation, it is recommended that Council pass the resolutions described in the Recommendation section of this report pursuant to Section 72 of the *Community Charter*.

The resolutions require the Owner and/or occupier to reinstate or alternatively remove the Structure from the Property and allows 30 days for completion of the remedial action. It is necessary in this circumstance to provide alternative remedial actions, as the City has not been able to assess whether the Structure has been damaged by the raising such that reinstatement is not possible. If the Structure is no longer sound, it will have to be destroyed.

The resolutions also acknowledge the Owner's legal right to appeal Council's remedial action requirement if the Owner notifies the City in writing of such appeal within 14 days of receiving the notice of the remedial action requirement from the City. If the Owner appeals the requirement, Council will be required to hear the appeal at the first Regular Council Meeting receipt of notice from the Owner requesting reconsideration of the remedial action requirement.

In the event that the owner and/or occupier fails to carry out the required remedial action within 30 days, the resolutions authorize City staff or the City's agents to enter onto the Property to carry out the required remedial work at the expense of the owner and/or occupier, using Section 17 of the *Community Charter* as its authority. Any unpaid expenses that the City incurs in carrying out the remedial action that the Owner does not pay may be collected as a debt or as unpaid taxes on the Property pursuant to Sections 17 and 258 of the *Community Charter*.

Under Section 77 of the *Community Charter*, notice 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.

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 resolutions set out in the Recommendations section of this report pursuant to Section 72 of the *Community Charter*.

MURRAY DINWOODIE
General Manager,
Planning and Development

RALPH G. HILDEBRAND
Deputy City Solicitor

RGH/rgH

Encls.

Appendix "A" – Letter of Luiz Leon P. Eng dated May 5, 2005

Appendix "B" – Letter from Manager, Building Division to Owner dated May 4, 2005

Appendix "C" – Photographs of the Property

Appendix "D" – Notice

Appendix "E" – Description of Property

c.c. Manager, Building Division

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APPENDIX "A"









APPENDIX "B"

May 4, 2005

File: 8675-15600

Rodica Balaj
8675 - 156 Street
Surrey, B.C.
V3S 3S2

Dear Madam:

Re: Dwelling at 8675 - 156 Street

This is further to our telephone conversation of May 2, 2005. Our records indicate that you are the registered owner of the above referenced property. On February 10, 2005, you applied for a building permit to add a second storey and a basement to the existing house on the property. Notwithstanding three months of discussions and meetings with staff, the specifics with respect to your proposed construction have still not been determined. Nonetheless you ignored our advice and proceeded with construction without a building permit. A Stop Work Order was placed on the project on April 12, 2005.

In carrying out this unauthorized construction, a portion of the existing house was elevated and supported on wooden cribbing. Your structural engineer has advised the City that the portion of the building which has been elevated is not stable. We understand that you continue to reside in the elevated portion of the existing house. Services appear to have been extended from the ground up to the suspended structure.

The current situation is unsafe. We require that you vacate the premises immediately. You must also take immediate action to stabilize the existing house and to fence the hazardous area under the structure.

It is essential that you correct this situation without delay. We note, however, that you have no experience in design or construction and have repeatedly rejected our recommendation to hire a consultant. As previously stated, efforts to assist you in developing an acceptable building design have been unproductive. Accordingly, further meetings with City staff will only be arranged on the condition that you attend with a qualified consultant.

In accordance with City policy, a report is being prepared for Council's consideration, recommending that if this unsafe situation persists on the property, that Council authorize staff to have such structures demolished and removed from the site. This process is scheduled to begin at the next Council meeting on May 18, 2005.

If you have any questions in this regard, please contact the undersigned at 604-591-4349.

Yours truly,

Original signed by

Nick Marach
Manager
Building Division

JKM/kms

c.c. - Luiz Leon & Associates Ltd.
- Unit 205, 15272 Croydon Drive
Surrey, B.C.
V3S 0Z5

APPENDIX "C"









APPENDIX "D"

NOTICE

TO: Rodica Balaj

8675 – 156th Street
Surrey, B.C., V3S 3S2

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:

PID: 010-580-956
Lot "E" Except: Part Subdivided by Plan 46892
Section 26
Township 2
New Westminster District
Plan 19770

(the "Property")

YOU ARE NOTIFIED that on the 18th day of May, 2005 the City Council of the City of Surrey ordered that you carry out the following remedial action requirement on the Property within 30 days of the date of delivery of this notice:

- (1) That you and any other owner and/or occupier of the Property immediately discontinue any occupancy of the Structure;
- (2) That you and any other owner and/or occupier of the Structure immediately secure the perimeter of the Property to prevent unauthorized access to the Property and the Structure;
- (3) That you and any other owner and/or occupier of the Structure lower the Structure to reinstate it to its original position on the Property on foundations and footings, which reinstatement shall be in compliance with all City of Surrey by laws and other applicable statutes and regulations within 30 days of delivery of notice of the remedial action requirement; or alternatively;
- (4) That if it is not practicable to reinstate the Structure you and any other owner and/or occupier remove or demolish the Structure and dispose of all resulting debris within 30 days of delivery of notice of the remedial action requirement, which removal or demolition and disposal of debris shall be in compliance with all City of Surrey by laws and other applicable statutes and regulations.

AND IF YOU FAIL to complete the remedial action requirement within 30 days of the date of delivery of this notice, the City Council has authorized the Manager, Building Division, together with workers employed by the City of Surrey and/or agents on behalf 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 the expense of the remedial action requirement, together with interest and costs, in the same manner as municipal taxes as provided in Sections 17 and 258 of the *Community Charter*, S.B.C. 2003, c. 26.

A RECONSIDERATION of this remedial action requirement may be requested by you in writing to the City Clerk of the City of Surrey within 14 days of the date of delivery 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

APPENDIX "E"

LEGAL DESCRIPTION OF THE PROPERTY:

PID: 010-580-956
Lot "E" Except: Part Subdivided by Plan 46892
Section 26
Township 2
New Westminster District
Plan 19770

CIVIC ADDRESS OF THE PROPERTY:

8675 – 156 Street
Surrey, BC V3S 3S2

REGISTERED OWNER OF THE PROPERTY:

RODICA BALAJ

OCCUPIER OF THE PROPERTY:

RODICA BALAJ

REGISTERED HOLDERS OF CHARGES IN RELATION TO THE PROPERTY:

THE TORONTO-DOMINION BANK
Mortgage BR125109

THE TORONTO-DOMINION BANK
Mortgage BX422710