

NO: **R174**

COUNCIL DATE: **September 12, 2011**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **September 7, 2011**

FROM: **City Solicitor**

FILE: **17458-10370**

SUBJECT: **Remedial Action Requirement Related to a Fire-Damaged Structure Located on Property at 17458 – 103B Avenue**

RECOMMENDATION

The Legal Services Division recommends that Council:

1. Instruct staff prepare and forward to Council for consideration a corporate report that recommends that Council adopt a "remedial action requirement" pursuant to Section 72 of the *Community Charter*, S.B.C. 2003, c. 26 (the "*Community Charter*") to address the fire-damaged structure on the property at 17458 – 103B Avenue (the "Property") as described in this report; and
2. Authorize the City Clerk to:
 - a) Forward to the registered owner of the Property a copy of this report and the related Council resolution and invite the owner to appear before Council at the meeting of Council at which the corporate report and resolution referenced in 1. above is to be considered by Council at which time the owner may make representations to Council regarding the remedial action requirement recommended by staff ; and
 - b) Forward a copy of this report and the related Council resolution to the appropriate representative of each entity that has a registered financial charge against the Property.

INTENT

The purpose of this report is to provide information regarding the condition of the Property, which is considered to constitute a nuisance, and to seek Council approval to bring forward for Council consideration a resolution for a "remedial action requirement" against the owner of the Property, which will act to motivate corrective action by the owner to eliminate the nuisance on the Property.

HISTORY

On September 4, 2009, the single family dwelling located on the Property (the "Structure") was damaged by fire. The photograph attached as Appendix "A" illustrates the current

condition of the Structure. City staff determined that the Structure was damaged to the extent that it should be demolished and ordered the owner to demolish the Structure. An application on behalf of the owner for a demolition permit in relation to the Structure was received by the City and a demolition permit was issued by the City on August 10, 2010. To date, despite repeated letters and contact with the owner, the Structure remains on the Property and continues to be a nuisance. The City has received and continues to receive neighbourhood complaints and requests for the City to take action to have the Structure removed.

DISCUSSION

City Council may impose a remedial action requirement pursuant to Section 72 of the *Community Charter*. Under Section 74 of the *Community Charter*, Council may declare the Structure to be a nuisance and order the owner to demolish the Structure.

If the City imposes a remedial action requirement on the owner and the owner fails to comply with that requirement, the City may exercise its powers under Section 17 of the *Community Charter* by carrying out the remedial action requirement at the expense of the owner and recovering the costs in the same manner as property taxes.

To comply with the requirements of the *Community Charter*, Council must in an open meeting consider relevant information and adopt a resolution to impose the remedial action requirement. Therefore, if Council adopts the recommendations of this report, the following steps will be undertaken:

1. Staff will prepare a Corporate Report (the "Report") for Council's consideration as part of the agenda for Council's next Regular meeting and will include as a recommendation in the Report the following resolution that if adopted by Council will be the remedial action requirement related to the Property:

"That the owner of the property at 17458 – 103B Avenue (the "Property") demolish and remove from the Property the fire-damaged structure that is located on the Property within 30 days of delivery of notice of Council having adopted a remedial action requirement with respect to the Property, which demolition and removal shall be in compliance with all City of Surrey by-laws and other applicable statutes and guidelines."

2. To meet the requirements of due process and natural justice Council must consider and weigh the evidence submitted in the Report before deciding whether or not to impose the remedial action requirement and the owner of the Property should be given an opportunity to present his/her case to Council during the same meeting of Council at which the Report is considered by Council. In this regard, notice of the proposed remedial action requirement and a copy of the Report will be forwarded to the owner of the Property in advance of the Council meeting. The owner should then be given an opportunity to make a presentation to Council during the meeting but before Council makes a decision regarding the recommendations of the Report.

3. Despite this opportunity to be heard by Council, the owner will also have a right under the *Community Charter* to have Council reconsider the matter if the owner makes a written request within 14 days after Council imposes the remedial action requirement. If Council approves the remedial action requirement and the owner decides to exercise the right to seek reconsideration of the matter by Council, staff will schedule a reconsideration hearing before Council to allow for the owner to make representations to Council.
4. If Council approves a remedial action requirement in relation to the Property, the owner will have 30 days to comply with the remedial action requirement. This time frame may be decreased by Council if Council views the circumstance as requiring more urgent attention by the owner.

CONCLUSION

Based on the foregoing information regarding the fire damaged Structure on the Property, it is recommended that Council:

- Instruct staff prepare and forward to Council for consideration a corporate report that recommends that Council adopt a "remedial action requirement" pursuant to Section 72 of the *Community Charter*, S.B.C. 2003, c. 26 (the "*Community Charter*") to address the fire-damaged Structure on the Property as described in this report; and
- Authorize the City Clerk to:
 - Forward to the registered owner of the Property a copy of this report and the related Council resolution and invite the owner to appear before Council at the meeting of Council at which the corporate report and resolution referenced in 1. above is to be considered by Council at which time the owner may make representations to Council regarding the remedial action requirement recommended by staff; and
 - Forward a copy of this report and the related Council resolution to the appropriate representative of each entity that has a registered financial charge against the Property.

CRAIG MacFARLANE
City Solicitor

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Appendix "A": Current Photograph of the Structure on the Property at 17458 – 103B Avenue

c.c. Manager, By-law & Licensing Services
Manager, Building Division
Kelly Rayter, Assistant City Solicitor

APPENDIX "A"

Current Photograph of the Structure on the Property at 17458 – 103B Avenue

