

NO: **R012**

COUNCIL DATE: **January 23, 2012**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **January 12, 2012**

FROM: **City Solicitor**

FILE: **14460-03270**

SUBJECT: **Remedial Action Requirement Related to Nuisance Structures Located on Property at 14460 – 32B Avenue**

RECOMMENDATION

The Legal Services Division recommends that Council resolve:

1. That the property located at 14460 – 32B Avenue (the "Property") is a nuisance;
2. Pursuant to Sections 72 and 74 of the *Community Charter*, S.B.C. 2003, c. 26 (the "*Community Charter*"), to impose a remedial action requirement on the owner of the Property in the following terms:

"That the owner of the Property:

- *Remove all rubbish and debris from the Property;*
- *Fill the partially finished swimming pool structure in the rear yard of the Property so that the resulting grade of the fill is level with surrounding grades;*
- *Install properly engineered retaining structures at the excavated slopes around the perimeter of the Property so as to ensure their stability;*
- *Fully enclose and secure the partially constructed building on the Property;*
and
- *Remove and/or trim all vegetative growth on the Property so as to return the Property to a neat and tidy condition;*

all to the satisfaction of the General Manager of Planning and Development of the City of Surrey and within 30 days of delivery of notice of Council having adopted a remedial action requirement with respect to the Property, which remedial actions shall be in compliance with all City of Surrey by-laws and other applicable statutes and guidelines."

3. That if the owner of the Property fails to comply with the remedial action requirement by the date specified, the Manager, By-law & Licensing Services, together with workers or contractors employed by the City of Surrey, are authorized to enter on the Property and to complete the remedial action requirement at the expense of the owner of the Property and

the City of Surrey will recover all expenses, together with interest and costs, in the same manner as municipal taxes;

4. 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 as all holders of registered charges in relation to the Property; and
5. That any person served with notice of the remedial action requirement set out above may 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

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 to eliminate the nuisance on the Property.

HISTORY

The following provides a chronology of events related to the Property:

November 3, 2008: A Building Permit and a Plumbing Permit were issued for the construction of a single-family dwelling at the Property. A separate Building Permit was issued for the construction of a retaining wall on the Property.

November 12, 2008: A Building Permit was issued for the construction of a swimming pool on the Property.

November 13, 2008: A Plumbing Permit was issued for the swimming pool on the Property

May 21, 2010: The City received a complaint regarding the condition of the Property. The complainant advised that the Property was causing a nuisance and a hazard.

May 26, 2010: Staff with the By-law Enforcement & Licensing Section attended the Property to inspect the condition of the Property. Staff spoke with the owner of the Property by telephone, who explained that she was unable to continue with construction due to her financial situation. The Property owner agreed to address the outstanding issues, which were communicated to her in a letter, including that the Property was unsightly due to an accumulation of scrap building material, that there was a lack of landscaping maintenance, and that a partially constructed swimming pool was filled with stagnant water. The letter requested the situation be remedied within 14 days; otherwise, the City will perform the work at the owner's expense. There is no record on City files that confirms the owner received this letter.

June 9, 2010: An Electrical Permit was issued for electrical services at the single-family dwelling on the Property.

June 11, 2010: Staff inspected the Property and observed no change to the condition of the Property.

June 15, 2010: Staff spoke with the Property owner, who said the work could not be completed due to personal issues but advised staff that the work would be done that week.

June 23, 2010: Staff inspected the Property and found that there was some improvement, but that there was still considerable scrap building materials on the Property. Staff spoke to the Property owner's husband who advised that the outstanding matters would be remedied that Friday.

June 29, 2010: Staff inspected the Property and observed no improvement to its condition. Staff informed the Property owner's husband that all issues had to be remedied within one week.

July 8, 2010: Staff inspected the Property and observed an individual pumping water from the pool. There were still outstanding concerns regarding the scrap building materials strewn on the Property and a general lack of landscaping maintenance.

July 12, 2010: Staff left a telephone message with the Property owner advising that an estimate would be ordered from the Engineering Department regarding the cost for the City to perform the work.

July 22, 2010: Staff inspected the Property and observed that the concerns on the Property had been addressed.

February 3, 2011: The City received new complaints regarding the unsightly condition of the Property.

February 4, 2011: Staff advised the Property owner about the new complaints. She explained that she was facing financial issues regarding the completion of construction on the e Property and directed staff to her husband, who had more information. Staff advised the Property owner's husband that the City may take further steps to resolve the matter. The Property owner's husband advised that he intended to resume construction within six weeks. Staff inspected the Property and observed the partially constructed swimming pool filled with water and a minor amount of building materials stored outside. Doors to the partially constructed dwelling and attached garage were not in place.

February 9, 2011: The letter addressed to the Property owner was delivered by staff to the Property owner's mother, who agreed to pass it on to her daughter. There is no record on City files that confirms the owner received this letter. The letter advised that the Property did not comply with the City's by-laws because the Property was not kept clean and free from dilapidated, collapsed or unfinished structures. The letter asked that the condition of the Property be remedied; otherwise, the City may carry out the work at the Property owner's expense. Staff left a telephone message with the Property owner advising that a letter had been dropped off for her.

April 27, 2011: Staff left a telephone message with the Property owner advising that there are complaints about the Property, that water in the swimming pool needed to be removed and that the security fence around the Property was not sufficiently secure.

May 4, 2011: Staff inspected the Property and observed that the security fence around the Property was not complete and that the swimming pool was still filled with water.

May 6, 2011: Staff sent a letter to the Property owner advising of the water in the swimming pool, which was unsightly and unsafe. The letter requested that the situation be remedied within 14 days of the letter, otherwise the City will perform the work at the Property owner's expense. There is no record on City files that confirms the owner received this letter.

May 20, 2011: Staff inspected the Property and observed that the security fence was complete and locked but that the grass on the boulevard in front of the Property was approximately two feet in height. Staff spoke to the Property owner's husband who advised that the grass would be cut and the water removed from the pool that weekend.

May 26, 2011: Staff inspected the Property and observed that the water in the swimming pool had been removed. The grass on the boulevard in front of the Property was not cut.

June 1, 2011: Staff inspected the Property and observed that the grass on the boulevard was cut.

August 11, 2011: Staff inspected the Property and observed that its maintenance appeared worse than in February 2011.

August 31, 2011: A second Plumbing Permit was issued for plumbing works at the single-family dwelling on the Property.

October 25, 2011: Staff inspected the Property and took photos of it.

November 2, 2011: Staff inspected the Property and observed contractors working on the Property.

November 7, 2011: Staff inspected the Property and observed contractors working on the Property.

November 17, 2011: Staff inspected the Property and did not observe any activity on the Property.

November 25, 2011: Staff inspected the Property and observed contractors working on the Property.

December 15, 2011: Staff inspected the Property and did not observe any activity on the Property.

December 21, 2011: Staff inspected the Property and did not observe any activity on the Property.

January 11, 2012: Staff inspected the Property and took photos of it.

Staff continues to receive complaints regarding the condition of the Property.

Photographs of the Property taken on January 11 and 12, 2012 are attached as Appendix "C" and Appendix "D", respectively, to this report.

DISCUSSION

The Property constitutes a nuisance. Based on the failure of the owner to voluntarily rectify the situation and pursuant to Sections 72 and 74 of the *Community Charter*, Council may proceed to adopt the resolutions as contained in the Recommendations section of this report.

The resolutions if adopted constitute a Remedial Action Requirement (RAR), which will obligate the owner to comply with the conditions contained in RAR within 30 days of the Council resolution adopting the RAR.

In the event that the owner fails to carry out the required remedial actions within 30 days, the resolutions authorize the City or its agents to enter onto the Property to carry out the required work at the expense of the owner, using Section 17 of the *Community Charter* as its authority. Any expenses incurred by the City may be collected 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 RAR 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.

Under legislation, the owner or others having an interest in the Property may seek reconsideration of Council's decision to impose the RAR if the owner or other party provides a written request within 14 days of the notice of the RAR being sent to the owner. Council must then provide an opportunity to the owner or other party having an interest in the Property to make representations before Council. Council after hearing the owner or other party may confirm, amend, or cancel the RAR.

CONCLUSION

Based on the above discussion, the Legal Services Division recommends that Council resolve:

- That the property located at 14460 – 32 B Avenue (the "Property") is a nuisance;
- Pursuant to Sections 72 and 74 of the *Community Charter*, S.B.C. 2003, c. 26 (the "*Community Charter*"), to impose a remedial action requirement on the owner of the Property in the following terms:

"That the owner of the Property:

- *Remove all rubbish and debris from the Property;*

- *Fill the partially finished swimming pool structure in the rear yard of the Property so that the resulting grade of the fill is level with surrounding grades;*
- *Install properly engineered retaining structures at the excavated slopes around the perimeter of the Property so as to ensure their stability;*
- *Fully enclose and secure the partially constructed building on the Property; and*
- *Remove and trim all vegetative growth on the Property so as to return the Property to a neat and tidy condition;*

all to the satisfaction of the General Manager of Planning and Development of the City of Surrey and within 30 days of delivery of notice of Council having adopted a remedial action requirement with respect to the Property, which remedial actions shall be in compliance with all City of Surrey by-laws and other applicable statutes and guidelines."

- That if the owner of the Property fails to comply with the remedial action requirement by the date specified, the Manager, By-law & Licensing Services, together with workers or contractors employed by the City of Surrey, are authorized to enter on the Property and to complete the remedial action requirement at the expense of the owner of the Property and the City of Surrey will recover all expenses, 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 as 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 may 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.

CRAIG MacFARLANE
City Solicitor

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Appendix "A" – Notice to Owner

Appendix "B" – Description of the Property

Appendix "C" – Photographs of the Property Taken January 11, 2012

Appendix "D" – Photographs of the Property Taken January 12, 2012

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

APPENDIX "A"

NOTICE

TO: RAJINDER KAUR SANDHU
12339 – 57A Avenue
Surrey, BC
V3X 3H3

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: 026-954-605
Lot 3, District Lot 155, Group 2,
New Westminster District, Plan BCP27668

(the "Property")

YOU ARE NOTIFIED that on January 23, 2012, the City Council of the City of Surrey imposed the following remedial action requirement in relation to the Property, which requires you to comply within 30 days of the date of this notice:

That the owner of the Property:

- Remove all rubbish and debris from the Property;
- Fill the partially finished swimming pool structure in the rear yard of the Property so that the resulting grade of the fill is level with surrounding grades;
- Install properly engineered retaining structures at the excavated slopes around the perimeter of the Property so as to ensure their stability;
- Fully enclose and secure the partially constructed building on the Property; and
- Remove and/or trim all vegetative growth on the Property so as to return the Property to a neat and tidy condition;

all to the satisfaction of the General Manager of Planning and Development of the City of Surrey and within 30 days of delivery of notice of Council having adopted a remedial action requirement with respect to the Property, which remedial actions shall be in compliance with all City of Surrey by-laws and other applicable statutes and guidelines.

(the "Work")

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 or contractors employed by the City of Surrey, to enter on the Property and to complete the Work as required by the remedial action requirement. 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 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 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 January, 2012.

CITY CLERK

APPENDIX "B"

DESCRIPTION OF THE PROPERTY

Legal Description of the Property:

PID: 026-954-605
Lot 3, District Lot 155, Group 2,
New Westminster District, Plan BCP27668

Civic Address of the Property:

14460 – 32B Avenue, Surrey, BC

Registered Owner of the Property:

Rajinder Kaur Sandhu

Registered Charge Holders:

Vancouver City Savings Credit Union
Mortgage No. CA2091363
c/o Buckley Hogan
200 – 8120 – 128th Street
Surrey, BC V3W 1R1

APPENDIX "C"

PHOTOGRAPHS OF THE PROPERTY TAKEN JANUARY 11, 2012











APPENDIX "D"

PHOTOGRAPHS OF THE PROPERTY TAKEN JANUARY 12, 2012















