

NO: R046

COUNCIL DATE: March 11, 2013

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **March 5, 2013**

FROM: **City Solicitor**

FILE: **8120-16800**

SUBJECT: **Remedial Action Requirement Related to Fire-Damaged Structure Located on the Property at 8120 - 168 Street**

RECOMMENDATION

The Legal Services Division recommends that Council:

1. Instruct staff to 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 8120 - 168 Street as generally described in this report; and
2. Authorize the City Clerk to:
 - a) Forward to the registered owners of the Property a copy of this report and the related Council resolution and invite the owners to appear before Council at the meeting of Council at which the Corporate report and resolution referenced in 1. above are to be considered by Council at which time the owners 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 at 8120 - 168 Street (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 owners of the Property, which will act to motivate corrective action by the owners to eliminate the nuisance on the Property.

BACKGROUND

On September 6, 2007 a fire was reported at the single family dwelling located on the Property. Several subsequent fires in the single family dwelling (the "Structure") have caused further damage to the Structure on the Property. Photographs taken on February 20, 2013, attached as Appendix "A", illustrate the condition of the Structure. The City has received and continues to receive neighbourhood complaints regarding the condition of the Structure and requests from the owners of the neighbouring properties 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 owners to demolish the Structure.

If Council imposes a remedial action requirement on the owners and the owners fail 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 owners 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. As such, 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 a Regular meeting of Council 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 owners of the property at 8120 - 168 Street (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, regulations 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 owners 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 in advance of the Council meeting to the owners of the Property. The owners 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 the opportunity referenced in 2. above to be heard by Council, the owners will also have a right under the *Community Charter* to have Council reconsider the matter if the owners make a written request within 14 days of being sent the notice of the remedial action requirement. If Council approves the remedial action requirement and the owners decide to exercise the right to seek reconsideration of the matter by Council, staff will schedule a reconsideration hearing before Council to allow for the owners to make representations to Council.
4. If Council approves a remedial action requirement in relation to the Property, the owners must comply with the remedial action requirement within 30 days of being sent the notice of the remedial action requirement. This time may be decreased by Council if Council views the circumstance as requiring more urgent attention by the owners.

CONCLUSION

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

- Instruct staff to 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 owners of the Property a copy of this report and the related Council resolution and invite the owners 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 owners 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": Photographs of the Structure on the Property at 8120 - 168 Street

APPENDIX "A"

Photograph of the back of the Structure on the Property



Photograph taken February 20, 2013

Photograph of the back of the Structure on the Property



Photograph taken February 20, 2013

Photograph of the back of the Structure



Photograph taken February 20, 2013

Photograph of the balcony at the back of the Structure



Photograph taken February 20, 2013

Photograph looking up through the floor of the balcony at the back of the Structure



Photograph taken February 20, 2013

Photograph of the door to the balcony at the back of the Structure



Photograph taken February 20, 2013

Photograph of the front of the Structure



Photograph taken February 20, 2013

Photograph of the front of the Structure



Photograph taken February 20, 2013