

NO: R199

COUNCIL DATE: OCTOBER 7, 2013

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## REGULAR COUNCIL

TO: **Mayor & Council** DATE: **October 1, 2013**

FROM: **City Solicitor** FILE: **13697-11500**

SUBJECT: **Remedial Action Requirement Related to the Structure Located on the Property at 13697 - 115 Avenue**

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## 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 abandoned structure on the property at 13697 - 115 Avenue (the "Property") as generally 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 are 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 hazardous condition and 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 hazardous condition and nuisance on the Property.

## BACKGROUND

Since May 14, 2007, the house (the "Structure") on the Property has been vacant. On March 20, 2011 a fire was reported at the Structure located on the Property. Photographs taken on August 13, 2013, attached as Appendix "A", illustrate the condition of the Structure. To date, despite repeated letters and contact with the owner and the owner's agent regarding remediation or removal of the Structure, the Structure remains on the Property and continues to be a hazard and nuisance. The Structure's close proximity to a steep ravine also makes it a hazard to people attracted to the Property and to firefighters and other City staff attending the Property. The City has received and continues to receive complaints regarding vagrants accessing the Structure and of the Property being unsightly and requests from 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 Sections 73 and 74 of the *Community Charter*, Council may declare the Structure to be a hazardous condition and nuisance and order the owner to demolish the Structure.

If Council 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. 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 intended to be the remedial action requirement related to the Property:

*"That the owner of the Property with a civic address of 13697 - 115 Avenue demolish and remove from the Property the 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 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 in advance of the Council meeting to the owner of the Property. 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 the opportunity referenced in 2. above 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 of being sent the notice of 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 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 owner.

## CONCLUSION

Based on the foregoing information regarding the 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 abandoned structure on the Property as generally 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 are 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": Photographs of the Structure on the Property at 13697 - 115 Avenue

**APPENDIX "A"**

**Photograph of the front of the Structure on the Property**



**Photograph taken September 25, 2013**

**Photograph of the west side of the Structure on the Property with the ravine to the right**



**Photograph taken September 25, 2013**

**Photograph of the embankment leading to the ravine**



**Photograph taken September 25, 2013**

**Photograph of the rear of the Structure on the Property**



**Photograph taken September 25, 2013**



**Photograph of the rear of the Structure on the Property**



**Photograph taken September 25, 2013**

**Photograph of a broken window on the upper floor of the rear of the Structure on the Property**



**Photograph taken September 25, 2013**

**Photograph of a broken window on the upper floor of the rear of the Structure on the Property**



**Photograph taken September 25, 2013**