

REPORT

Planning and Development

To: Mayor Johnstone and Members of Council
Date: February 10, 2025

From: Jackie Teed
Director, Planning and Development
File: #2644152

Item #: 2025-38

Subject: 347 Pembina Street: Section 57 Notice on Title

RECOMMENDATION

THAT the Corporate Officer be directed to file a notice in the land title office with respect to the property known as 347 Pembina Street, New Westminister, B.C. and having the PID 029-463-114 and legal description LOT 3 DISTRICT LOT 757 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP27053 stating that:

- (a) the City of New Westminister City Council has approved a resolution pursuant to Section 57 (3) of the Community Charter regarding the property known as PID 029-463-114, LOT 3 DISTRICT LOT 757 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP27053 with respect to the property being in violations of building regulations, and*
 - (b) further information about the violations of building regulations is available from the Corporate Officer at New Westminister City Hall, 511 Royal Avenue, New Westminister, B.C.*
-

PURPOSE

The purpose of this report is to provide information regarding violations of the Building Bylaw No. 8125, 2019, among other things, at the property located at 347 Pembina Street, New Westminister, B.C. This report recommends that the corporate officer be directed to place a notice on the land title for this property with respect to the outstanding violations.

SUMMARY

City staff recommends that Council direct the corporate officer to file a notice in the land title office with respect to the property with a civic address of 347 Pembina Street, New Westminster, BC (the “Property”).

The Property is presently owned by Mona Helga Teymory (the “Owner”). In keeping with the Building Bylaw Enforcement Guidelines, the City began with a soft enforcement approach including letters and legal notices issued to the current Owner. Throughout this process, the Owner has failed to take necessary steps towards in returning the Property to expected standards.

In conformance with the Building Bylaw Enforcement Guidelines and *Community Charter* regulations, City staff recommends that a Section 57 Notice be placed on Title in the land title office regarding the Building Bylaw non-compliance at the Property as outlined in the recommendation of this report, given that:

1. construction activities, which required a building permit under *Building Bylaw No. 8125, 2029*, were undertaken at the Property without necessary building permits;
2. the Owner has demonstrated ongoing unwillingness to comply with enforcement to date; and,
3. there are public processes through which the applicant could have applied to permit these works lawfully.

BACKGROUND

Enforcement History

On December 8, 2023, the City’s Integrated Services department received a complaint related to the Property, alleging that illegal construction had occurred there. The City’s records indicate that the main building on the Property (the “House”) was constructed in 1947, and that no building permits have been issued in relation to the Property since 1963.

On February 7, 2024, the City gave the owner notice of an interior inspection that would be conducted on the Property on February 12, 2024. Attached as Attachment “1” to this report is a true copy of the notice that was given to the Owner.

On February 12, 2024, City staff conducted an interior inspection of the House. The House has three levels: a lower floor, a main floor, and an upper floor. The inspection revealed that six bedrooms, a kitchen, and an outdoor laundry facility were added to the lower floor; two bedrooms, a laundry room, two external staircases, and a bachelor unit featuring a kitchen and bathroom were added to the main floor; the upper floor was left

unchanged. Altogether, the House had been divided into 14 separate rooms, one of which was a bachelor suite, and the others sharing kitchen and bathroom facilities. There is no record of a building permit for any of these additions. Attached as Attachment "2" to this report is a true copy of the photographs that were taken during the February 12, 2024 inspection.

On March 5, 2024, staff returned for a follow-up inspection.

On March 13, 2024, the Owner met with City staff and was informed that there were numerous bylaw violations on the Property and that she had performed work on the House without obtaining the required building permits. She was further informed that she would either have to obtain permits to return the House to its former state, or obtain permits to perform further work to bring the Property into compliance with the City's bylaws. A letter was also provided to the Owner, explaining the various bylaw violations and the options available to the Owner for bringing her Property back into compliance with the City's bylaws. Attached as Attachment "3" to this report is a true copy of this letter.

On April 11, 2024, the Owner was given notice of an inspection scheduled for April 22, 2024, to determine whether she had brought the Property into compliance with the City's bylaws. Attached as Attachment "4" is a true copy of the notice that was provided to the Owner.

On April 22, 2024, the City's building inspector inspected the property and observed that the House was still not in compliance with the City's bylaws, which includes work done to the House that would have required building permits.

On May 1, 2024, legal counsel for the City delivered a letter to the Owner reiterating that Property was in violation of the City's bylaws and demanding that she take steps towards remedying those violations. Attached as Attachment "5" is a true copy of this letter.

On May 9, 2024, legal counsel for the City gave the Owner notice of another inspection to be conducted by the City on May 15, 2024. Attached as Attachment "6" is a true copy of this letter.

On May 15, 2024, another inspection was conducted on the Property by City staff. It was observed that two walls had been removed without a building permit. Attached as Attachment "7" to this report are photographs of the House that were taken during this inspection.

On July 3, 2024, legal counsel for the City sent a letter to the Owner advising her that work had been conducted on the Property without the required building permits, providing information regarding the building permit application process, and advising her of the options for bringing the Property into compliance. Attached as Attachment "8" to this report is a true copy of this letter.

On July 11, 2024, the Owner was provided with notice of an inspection scheduled for July 29, 2024. Attached as Attachment "9" is a true copy of this notice.

On July 29, 2024, City staff inspected the Property and noted that no further work had been conducted.

On September 3, 2024, notice was given to the Owner of an inspection scheduled for September 9, 2024. The inspection was rescheduled for October 30, 2024, to accommodate the Owner's availability. Attached as Attachment "10" to this report is a true copy of this notice.

On October 30, 2024, City staff inspected the Property and observed that no additional work had been completed by the Owner and that the House was still in contravention of the City's bylaws. Staff also observed water damage in one of the unpermitted additions that had been constructed within the House. Attached as Attachment "11" to this report is a true copy of the photographs that were taken during this inspection.

A City building inspector was present in all, except for February 12, 2024, of the aforementioned inspections conducted at the Property.

Over the past year, City staff have made extensive efforts to communicate clearly to the Owner that her Property is not in compliance with the City's bylaws, that she had performed work on the House that required building permits, and that she would be required to obtain building permits to either bring the House into compliance or to remove the unpermitted construction. Nevertheless, the Owner has failed to obtain a building permit or make efforts to bring her Property into compliance with the City's bylaws.

On January 9, 2025, it came to the City's attention that the Owner had listed the Property for sale. Attached as Attachment "12" is a PDF printout of the listing.

For your reference and consideration, staff have also attached copies of the Building Bylaw Enforcement Guide (Attachment "13"), Petition filed in the BC Supreme Court (Attachment "14"), and Affidavit filed in the BC Supreme Court (Attachment "15").

Discussion

The City's Bylaw No. 8125, 2019 (the "Building Bylaw") provides under section 2.6.1 that no owner shall commence or permit the construction of an alteration or addition to a building on their property unless they have obtained a building permit under the Building Bylaw. Attached as Attachment "16" is a true copy of the Building Bylaw.

Over the course of the inspections conducted by City staff as summarized above, it is clear that the Owner has installed numerous additions to the House, including the construction of interior walls, additions, plumbing, and electrical work.

The House has been altered without approvals from Council or by way of City permits. Therefore, work has been conducted on the House that is in violation of the Building Bylaw.

The Building Bylaw is intended to ensure that the BC Building Code is followed and to limit the probability that as a result of the design or construction of a building, a person in the building will be exposed to unacceptable risks. There are obvious structural safety and human health concerns that arise from the installation of unpermitted additions, electrical, and plumbing to the House.

The City routinely places notices regarding violations of building regulations on property tax files. This practice helps to give prospective buyers notice regarding any outstanding violations, should they inquire about the status of taxes for the property prior to purchase. However, prospective buyers who do not enquire about the status of a property's taxes, and other parties with a registered charge on title, such as mortgagers, are not assisted by a notice on taxes.

Section 57 of the *Community Charter* permits the City to post a notice on the land title for a property with respect to violations of building regulations. This provides more certainty that the afore-mentioned affected parties are informed where there are outstanding building violations. A Section 57 notice does not require property owners to bring their property into compliance with City regulations, nor does it prevent them from selling their property, but it does encourage those contemplating the sale of their property to correct the outstanding violations as lenders and buyers may be inclined not to purchase properties with outstanding violations registered to title.

The posting of a Section 57 notice can be advantageous for the City – it can encourage compliance through notice to purchasers and lenders, it can provide the City with a level of protection from claims against the City for failure to warn, and it is a relatively easy and inexpensive bylaw enforcement option.

To protect potential future purchasers and lenders, as well as the City by managing risk of legal liability for failing to warn, staff is requesting Council direct the corporate officer to file a Section 57 Notice on title for the Property in the land title office regarding non-compliance at the property.

As stated, a Section 57 Notice does not require property owners to bring their property into compliance. Based on the previous 11 months, staff anticipate continued non-compliance on the part of the property owner.

NEXT STEPS

REQUIRED NOTIFICATION AND OPPORTUNITY TO BE HEARD

As part of the process of Council considering issuing a Section 57 notice on title, the property owner must be informed in advance. Staff endeavour to provide the owner as

much notice as possible and anticipate delivery of all agenda materials by January 24, 2025. In addition, the property owner or their representative are being given an opportunity to be heard before Council on February 10, 2025, when Council will determine the matter. The property owner may participate by providing written materials in advance of this Council meeting, by providing written materials at this Council meeting, and/or by oral submissions at this Council meeting, by themselves or by someone designated to represent their interests.

FINANCIAL IMPLICATIONS

There are limited financial implications in determining whether to adopt a Section 57 notice. There is no positive obligation on the City to impose a Section 57 notice on title. Adding a Section 57 notice to title may have a positive financial effect by mitigating the risk of a negligent misrepresentation claim in the future in some limited circumstances.

INTERDEPARTMENTAL LIAISON

Integrated Services, Planning, Building, Fire and internal and external counsel collaborated on this report.

OPTIONS

There are three options for Council to consider:

- 1. *That the corporate officer be directed to file a notice in the land title office with respect to the property known as 347 Pembina Street, New Westminster, B.C. and having the PID 029-463-114 and legal description LOT 3 DISTRICT LOT 757 GROUP 1 NEW WESTMINSTER DISTRICT PLAN EPP27053 stating that:*
 - a. *the City of New Westminster City Council has approved a resolution pursuant to Section 57 (3) of the Community Charter regarding the property known as HERE with respect to the property being in violations of building regulations, and*
 - b. *further information about the violations of building regulations is available from the Corporate Officer at New Westminster City Hall, 511 Royal Avenue, New Westminster, B.C.*
- 2. *That staff be directed to take no further action regarding filing a notice on title of the property known as 347 Pembina Street.*
- 3. *That Council provide staff with other direction.*

Staff recommend Option 1.

ATTACHMENTS

- Attachment 1: February 7, 2024 Notice to Owner
- Attachment 2: February 12, 2024 Inspection Photos
- Attachment 3: March 13, 2024 Letter to Owner
- Attachment 4: April 11, 2024 Notice of Inspection
- Attachment 5: May 1, 2024 Letter to Owner
- Attachment 6: May 9, 2024 Letter to Owner
- Attachment 7: May 15, 2024 Inspection Photos
- Attachment 8: July 3, 2024 Letter to Owner
- Attachment 9: July 11, 2024 Notice of Inspection
- Attachment 10: September 3, 2024 Notice of Inspection
- Attachment 11: October 30, 2024 Inspection Photos
- Attachment 12: January 7, 2025 MLS Listing Printout
- Attachment 13: Building Bylaw Enforcement Guidelines
- Attachment 14: December 23, 2024 Petition
- Attachment 15: December 20, 2024 Affidavit (Filed December 23, 2024)
- Attachment 16: Building Bylaw No. 8125, 2019

APPROVALS

This report was prepared by:
Kim Deighton, Manager, Integrated Services
Serena Trachta, Deputy Director, Building

This report was reviewed by:
Erin Williams, Fire Chief

This report was approved by:
Serena Trachta, Acting Director, Planning and Development
Lisa Spitale, Chief Administrative Officer