



Attachment 14

December 23, 2024 Petition



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE CORPORATION OF THE CITY OF NEW WESTMINSTER

PETITIONER

AND

MONA HELGA TEYMORY

RESPONDENT

PETITION TO THE COURT

ON NOTICE TO:

1. **MONA HELGA TEYMORY**
347 Pembina Street
New Westminster, BC
V3M 5J5
2. **THE ATTORNEY GENERAL OF BRITISH COLUMBIA**
PO Box 9044
Stn Prov Govt
Victoria, BC
V8W 9E2

The address of the registry is:

New Westminster Registry
651 Carnarvon Street
New Westminster, BC
V3M 1C9

The petitioner estimates that the hearing of the petition will take 2 hours.

This matter is not an application for judicial review.

This proceeding is brought for the relief set out in Part 1 below by the person named as petitioner in the style of proceedings above.

If you intend to respond to this petition, you or your lawyer must

(a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and

(b) serve on the petitioner(s)

(i) 2 copies of the filed response to petition, and

(ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to civil claim

A response to petition must be filed and served on the petitioner,

(a) if you were served with the petition anywhere in Canada, within 21 days after that service,

(b) if you were served with the petition anywhere in the United States, within 35 days after that service,

(c) if you were served with the petition anywhere else, within 49 days after that service, or

(d) if the time for petition has been set by order of the court, within that time.

(1)	The ADDRESS FOR SERVICE of the Petitioner:	c/o Young Anderson 1616 - 808 Nelson Street Box 12147, Nelson Square Vancouver, BC V6Z 2H2
	Fax number address for service of the Petitioner:	604.689.3444
	Email address for service of the Petitioner:	gallardo@younganderson.ca

(2)	The name and office address of the Petitioner's lawyer is:	Christopher R. Gallardo-Ganaban Young Anderson 1616 - 808 Nelson Street Box 12147, Nelson Square Vancouver, BC V6Z 2H2
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Claim of the Petitioner

Part 1: ORDERS SOUGHT

1. A declaration that the Respondent is contravening Part 3 of the New Westminster Building Bylaw, No. 8124, 2019 (the "Building Bylaw"), by undertaking construction work at the Property without a building permit;
2. A declaration that the Respondent is contravening the New Westminster Zoning Bylaw, No. 6680, 2001 (the "Zoning Bylaw"), by using the Property to room tenants from which the Respondent receives payments for rent;
3. An injunction restraining the Respondent from using the Property to room tenants in exchange for receiving payments for rent;
4. An injunction requiring the Respondent to apply for a building permit within 30 days of this order, which is to the satisfaction of the City to address the unpermitted construction at the Property and to comply with the Building Bylaw.
5. An injunction requiring the respondent to, after 120 days after the acceptance and issuance of the City of a building permit, complete the work necessary under the building permit to, to the satisfaction of the city, address the unpermitted construction at the Property and to comply with the Building Bylaw.

Part 2: FACTUAL BASIS

1. The Petitioner, The Corporation of the City of New Westminster (the "City"), is a municipal corporation incorporated pursuant to the *Local Government Act* and *Community Charter*, and has a business office at 511 Royal Avenue, New Westminster, BC V3L 1H9.
2. The Respondent, Mona Helga Teymory, is an assistance worker with a mailing address of 347 Pembina Street, New Westminster, BC V3M 5J5.
3. The Respondent is the registered owner of the property with civic address 347 Pembina Street, New Westminster, BC, with a legal description of:

LOT 3 DISTRICT LOT 757 GROUP 1 NEW WESTMINSTER DISTRICT PLAN
EPP27053

(the "Property")

4. The Property is zoned as Single Detached (RQ-1). Sited on the Property is a single detached dwelling built in 1947.
5. In or around 2013, the City received plans from the previous owner of the Property, showing the floor plan of the dwelling at that time.
6. Since purchasing the Property, the Respondent began and continued to carry out construction works on the Property, including the following:
 - (a) Interior wall construction changing the floor plan of the building at the Property;
 - (b) Construction additional structures to the current building at the Property (the "Addition"); and
 - (c) Such further work that may be proven at the hearing of this matter;

all contrary to the City's bylaws and without any required permits and permissions from the City (collectively, the "Unlawful Work").
7. No permits have been issued by the City for any construction or development work or land alternation on the Property since 1963, including any permit or approval under the New Westminster Building Bylaw, No. 8124, 2019 (the "Building Bylaw") for the construction or occupancy of any interior walls creating additional rooms, or the Addition.
8. The City has issued warnings and demands to discourage the Unlawful Work, and for the Respondent to obtain building permits to decommission the Addition and the constructed rooms, or to complete additional works, with appropriate permits, to bring the Property back into compliance to the City's bylaws.
9. The Respondent has failed and neglected to obtain building permits to decommission the Addition and the constructed rooms, or to complete additional works, with appropriate permits, to bring the Property back into compliance with the City's bylaws.
10. The Respondent has also continued to use the Property as a rooming house, housing tenants in various rooms and suites throughout the dwelling on the Property (the "Unpermitted Use"), in contravention of the City of New Westminister's Zoning Bylaw, No. 6680, 2001 (the "Zoning Bylaw").

11. The City has issued warnings and demands to cease the Unpermitted Use.
12. The Respondent has failed, neglected, and refused to cease the Unpermitted Use, despite the City's various demands.

Part 3: LEGAL BASIS

1. Pursuant to section 274 of the *Community Charter*, the City may bring proceedings in BC Supreme Court to restrain the contravention of its bylaws and the Local Government Act.
2. The Respondent has contravened the below-described provisions of the City's bylaws through the construction of the Addition and the various rooms in the Property, and the City is entitled to an injunction to require the Respondents to remedy these contraventions by applying for a building permit, removing the Addition and decommissioning the Secondary Suite, and obtaining and complying with the necessary permits for all required remedial work.
3. Furthermore, the Respondent has contravened the below-described provisions of the City's bylaws by allowing for the Unpermitted Use, and the City is entitled to an injunction to remedy these contraventions by ceasing the Unpermitted Use.

Building Bylaw

4. Pursuant to its authority under section 8(3)(l) and section 53(2) of the Community Charter, the City has enacted the City of New Westminster Building Bylaw, No. 8124, 2019 (the "Building Bylaw") to regulate the construction, alteration, repair, or demolition of buildings and structures for the health, safety and protection of persons and property, and to provide for the administration of the BC Building Code in the City.
5. Section 3.1.4 of the Building Bylaw provides that no person shall commence or continue construction or change the occupancy of any building unless a permit has been issued for the construction.
6. The Respondent has violated the Building Bylaw by carrying out construction work at the Property without a permit being issued for said construction work.

Zoning Bylaw

7. Pursuant to its authority under Section 479 of the Local Government Act, RSBC 215, c 1, the City has enacted the City of New Westminster's Zoning Bylaw, No. 6680, 2001 (the "Zoning Bylaw").
8. Rooming tenants is not a permitted use under the Zoning Bylaw for the RQ-1 zone, which is what the Property is zoned under.

9. The Respondent has contravened the Zoning Bylaw by using the Property for a use that is not permitted in the RQ-1 zone of the Zoning Bylaw.

Entitlement to Injunction

10. A municipality may, by a proceeding brought in the Supreme Court, enforce, or prevent or restrain the contravention of,
 - (a) a bylaw or resolution of the council under the Community Charter or any other Act, or
 - (b) a provision of the Community Charter or the Local Government Act or a regulation under those Acts.

Community Charter, section 274(1)

11. In considering whether to grant the relief sought on an application for a permanent statutory injunction, the court must determine whether the respondent has breached the statutes or the regulations or orders made under the statutes.

Vancouver Island Health Authority v Giannikos, 2021 BCSC 957, paras. 54-57

12. It is in the public interest to have the law followed. Where a petitioner which is a public body has established a breach of the legislation, an injunction ought to follow.

Giannikos, supra

13. Where an injunction is sought to enforce a public right, the courts will be reluctant to refuse it on discretionary grounds and, to the extent that the defendants may suffer hardship from the imposition and enforcement of an injunction, that hardship will not outweigh the public interest in having properly enacted laws obeyed.

Maple Ridge (District) v. Thornhill Aggregates Ltd., [1998] BCJ No 1485 (CA), para. 9
[“Thornhill”]


14. The Respondents are clearly breaching the Building Bylaw and the Zoning Bylaw.

15. The City is entitled to an injunction to compel compliance with the Bylaws, and the order should be granted as sought.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Bal Varn, made 20/DEC/2024; and
2. Such further affidavits that may be filed and served in advance of the filing of a Notice of Hearing of this matter.

Date: 23/Dec/2024
[dd/mmm/yyyy]



Signature of Christopher R. Gallardo-Ganaban, Lawyer for the Petitioner

To be completed by the court only:

Order made

in the terms requested in paragraphs _____ of Part 1 of this

with the following variations and additional terms:

Dated: _____.
