

Section 57 Hearing Process

Under Section 57 of the *Community Charter*, a building inspector may recommend that Council consider a resolution directing the Corporate Officer to file a notice in the Land Title Office to serve as a warning to prospective purchasers of the existence of bylaw violations. Section 57 (3) of the *Community Charter* requires that the building inspector and the owner be provided an opportunity to be heard prior to Council's consideration of the building inspector's recommendation.

The Hearing / Special Council Meeting

At the Hearing / Special Council meeting, Council will be considering the building inspector's recommendation to register a notice on land title for the subject property. Section 57 hearings are generally held at open City Council meetings, which means members of the public or media are free to attend and observe the proceedings. Hearings are generally set for a Special Council meeting, rather than a regularly scheduled Council meeting.

Agendas & Minutes

In accordance with the City's typical practice, open Council meeting agendas are published on the City website no later than the Wednesday preceding the meeting date. Materials typically attached to the published agendas are any supporting documents and reports. For a Section 57 Hearing, the agenda materials may include the owner's response to the building inspector's recommendation to Council, staff's report to Council, copies of infractions issued to the homeowner, copies of correspondence between staff and the owner, procedural information regarding the conduct of the hearing, and other relevant material. All documents that are to be provided to Council will normally be provided to the owner at least seven days prior to the Council meeting at which the hearing will take place. Staff will endeavor to provide more notice than seven days when possible.

Minutes are taken at the meeting. These minutes document the hearing and any decision arrived at by Council. In keeping with the City's typical practice, minutes for open Council meetings are also published on the City website in the days following the meeting.

Conduct of Hearing

The Mayor presides as the Chair of the Special Council meeting and will provide direction to the owner as the proceedings unfold. The owner and/or their representative should address the Chair and all questions about how the meeting is being conducted are to be directed to the Chair.

The order of proceedings will generally be as follows:

1. The building inspector who has recommended filing a notice on land title in accordance with Section 57 of the *Community Charter* will be called upon by the Mayor to review the file, explain why a Section 57 notice is recommended, and answer any questions that may be posed by Council members.

2. Once Council has heard from the building inspector, the owner will be called forward by the Mayor to make representations. The owner may or may not attend the Special Council meeting. The owner is provided an opportunity to appear before Council to respond to the building inspector's recommendation. The owner may make their representations themselves or have a lawyer or other representative do so on their behalf. There is no time limit placed on the owner's representation, provided the information is relevant and the proceedings are not being obstructed.
3. Following the owner's representations, Council members may pose relevant questions to the owner.
4. Following any questions by Council members, the owner may pose questions to the building inspector.
5. If any additional witnesses were called upon to provide information to Council, Council and the owner may pose questions to the additional witnesses.
6. Once any relevant questions have been answered, the owner will be excused by the Mayor, at which time the owner would return to the audience.
7. Council members would then deliberate on the matter in open, before any members of the public or media who may be present at the meeting or observing the proceedings electronically. During Council deliberations, the owner is not permitted to participate and can only observe from the audience.
8. Following deliberations, Council may take one of several possible actions:
 - i. Confirm the building inspector's recommendation and pass a resolution to file a notice in the land title office, or
 - ii. Dismiss the building inspector's recommendation, or
 - iii. Consider another motion or action appropriate to the circumstances (such as referring the matter to the building inspector for further information or investigation).

Council's Decision

Council's decision on the Hearing is final and can only be overturned by judicial review by the BC Supreme Court. Written confirmation of Council's decision will be provided to the owner in the days following the meeting. Council's decision is also published in the minutes of the meeting, which is available on the City website.

Note against land title that building regulations contravened

- 57 (1) A building inspector may recommend to the council that it consider a resolution under subsection (3) if, during the course of carrying out duties, the building inspector
- (a) observes a condition, with respect to land or a building or other structure, that the inspector considers
 - (i) results from the contravention of, or is in contravention of,
 - (A) a municipal bylaw,
 - (B) a Provincial building regulation, or
 - (C) any other enactment
 that relates to the construction or safety of buildings or other structures, and
 - (ii) that, as a result of the condition, a building or other structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or
 - (b) discovers that
 - (i) something was done with respect to a building or other structure, or the construction of a building or other structure, that required a permit or an inspection under a bylaw, regulation or enactment referred to in paragraph (a) (i), and
 - (ii) the permit was not obtained or the inspection not satisfactorily completed.
- (2) A recommendation under subsection (1) must be given in writing to the corporate officer, who must
- (a) give notice to the registered owner of the land to which the recommendation relates, and
 - (b) after notice under paragraph (a), place the matter before the council.
- (3) After providing the building inspector and the owner an opportunity to be heard, the council may confirm the recommendations of the building inspector and pass a resolution directing the corporate officer to file a notice in the land title office stating that
- (a) a resolution relating to that land has been made under this section, and
 - (b) further information about it may be inspected at the municipal hall.
- (4) The corporate officer must ensure that all records are available for the purpose of subsection (3) (b).
- (5) If the registrar of land titles receives a notice under subsection (3) and payment of the prescribed fee, the registrar must make a note of the filing against the title to the land that is affected by the notice.
- (6) The note of a filing of a notice under this section is extinguished when a new title to the land is issued as a result of the deposit of a plan of subdivision or a strata plan.
- (7) In the event of any omission, mistake or misfeasance by the registrar or an employee of the registrar in relation to the making of a note of the filing under subsection (5), or a cancellation under section 58, after the notice is received by the land title office,
- (a) the registrar is not liable and neither the Provincial government nor the Land Title and Survey Authority of British Columbia is liable vicariously,
 - (a.1) the assurance fund or the Land Title and Survey Authority of British Columbia as a nominal defendant is not liable under Part 19.1 of the *Land Title Act*, and

- (b) the assurance fund or the minister charged with the administration of the *Land Title Act* as a nominal defendant is not liable under Part 20 of the *Land Title Act*.
- (8) Neither the building inspector nor the municipality is liable for damage of any kind for the doing of anything, or the failure to do anything, under this section or section 58 that would have, but for this subsection, constituted a breach of duty to any person.
- (9) The authority under this section is in addition to any other action that a building inspector is authorized to take in respect of a matter referred to in subsection (1).

By Email: S22(1)

January 24, 2025

Mona Helga Teymory
347 Pembina Street
New Westminster, BC V3M 5J5

Dear M. Teymory,

Re: Section 57 Notice for 347 Pembina Street

This letter is in relation to a recommendation to New Westminster City Council by the Building Inspector that a notice be filed in the Land Title Office in accordance with Section 57 of the *Community Charter* for 347 Pembina Street.

As per my email dated January 22, 2025, this is to confirm that a Special Council meeting has been set for New Westminster City Council to consider this recommendation and provide you with an opportunity to speak to the matter on **Monday, February 10, 2025 at 3:00 p.m. in the Council Chamber** at City Hall, located at 511 Royal Avenue, New Westminster. If you are unable to attend in person, please be advised that you may attend virtually and/or submit a written submission for Council's consideration. You may also have a lawyer or other representative make representations on your behalf. Please advise me in advance of the meeting if you will be using one of these methods to participate.

Details of the Special Council meeting are outlined in the attached document titled *Section 57 Hearing Process*. Also enclosed with this letter is the full documentation that will be presented to New Westminster City Council for the Special Council meeting. In accordance with normal City practice, these documents are published on the City's website as part of the agenda for the open Special Council meeting at which Council will consider the Building Inspector's recommendation. Please review and familiarize yourself with this material and bring it with you to the meeting.

If you have any questions regarding the above, please do not hesitate to contact me at 604-636-4484.

Yours truly,



Hanieh Berg
Corporate Officer

Encl.

ec: Lisa Spitale, Chief Administrative Officer
Jackie Teed, Director, Planning & Development
Serena Trachta, Deputy Director, Building
Kim Deighton, Manager, Integrated Services