Corporation of the City of
NEW WESTMINSTER

Attachment 2

Council Report dated November 21, 2019
1823 Hamilton Street

City of New Westminster

R E P O R T

Legislative Services and Development Services

To:	Mayor Coté and members of Council	Date:	21 November 2019
From:	Jacque Killawee, City Clerk	File:	05.1035.10
	Emilie Adin Director of Development Services		
Subject:	Reconsideration Hearing 1823 Hamilton Street		

RECOMMENDATION

THAT *Council determine to confirm, or amend or cancel the Remedial Action Requirements on 1823 Hamilton Street.*

EXECUTIVE SUMMARY

This report clarifies the legal and specific context for the Reconsideration Hearing on 1823 Hamilton Street and provides Council with an update on the hearing process and on the Property since the hearing.

PURPOSE

This report provides ths legal and specific context for the Reconsideration Hearing on 1823 Hamilton Street, New Wesminster (the "Property"). It also provides Council with an update on the Property since the hearing.

BACKGROUND

On September 1st, 2019 Council passed a motion imposing a Remedial Action Requirement (the "RAR Resolution") on the owners (the "Owner") of the Property. The report, the addendum report and a minute extract from the September 16th meeting are found in attachment 1, 2 and 3 respectively of this report. The RAR Resolution states:

1) ***THAT*** *Council receive the report of the Director of Development Services dated July 8, 2019 regarding the two-storey dwelling (the"House") located on land*

legally described as PID: 011-094-168, Lot 7 Suburban Block 9 Plan 4588 with the civic address of 1823 Hamilton Street, New Westminster (the "Property") and note the concerns as stated in this report and its attachments, that:

a. *the unfinished roof of the House has been covered with tarpaulins and on windy days pieces have blown off the roof onto neighbouring properties and become a hazard and with the fluttering noises become a disturbance to the neighbourhood;*
b. *the exterior wall at the north elevation has remained unclad since 2013 and has become visually offensive to the neighbourhood;*
c. *the scaffold has been erected around the House exterior since 2013 and where parts have fallen onto neighbouring properties and has become a hazard and a visually offensive to the neighbourhood;*
d. *the front retaining wall is constructed without adequate drainage and reported to discharge groundwater onto the City sidewalk, and in winter becomes icy and a slipping hazard for pedestrians in the neighbourhood.*

2) ***THAT*** *Council, under the authority provided by sections 72 and 73 of the Community Charter, find the tarped covering the House to be in and to create an unsafe condition to the neighbourhood.*

3) ***THAT*** *Council, under the authority provided by sections 72 and 74 of the Community Charter, find the fluttering noises of the tarp covering the House to be a nuisance to the neighbourhood.*

4) ***THAT*** *Council, under the authority provided by sections 72 and 74 of the Community Charter, find the unclad exterior wall of the House facing north to be visually offensive to the neighbourhood.*

5) ***THAT*** *Council, under the authority provided by sections 72 and 73 of the Community Charter, find the scaffolding surrounding the House to be in and to create an unsafe condition to the neighbourhood.*

THAT *Council, under the authority provided by sections 72 and 74 of the Community Charter, find the scaffolding surrounding the House to be visually offensive to the neighbourhood.*

THAT *Council, under the authority provided by sections 72 and 73 of the Community Charter, find the drainage for the retaining wall to be inadequate to prevent ground water from flowing onto the City sidewalk thereby creating a hazardous condition in winter for pedestrians.*

THAT *Council hereby require the registered owners of the Property, Reginald and Layne Cairns (the "Owner") to:*

a. *obtain a Qualified Professional to act as intermediary and work with City staff;*

b. *have the Qualified Professional apply for and obtain a Building Permit to perform the remedial work of roofing, cladding of the building, and drainage for the retaining wall;*

c. *have the Qualified Professional facilitate inspections as required for the purpose of completing the Building Permit, and*

d. *have the Qualified Professional organize the removal of the scaffolding upon completion of the construction work.*

6) ***THAT*** *the time specified by Council for the completion of the requirements (the "RAR") imposed on the Owner by this resolution be as follows:*

a. *the application for a permit or permits to remediate building must be submitted no later than 60 days after the day that notice of this resolution has been sent to the Owner in accordance with Section 77(1) of the Community Charter; and*

b. *all other work required to fulfill the RAR must be completed no later than 180 days after the day that notice of this resolution has been sent to the Owner in accordance with Section 77(1) of the Community Charter.*

7) ***THAT*** *Council direct City staff to send the notice to all affected persons as required by section 77 of the Community Charter.*

8) ***THAT*** *if the owner fails to comply with the timelines provided that staff return to Council seeking further direction.*

LEGAL BACKGROUND

If a Council resolves to impose a Remedial Action Requirement on a property, Section 78 of the Community Charter provides the owner of that property with the right of reconsideration by Council. This section states that:

"(1)A person who is required to be given notice under section 77 (1) *[notice to affected persons]* may request that the council reconsider the remedial action requirement.
(2)Subject to section 79 *[shorter time limits in urgent circumstances]*, a request under subsection (1) must be made by written notice provided within 14 days of the date on which the notice under section 77 (1) was sent or a longer period permitted by council.
(3)If the council receives a notice that complies with subsection (2), it must provide the person with an opportunity to make representations to the council.
(4)After providing the opportunity referred to in subsection (3), the council may confirm, amend or cancel the remedial action requirement.
(5)Notice of a decision under subsection (4) must be provided in accordance with section 77 (1) and (2) *[notice to affected persons]*."

This section provides the home owner with the right to reconsideration only of the Remedial Action Requirement adopted by Council.

DISCUSSION

Update From The Building Division

The Building Division reports that the following items remains unchanged from the date the RAR Resolution was passed by Council: the unfinished roof covered in tarpaulins, the unclad exterior facing north, the scaffolding around the house, and the front retaining wall constructed without adequate drainage. Staff also report that a Building Permit application has not been received for the aforementioned items.

Update From Legislative Services

Legislative Services communicated Council's September 16th decision to the Owners and upon receipt of their letter of October 7, 2019, scheduled a reconsideration hearing (the "Reconsideration Hearing") before Council. Legislative Services provided the structure of the Reconsideration Hearing. The Owners will have 60 minutes to provide submissions in support of their requested reconsideration of the RAR Resolution. After which time Council will deliberate its decision.

On November 6th, 2019 the Owners delivered documents in support of their position to the City. These documents are located separately on the agenda for this meeting.

On November 13th, 2019 the City provided this report and all its attachments to the Owners.

It is Council's decision at the meeting of November 21st, 2019, whether to decide to accept any additional documentation from the Owners.

OPTIONS

Council may confirm, amend, or cancel the RAR Resolution at the Reconsideration Hearing. Below are suggested motions for each, noting that as per option 2(a) below, Council may decide to amend the RAR Resolution in any way after considering the submissions made at the Reconsideration Hearing.

Option 1
CONFIRMATION MOTION

WHEREAS the registered owners (the "Owner") of the building (the "House") located on land legally described as PID: 011-094-168, Lot 7 Suburban Block 9 Plan 4588 with the civic address of 1823 Hamilton Street, New Westminster (the "Property") is the subject of remedial action ordered by Council on September 16, 2019 (the "RAR Resolution");

AND WHEREAS the Owner requested reconsideration of the RAR Resolution by letter dated October 7, 2019;

AND WHEREAS the Owner provided submissions to Council on the subject of reconsidering the RAR Resolution;

NOW THEREFORE, pursuant to Part 3, Division 12 of the Community Charter, Council of the City of New Westminster in open meeting assembled, resolves as follows:

1. THAT Council confirm the RAR Resolution passed by Council on September 16, 2019.

Option 2
AMENDMENT MOTION

WHEREAS the registered owners (the "Owner") of the building (the "House") located on land legally described as PID: 011-094-168, Lot 7 Suburban Block 9 Plan 4588 with the civic address of 1823 Hamilton Street, New Westminster (the "Property") is the subject of remedial action ordered by Council on September 16, 2019 (the "RAR Resolution");

AND WHEREAS the Owner requested reconsideration of the RAR Resolution by letter dated October 7, 2019;

AND WHEREAS the Owner provided submissions to Council on the subject of reconsidering the RAR Resolution;

NOW THEREFORE, pursuant to Part 3, Division 12 of the Community Charter, Council of the City of New Westminster in open meeting assembled, resolves as follows:

Possible options for Council to consider are

Option 2(a)

1. That the RAR Resolution be amended by striking and replacing paragraph ***(to be determined by Council)*** with the following: ***(words added by Council)***

Or Option 2(b)

2. That the RAR Resolution be amended by adding the following clause to paragraph 5:

5. THAT for the purposes of this section, "Qualified Professional" means a third-party individual approved by the City to act on behalf of the Owner for the completion of the requirements imposed on the Owner by this resolution.

And 2(c)

If the RAR Resolution is amended the following resolution resets the time of compliance to the date notice is sent of the amended Remedial Action Requirement.

That the RAR Resolution be amended by striking and replacing paragraph 6 with the following:

6. THAT the time specified by Council for the completion of the requirements (the "RAR") imposed on the Owner by this resolution be as follows:

a. the application for a permit or permits to remediate building must be submitted no later than 60 days after the day that notice of this resolution has been sent to the Owner in accordance with Section 77(1) of the Community Charter; and

b. all other work required to fulfill the RAR must be completed no later than 180 days after the day that notice of this resolution has been sent to the Owner in accordance with Section 77(1) of the Community Charter

Option 3

CANCELATION MOTION

WHEREAS the registered owners (the "Owner") of the building (the "House") located on land legally described as PID: 011-094-168, Lot 7 Suburban Block 9 Plan 4588 with the civic address of 1823 Hamilton Street, New Westminster (the "Property") is the subject of remedial action ordered by Council on September 16, 2019 (the "RAR Resolution");

AND WHEREAS the Owner requested reconsideration of the RAR Resolution by letter dated October 7, 2019;

AND WHEREAS the Owner provided submissions to Council on the subject of reconsidering the RAR Resolution;

NOW THEREFORE, pursuant to Part 3, Division 12 of the Community Charter, Council of the City of New Westminster in open meeting assembled, resolves as follows:

THAT Council cancel the RAR Resolution passed by Resolution of Council on September 16, 2019.

INTERDEPARTMENTAL LIAISON

The City Solicitor and the Development Services department were consulted in the writing of this report.