

DATE OF MEETING October 21, 2021

AUTHORED BY DAVID LABERGE, MANAGER, BYLAW SERVICES

SUBJECT REMEDIAL ACTION ORDER – 3365 DEPARTURE BAY ROAD

OVERVIEW

Purpose of Report

To provide Council with information pertaining to illegal modifications that have been made to increase the floor space of a secondary suite at 3365 Departure Bay Road, and to seek approval to impose remedial action requirements pursuant to the provisions of the *Community Charter* to have the suite restored to its original size and configuration in accordance with the requirements of the BC Building Code and “Building Bylaw 2016 No. 7224”.

Recommendation

That Council:

1. issue a Remedial Action Order at 3365 Departure Bay Road pursuant to Sections 72 and 73 of the *Community Charter*;
2. direct Staff to advise the owner that they may request Council reconsider the Remedial Action Order by providing written notice within 14 days of the date on which notice of the remedial action requirement was sent;
3. direct Staff or its authorized agents to take action in accordance with Section 17 of the *Community Charter* without further notice and at the owner’s expense if the said remedial action is not undertaken within 30 days of Council’s resolution; and
4. direct the remedial action to have the suite restored to its original size and configuration in accordance with the requirements of the BC Building Code and “Building Bylaw 2016 No. 7224”.

BACKGROUND

3365 Departure Bay Road is an R1 single dwelling residential property with a legal lower level secondary suite.

A building inspector conducted a site inspection on the property in February 2019 with respect to a retaining wall permit and observed that work was being undertaken to alter the dwelling without a building permit. It was determined that an unfinished lower level storage room had been converted into a third bedroom for the adjacent two-bedroom secondary suite. An interior door was installed to connect the room to the suite, and an exterior door that previously provided outside access to the storage area had been removed and replaced with a window. The structural concrete around the window had been cut in the process.

These unpermitted and uninspected alterations were problematic. Secondary suites can have a maximum of two bedrooms and 968ft² of floor space, both which were exceeded with the alterations. Second, it was undetermined whether necessary fire separations exist between the main dwelling and secondary suite. Lastly, it was undetermined if the alterations to the structural

concrete have compromised the safety and integrity of the dwelling. The building inspector posted a Stop Work Order.

The property owner subsequently applied for and was issued a building permit to complete the scope of work required to restore the secondary suite and alterations to their original condition. The permit expired with no inspections being called, and no work completed.

The owner was notified in writing in October 2019 that the permit had expired, and was given 30 days to rectify deficiencies and call for a follow-up inspection. No work was undertaken.

The owner was notified in January 2020 that Council would consider a report recommending a notice be registered on the title of the property pursuant to Section 57 of the *Community Charter* to give notice to interested parties of the building regulation contraventions. Legal notation has been registered on the property title.

The Building Inspections Section file was retired and this matter was sent to the City Bylaw Services Section for enforcement action in March, 2020. The property owner informed a bylaw officer that the storage room had been opened up to provide more square footage for the secondary suite. The owner had mistakenly assumed that since a contravention notice had been registered on title that the City would not take any further action, and advised that they didn't have the financial means to complete the work. In consideration of the owner's circumstances and the fact that the COVID-19 pandemic was escalating at that time, additional time was provided.

A bylaw officer and building inspector met with the property owner in September 2021 and viewed the secondary suite. The inspector reiterated the safety concerns and scope of work that needed to be undertaken to remove the third bedroom and restore the suite to its original state. No progress had been made in completing the required work in the 18 months that had elapsed since the March 2020 meeting.

DISCUSSION

Structural alterations to the suite were uninspected and completed without a building permit. The storage room that has been converted to become part of the secondary suite is part of the main dwelling. "City of Nanaimo Zoning Bylaw 2011 No. 4500" (the "Zoning Bylaw") regulations (s. 6.15.2.4), which limit the size of secondary suites to 90m² (968ft²), have been contravened, and minimum fire separations between suites and the main dwelling are required by building code. A building inspector is of the opinion that the uninspected alterations and cutting of the structural concrete to install a new window may compromise the safety and integrity of the dwelling.

OPTIONS

1. That Council:

1. issue a Remedial Action Order at 3365 Departure Bay Road pursuant to Sections 72 and 73 of the *Community Charter*;
2. direct Staff to advise the owner that they may request Council reconsider the Remedial Action Order by providing written notice within 14 days of the date on which notice of the remedial action requirement was sent;

3. direct Staff or its authorized agents to take action in accordance with Section 17 of the *Community Charter* without further notice and at the owner's expense if the said remedial action is not undertaken within 30 days of Council's resolution; and
4. direct the remedial action to have the suite restored to its original size and configuration in accordance with the requirements of the BC Building Code and "Building Bylaw 2016 No. 7224".

- Advantages: The structure contravenes the Zoning Bylaw, was constructed without a permit, and is uninspected. Restoration of the suite to its original condition will mitigate safety and liability concerns.
- Disadvantages: The property owner will bear the expense of completing the required renovations.

2. Take no action.

- Advantages: None identified.
- Disadvantages: The City is aware that alterations have been made to the dwelling without permit or inspection that are contrary to the Zoning Bylaw regulations, which may be safety and liability issues.

3. Provide alternative direction.

SUMMARY POINTS

- 3365 Departure Bay Road is a single dwelling residential property with a legal secondary suite.
- Structural alterations were made to the dwelling without permit or inspection to increase the size of the secondary suite. The suite now exceeds the size permitted in the Zoning Bylaw.
- A bylaw contravention notice has been placed on title. A building permit was applied for and issued to complete work necessary to restore the suite to its original condition. The work was never completed.
- A remedial action order requiring the suite be restored to its original size and configuration in accordance with the requirements of the BC Building Code and building bylaw is recommended

Submitted by:

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Concurrence by:

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