

DATE OF MEETING OCTOBER 3, 2022

AUTHORED BY DAVID LABERGE, MANAGER, BYLAW SERVICES

**SUBJECT ILLEGAL CONSTRUCTION – 5 DURHAM STREET**

## **OVERVIEW**

### **Purpose of Report**

To obtain Council authorization to enforce the provisions of the *Community Charter* related to an unauthorized structure.

### **Recommendation**

That Council:

1. issue a Remedial Action Order at 5 Durham Street pursuant to Sections 72, 73 and 74 of the *Community Charter*,
2. 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,
3. direct that the remedial action consist of removing the front entry deck, rear carport and second floor rooms and washrooms which have been constructed without a permit or inspection.

## **BACKGROUND**

A building inspector attended to the property at 5 Durham Street on 2020-AUG-13 in response to a complaint that construction was taking place without a building permit.

The inspector observed a newly constructed front entry deck with an open frame timber structure and stairs which were built without compliant foundation and framing materials. A carport cover which also served as a second floor deck was under construction which was found not to be installed on proper foundations. The homeowner was not present, so a Stop Work Order was posted on the property.

A second inspection was conducted on 2020-AUG-20, at which time the homeowner provided access to the second floor addition. Access to the second floor room was found to be through a non-code compliant stairway to an under-height attic area. A new room addition and two piece washroom had been installed.

All of the described work had been completed without a building permit or required inspections. The building inspector found numerous, significant building code and safety contraventions.

On 2021-MAR-18, Council passed a resolution to register a Bylaw Contravention Notice on the property title pursuant to Section 57 of the *Community Charter*, and the matter was referred to

the Bylaw Department for enforcement action. In the interim, the Building Department communicated extensively with the property owner providing details of information required to submit a building permit. The owners submitted a permit application that was substantially incomplete, so no permit was ever issued.

A bylaw officer attempted to contact the owners repeatedly by phone, letter and through attendance at the property, but no contact was ever made, and all correspondences were unanswered until notice was sent advising that the matter would be referred to Council to consider a remedial action order.

## **DISCUSSION**

The construction was completed without a permit, is uninspected, and does not conform to building code requirements.

The Building Department has communicated repeatedly with the property owner over several years, providing information on the requirements of a building permit application. The application which was conditionally received on 2021-AUG-15 was incomplete and could not be processed. The building department subsequently provided the property owner with a detailed letter outlining the requirements to bring the construction into compliance. No response was received and the permit application was closed.

The property owner submitted another building permit application on 2022-SEP-21. The Building Department has reviewed the application and found it to once again be incomplete. Another letter has been sent to the property owner detailing what documents and information will be required to process the application and to issue a building permit.

More than two years have elapsed since the Stop Work Order was posted for construction that was completed without a permit.

## **Timeline Summary**

- 13 AUG 2020 – Stop Work Order issued
- 18 SEP 2020 – owner notified of requirements to bring construction into compliance
- 18 MAR 2021 – notice placed on property title of building contraventions
- 15 AUG 2021 – owner submitted incomplete application for a building permit. Building Department provided written direction of requirements. File closed when no further submission received.
- 13 JUN 2022 – Matter forwarded to Bylaw Department for enforcement action
- 27 JUL 2022 – letter sent to owner advising matter would go to Council for consideration of remedial action after communications went unanswered
- 21 SEP 2022 – owner submitted incomplete application for a building permit. Building Department has provided further direction in writing.

The property owner has the options of obtaining a building permit and undertaking work to bring the construction into compliance or to remove the structures. The construction deficiencies were identified in August 2020 and have not been rectified. The remaining alternative is a Remedial Action Order to remove front entry deck, rear carport and second floor additions.

## **OPTIONS**

1. That Council:
  1. issue a Remedial Action Order at 5 Durham Street pursuant to Sections 72, 73 and 74 of the *Community Charter*;
  2. 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,
  3. direct that the remedial action consist of removing the front entry deck, rear carport and second floor rooms and washrooms which have been constructed without a permit or inspection.
2. That Council provide alternative direction. |

## **SUMMARY POINTS**

- A front entry structure, carport and second floor addition was constructed at 5 Durham Street without a permit or inspection.
- Inspections determined that the construction was in contravention of building codes.
- The property owner was directed to obtain a building permit and complete necessary work to bring the property into compliance, or to remove the illegal construction.
- The property owner had not obtained a building permit in the two years after being informed of the contraventions. A new application was submitted by the property owner on 2022-SEP-21.
- Consideration of a Remedial Action Order to remove the illegal construction is recommended.

## **ATTACHMENTS:**

- ATTACHMENT A – Photographs of construction at 5 Durham Street |

### **Submitted by:**

Dave LaBerge  
Manager, Bylaw Services |

### **Concurrence by:**

Dale Lindsay  
General Manager, Development Services /  
Deputy CAO |