

DATE OF MEETING SEPTEMBER 14, 2023
AUTHORED BY DAVID LABERGE, DIRECTOR, BYLAW SERVICES
SUBJECT REMEDIAL ACTION REQUIREMENT – 2120 BOWEN ROAD

OVERVIEW

Purpose of Report

To inform Council that a structure at 2120 Bowen Road has been extensively damaged by fire, is dilapidated and hazardous, and to recommend remedial action requirements be imposed pursuant to the provisions of the Community Charter to have the structure removed or demolished.

Recommendation

That Council:

1. issue a Remedial Action Order at 2120 Bowen Road pursuant to Sections 72 and 73 of the *Community Charter*;
2. direct Staff to advise the owner(s) 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 consisting removal or demolition of the fire-damaged structure.

BACKGROUND

The residence at 2120 Bowen Road was extensively damaged in a house fire on 2022-DEC-29, and is currently in a hazardous and uninhabitable state. The property is not locally owned, and the owners have failed to undertake appropriate measures to properly secure the structure or clear the yard which was littered with debris from the fire overhaul. The City cleaned up the property in June 2023 at the owner's expense in accordance with the provisions of the City of Nanaimo's "Property Maintenance and Standards Bylaw 2017 No. 7242," but the burned out structure continues to be abandoned, hazardous, and a visual blight to the community.

DISCUSSION

Pursuant to section 72(1) of the *Community Charter*, Council may impose a remedial action requirement in relation to hazardous conditions. A remedial action requirement may require the owner to remove or demolish an unsafe structure.

There must be sufficient evidence before Council to support a declaration, and should be based on the opinion of a person with the relevant expertise to make such a determination. The condition of a fire damaged building would be determined by a fire inspector or building inspector. The fire service may consider a fire damaged building to be in or create an unsafe condition as a significant fire risk. A building inspector may determine that an extensively fire damaged building is unstable and hazardous.

A building inspector assessed the structure in June 2023 and provided a recommendation that it should be demolished to prevent the possibility of collapse for safety concerns or be evaluated by a structural engineer for required shoring (if possible). The inspector conducted observations from the exterior of the building only, and reviewed photographs provided by the fire department of the interior areas taken from outside the front exterior door. The fire department would not enter the building for concern of possible structure collapse. The main floor, walls, ceiling, and roof were all burned beyond repair destroying all interior finishes, with penetration into basement level. There has also been an extensive amount of water damage.

Council may also consider Section 74(2) of the *Charter* to declare a fire damaged or abandoned building to be a nuisance if it is so dilapidated or unclean as to be offensive to the community. The City continues to receive complaints from the community that the building has remained as an abandoned, burned out visual blight in the neighbourhood.

OPTIONS

1 That Council:

1. issue a Remedial Action Order at 2120 Bowen Road pursuant to Sections 72 and 73 of the *Community Charter*;
2. direct Staff to advise the owner that (s)he 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, direct the remedial action consisting removal or demolition of the fire-damaged structure.

The advantages of this option:

- There is a reasonable basis for concluding the condition of the property is dilapidated and unsafe.
- The property is vacant, abandoned and a visual blight to the community.

The disadvantages of this option:

- Considerable staff time and expense can be involved in enforcing remedial action requirements, and may be subject to judicial review.

Financial Implications:

- Costs to complete work pursuant to a remedial action requirement can be recovered in accordance with Section 17 (*Community Charter*).
- The enforcement of remedial action orders may require litigation and can be subject to judicial review.

2. That Council take no action or provide alternative direction.]

SUMMARY POINTS

- The residence at 2120 Bowen Road was extensively damaged by fire on 2022-DEC-29.
- The structure is extensively fire and water damaged, is beyond repair and is structurally hazardous.
- A Remedial Action Requirement is recommended, requiring that the structure be demolished.

Submitted by:

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Concurrence by:

Darcy Fox
Manager, Building Inspections

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Fire Chief

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/Deputy CAO]