



Corporate NO: R230

Report COUNCIL DATE: December 9, 2002

REGULAR

TO: Mayor & Council **DATE: December 2, 2002**

FROM: City Solicitor **FILE: 11294-12300**

XC: 5400-80-12300

SUBJECT: Condition of Property at 11294 - 123 Street (the "Property")

RECOMMENDATION

1. That Council pass the by-law set out in Appendix "B" (the "Proposed By-law") pursuant to Section 698 of the *Local Government Act*, R.S.B.C. 1996, c. 323 (the "*Local Government Act*") to declare the Property to be unsightly and in violation of the Surrey Community Improvement and Unsightly Property By-law, 1997, No. 13150 (the "Unsightly By-law").
2. That Council order the removal of the unsightly conditions from the Property.

INTENT

It is the intent of this report to advise Council of the condition of the Property, which staff believe is unsightly and in violation of the Unsightly By-law and justify the Proposed By-law which would require the Owners to bring the Property into compliance with the Unsightly By-law.

BACKGROUND

July 5, 1994

By-law Enforcement received a complaint that the Property is unsightly.

February 13, 1995

By-law Department attended to the Property and towed away two small trailers.

February 27, 1995

By-law Officer attended to the Property and noted a small improvement.

August 8, 1995

By-law Officer attended to the Property and notes that it is worse then ever. City Engineer attends the Property and estimates that the cost for clean up will be \$3,000. The Owners were advised to clean up the Property or the City would conduct the clean up at the Owners' expense.

February 23, 1996

The Owners were advised to clean up the right-of-way by February 27, 1996.

February 27, 1996 to April 9, 1996

The Property was inspected several times with little improvement.

June 7, 1996

By-law Officer attended to the Property. It is still considered unsightly.

July 3, 1996

By-law Officer attends to the Property and finds it extremely unsightly with an accumulation of metal and debris on the City's right-of -way. The Officer hand delivers a letter to the Owner, Florence Dumont, to clean up the Property within 30 days and to remove metal and debris from the City's right-of-way.

March 17, 1998

By-law Department received a complaint regarding the unsightliness of the Property. One of the Owners, Oliver Turney, collects scrap metal and other junk and stores it on the Property. The entire Property is covered from the Property line with scrap metal, car parts, old construction material and other junk. Double registered letter is sent to the Owner, Oliver Turney advising that the Property is unsightly and will have to be cleaned up within 30 days. The double registered card was returned confirming receipt of the letter.

March 5, 1998

By-law Enforcement Officer attended to the Property. Property is cluttered with scrap metal, old car parts, old construction material, wire, plastic and other debris.

February 5, 1999

By-law Enforcement Officer attended to the Property. On the City boulevard is a trailer containing all kinds of junk. The Property consists of scrap metal, old tires, lawnmowers, auto parts and numerous items. No one was home and a notice to clean up was left in the mailbox on the Property.

February 16, 1999

By-law Officer attended to the Property. Some of the debris had been removed. Mr. Turney promised the clean up would be done by the weekend. The Officer gave him until February 22, 1999 to get his Property in order.

April 20, 1999

By-law Officer attended to Property and the boulevard is almost clean. The Owners advised that they are slowly getting there. They should have the trailers off within the next two weeks. Considering the pile of junk that was on the road and what was on the Property, it is a vast improvement. However, there is a lot of junk still remaining. It has accumulated over 20 years and will take some time before it is all clean. The Owners were making an effort to comply with the City's requests.

September 9, 1999

All wrecks and debris removed from the City's right-of-way. The yard is still a mess and it will take some time to clean up the rest.

September 28, 1999

All items removed from boulevard.

October 22, 1999

Mr. Turney is no longer parking cars or wrecks on boulevard. Property was still full of junk.

November 17, 1999

Notice was left to have a vehicle towed off City's right-of-way. Vehicle was removed next day. The Property still needs clean up. The Owners are working on it slowly.

November 2, 2000

Double registered letter sent to the Owners informing them of the unsightliness of the Property and that they will be required to clean it up in 30 days. Garbage is returning to the boulevard.

December 7, 2000

By-law Enforcement Officer spoke to Mr. Turney, who requested more time to clean up. The Owners still have a lot of junk on the front and rear of the Property. The Officer advised Mr. Turney that once he has the junk off the boulevard he should start on the front yard.

July 16, 2001

Another complaint was received. Another letter was sent to the Owners advising them to clean up the Property in 30 days.

August 16, 2001

No change on the Property.

September 8, 2001

Photos taken of the junk on the Property, which are attached as Appendix "D".

September 13, 2001

Double registered letter with cost of clean up sent to the Owners. Cost for the City to clean up is estimated at \$5,400.

September 19, 2001

By-law Enforcement Officer met with the Owner, Mr. Turney and personally served him with a letter advising him of the cost of clean up. Mr. Turney could not understand what the problem was, as he has been cleaning up. It was explained to him that there was no visible difference, in fact, it appears that more junk has shown up. The Officer informed him that he would give him 60 days to clean and then the City would be attending with the clean up crews. The Officer explained to him that he was working on various project in the area and that he was just one of many that needed cleaning.

September 4, 2002

By-law Enforcement Officer attended the Property and there is no improvement. Photos were taken which are attached as Appendix "E".

DISCUSSION

The intent of the Unsightly By-law is to protect the community from unsightly, hazardous and blighting conditions that contribute to the deterioration of neighbourhoods and provide for the abatement of such conditions. By-law Enforcement Officers have inspected the Property and have concluded that the Property is "unsightly" contrary to the Unsightly By-law.

Given the violation of the Unsightly By-law and the failure of the Owners to voluntarily rectify the situation despite repeated attempts to gain voluntary compliance, we recommend that Council pass a by-law pursuant to Section 698 of the *Local Government Act*, which provides:

Demolition or Repair of Unsafe Buildings, Structures and Excavations

698 (1) *A council may, by bylaw, authorize:*

(a) *the demolition, removal or bringing up to a standard specified in the bylaw of a building, structure or thing, in whole or in part, that contravenes a bylaw or that the council believes is in an unsafe condition.*

The proposed by-law set out in Appendix "B" requires the Owners to remove all rubbish and discarded materials from the Property and allows 30 days for completion of the work.

In the event the Owners fail to carry out the necessary work within 30 days, the proposed by-law authorizes the City or its agents to enter onto the Property to carry out the required work at the Owners' expense using Section 269 of the *Local Government Act* as its authority. Any unpaid amounts may be collected as a debt or as unpaid taxes pursuant to Section 376 of the *Local Government Act*.

CONCLUSION

Based on the foregoing information regarding the condition of the Property, its effect on the neighbourhood, and the continued history of non-compliance with the Unsightly By-law, we recommend that Council adopt the proposed by-law attached as Appendix "B" after first giving the Owners an opportunity to be heard.

CRAIG MacFARLANE

City Solicitor

KER/fm

Appendix "A" - Notice to Owners

Appendix "B" - Proposed By-law

Appendix "C" - Description of the Property

Appendix "D" - Photographs taken September 8, 2001

Appendix "E" - Photographs taken September 4, 2002

c.c. Kelly Rayter, Assistant City Solicitor

John Sherstone, Manager, By-law & Licensing Services

Ed Van Dooyeweert, By-law Enforcement Officer

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"SURREY UNSIGHTLY PROPERTY BY-LAW, 2003, NO. _____"

APPENDIX "A"

NOTICE

TO: Oliver Turney

Florence Anna Dumont

11294 - 123rd Street

Surrey, BC V3V 4P4

YOU ARE NOTIFIED that on the ____ day of _____, 2003, by Surrey Unsightly Property By-law, 2003, No. _____ (the "By-law"), the City Council of the City of Surrey authorized that the work described in the By-law (the "Work") be completed by you to bring into compliance with City by-laws that parcel of land in the City of Surrey, in the Province of British Columbia, which is more particularly known and described as:

Parcel Identifier: 009-570-705

Lot 11 Section 7 Block 5 North Range 2 West

New Westminster District Plan 11733

(the "Property")

within 30 days.

AND IF YOU FAIL to complete the Work within 30 days, the City Council has authorized the Manager, By-law & Licensing Services, together with workers employed by the City of Surrey, to enter on the Property and to complete the Work as required by the By-law. The Work will be done at your expense and the City of Surrey will recover the expense of the Work, together with interest and costs, in the same manner as municipal taxes as provided in Sections 269 and 376 of the *Local Government Act*, R.S.B.C. 1996, c. 323.

AN APPEAL against this action may be made by you to a Judge of the Supreme Court, but your appeal must be made and notice of it given pursuant to Section 698 of the *Local Government Act*, R.S.B.C. 1996, c. 323.

THIS NOTICE is given by the City of Surrey this _____ day of _____, 2003.

CITY CLERK

APPENDIX "B"

CITY OF SURREY

BY-LAW NO.

A by-law to authorize the removal of rubbish and discarded materials that the Council of the City of Surrey has determined to be in contravention of Surrey Community Improvement and Unsightly Property By-law, 1997, No. 13150, pursuant to Section 698 of the *Local Government Act*, R.S.B.C. 1996, c. 323

.....

WHEREAS Oliver Turney and Florence Anna Dumont of 11294 - 123 Street, in the City of Surrey, Province of British Columbia, are the registered owners (the "Owners") of the lands and premises located within the City of Surrey at 11294 - 123 Street and more particularly known as:

Parcel Identifier: 009-570-705
Lot 11 Section 7 Block 5 North Range 2 West
New Westminster District Plan 11733
(the "Property")

AND WHEREAS the presence of rubbish and discarded materials on the Property is not in compliance with Surrey Community Improvement and Unsightly Property By-law, 1997, No. 13150 (the "Unsightly By-law");

AND WHEREAS the Owners of the Property have failed to comply with the directions of the By-law Enforcement & Licensing Section of the City of Surrey to remove the rubbish and discarded materials from the Property;

NOW THEREFORE, the Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. The removal of rubbish and discarded materials from the Property is required to bring the Property into compliance with the Unsightly By-law.
2. The removal of rubbish and discarded materials must be completed by the Owners and the Property must be brought up to the applicable standard by the Owners (the "Work") within the period of time specified in Section 3 of this By-law and the Work is authorized.

3. The Work must be completed by the Owners within a period of 30 days from the time the notice, which is Appendix "A" and forms part of this By-law, is served on the Owners.
4. If the Work is not completed to the standard required by the Unsightly By-law within the period of time specified in Section 3, the Manager, By-law & Licensing Services, together with workers employed by the City of Surrey, or their agents, are authorized to enter on the Property to complete the Work to the standard required by the Unsightly By-law. The Work will be done at the expense of the Owners, and the City of Surrey will recover the expense of the Work, together with interest and costs, in the same manner as municipal taxes as provided in Sections 269 and 376 of the *Local Government Act*, R.S.B.C. 1996, c. 323.
5. Thirty days notice of the action contemplated by the City of Surrey must be given to the Owners by serving a notice in the form set out in Appendix "A" to this By-law.
6. This By-law shall be cited for all purposes as "Surrey Unsightly Property By-law, 2003, No. _____."

PASSED THREE READINGS on the _____ day of _____, 2003.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ day of _____, 2003.

_____MAYOR

_____CLERK

APPENDIX "C"

LEGAL DESCRIPTION OF THE PROPERTY:

Parcel Identifier: 009-570-705
Lot 11 Section 7 Block 5 North Rand 2 West
New Westminster District Plan 11733

CIVIC ADDRESS OF THE PROPERTY:

11294 - 123 Street

REGISTERED OWNERS OF THE PROPERTY:

Oliver Turney
Florence Anna Dumont

OCCUPANTS OF THE PROPERTY:

Oliver Turney

Florence Anna Dumont