



CITY OF RICHMOND

REPORT TO COUNCIL

TO: Richmond City Council
FROM: A.L. (Rick) Bortolussi
Manager, Building Approvals Department
RE: **SECTION 700 OF THE LOCAL GOVERNMENT ACT**
11579 BRIDGEPORT ROAD

DATE: February 17, 2003

FILE: 8360-02

(re: 2001-185779)

STAFF RECOMMENDATION

1. That Council adopt a resolution attached as **Appendix "A"** to this report under Section 700 of the Local Government Act with respect to the property at 11579 Bridgeport Road.
2. That Council authorize the payment of any prescribed fees required by the Registrar of Land Titles.

A.L. (Rick) Bortolussi
Manager, Building Approvals Department

Attachments

FOR ORIGINATING DIVISION USE ONLY		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Law	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>	

STAFF REPORT

ORIGIN

The property records indicate that the Registered Owner of the property located at Lot 57, Section 24, Block 5, North Range 6 West, New Westminster District Plan 45172 (P.I.D. 003-445-593) having the civic address of 11579 Bridgeport Road, Richmond, BC, is Terra Copia Estates Ltd., 104 – 1177 West Broadway, Vancouver, BC, V6H 1G3

A copy of the Zoning Map 24-5-6 is attached as **Appendix “B”**.

ANALYSIS

Inspection Activity

A building permit was issued on August 29, 2001 to expand a mezzanine that had commenced without permit or inspection approval. Within the scope of work, it was indicated that a new second floor washroom would be constructed while a ground floor washroom was to be removed. On October 3, 2001, a plumbing inspection notice was left to address plumbing alterations that were carried out without the benefit of permits or inspections.

On October 31, 2001 a plumbing permit was issued to cap off and remove all combustible piping and to also cap off plumbing piping for a laundry tub. On March 8, 2002 another plumbing permit was issued to cap off the ground floor washroom.

The work described in the scope of work for the October permit has been completed, however the capping off of the ground floor washroom had been carried out without the benefit of inspections and a new finished floor has been installed to cover up the work. This is a contravention with the Building Regulation Bylaw #7230. In addition, staff had observed the quality of the plumbing work carried out above the ground floor slab and are concerned with the level of compliance with the work carried out under the slab that has not been inspected. The deficiencies observed above ground have been brought into compliance.

In discussion with the contractor, he has agreed that the concrete slab-on-ground and the finished floor tiles would be removed for necessary repairs when the current tenant vacates the unit so as not to disrupt the business due to the location of the installation. The area impacted is the main customer lobby.

Regulatory Enforcement Options

(a) Take No Action and Let Permits Expire

The Building Regulation Bylaw 7230, indicates in Section 5.10.1 (b):

Subject to the provisions of section 5.11, a building permit, gas permit, or plumbing permit expires and is invalid and of no force or effect when:

(b) construction, gas work, or plumbing pursuant to the applicable permit is discontinued or suspended for a period of more than 180 days from the date of the last mandatory inspection by the appropriate inspector.

This option would only require an internal administrative procedure to expire all permits that completion work has discontinued for a period of more than 180 days. When such a permit expires, it becomes invalid and of no force and effect. The administrative procedure is to retain permit records to the last approved mandatory inspection stage. The owner has the ability to apply for an additional permit to complete the construction.

The City's liability position could be increased due to the unresolved construction based on the level of hazard and any occupancy of the building.

(b) Initiate Bylaw Contravention Action Through Provincial Court

This option requires staff to initiate a summary conviction charge through the Court. It can take a minimum of six months to have the case heard. Court penalties are very small (\$50 - \$100 per charge/count) when the defendant is found guilty for cases considered as minor levels of hazard. Items of contravention are not generally required to be resolved to a safe condition by the Court. Should the contravention continue, the City has the ability to file a new bylaw contravention charge.

(c) Mandatory Injunction

A mandatory injunction is an injunction that requires the performance of a positive act to address a serious hazard. This option requires a BC Supreme Court application. When ruled in the City's favour by the Court, the defendant is required to address the hazard within a specified period of time and failure to do so, could allow the City to enter onto the property and correct the hazard and charge costs to the defendant. Legal costs associated with such action would be in excess of \$10,000.

(d) Section 700 Processing

Section 700 of the "Local Government Act" allows Council to pass a resolution directing the City Clerk to file Notices, attached as **Appendix "C"**, against the property in the Land Title Office stating that a resolution relating to land has been made under Section 700 and that further information regarding the resolution may be inspected at the City Clerk's Office. Prospective purchasers will have the opportunity to check out the violation list occurring on the property and will be effectively warned that the City intends to pursue this matter until compliance is achieved.

Before Council passes the resolution under Section 700 of the "Local Government Act", the owners of the property must be advised in writing by the City Clerk that Council is considering such resolution and be given the opportunity to appear before Council and be heard as to what the resolution should not be passed. This procedure has taken place.

Where a resolution has been passed by Council and the noted bylaw violations are corrected, the owner may request Council to pass a further resolution directing the City Clerk to file a Cancellation Notice.

It is recommended that a Notice in the Land Title Office be filed to advise potential purchasers of the problem at this property. The Building Regulation Bylaw requires the owner obtain permits prior to commencing construction and obtain inspection approval at various stages during the construction. Should this not occur and there are deficiencies in the construction which are in contravention with the Building and Plumbing Codes, failure to take action consistent with the provisions of the "Local Government Act" and City Bylaws may leave the City at risk in the event of a third party action. A general list of deficiencies, as of March 11, 2002 is attached as **Appendix "D"**.

FINANCIAL IMPACT

Potential of \$100.00 per title for anticipated prescribed fees to the Registrar of Land Titles.

CONCLUSION

The construction at 11579 Bridgeport Road is in contravention of the Richmond Building Regulation Bylaw #7230 in that construction described under Plumbing Permit 02-202614 and Building Permit 01-186779 has been discontinued and occupancy has taken place without final inspection approval. This may result in liability on the part of the City in the event of a health or life safety incident occurring. A Notice on the property in the Land Title Office will effectively discharge the City's legal liability with respect to the property and will alert prospective purchasers of the potential problem. It is hoped that the proposed action will encourage the owner to work with the Building Approvals Department to resolve this matter by completing the construction, obtaining final inspection and achieve compliance with City Bylaws.



A.L. (Rick) Bortolussi
Manager, Building Approvals Department

ALB:alb

Appendix "A"

RESOLUTION

WHEREAS the Building Inspector has observed conditions in relation to land or buildings, namely the property located at 11579 Bridgeport Road and legally described as Lot 57, Section 24, Block 5, North Range 6 West, New Westminster District Plan 45172 (P.I.D. 003-445-593), that he considers to be in contravention of City Bylaws and regulations under Division (2) of Part 21 of the Local Government Act, Chapter 323;

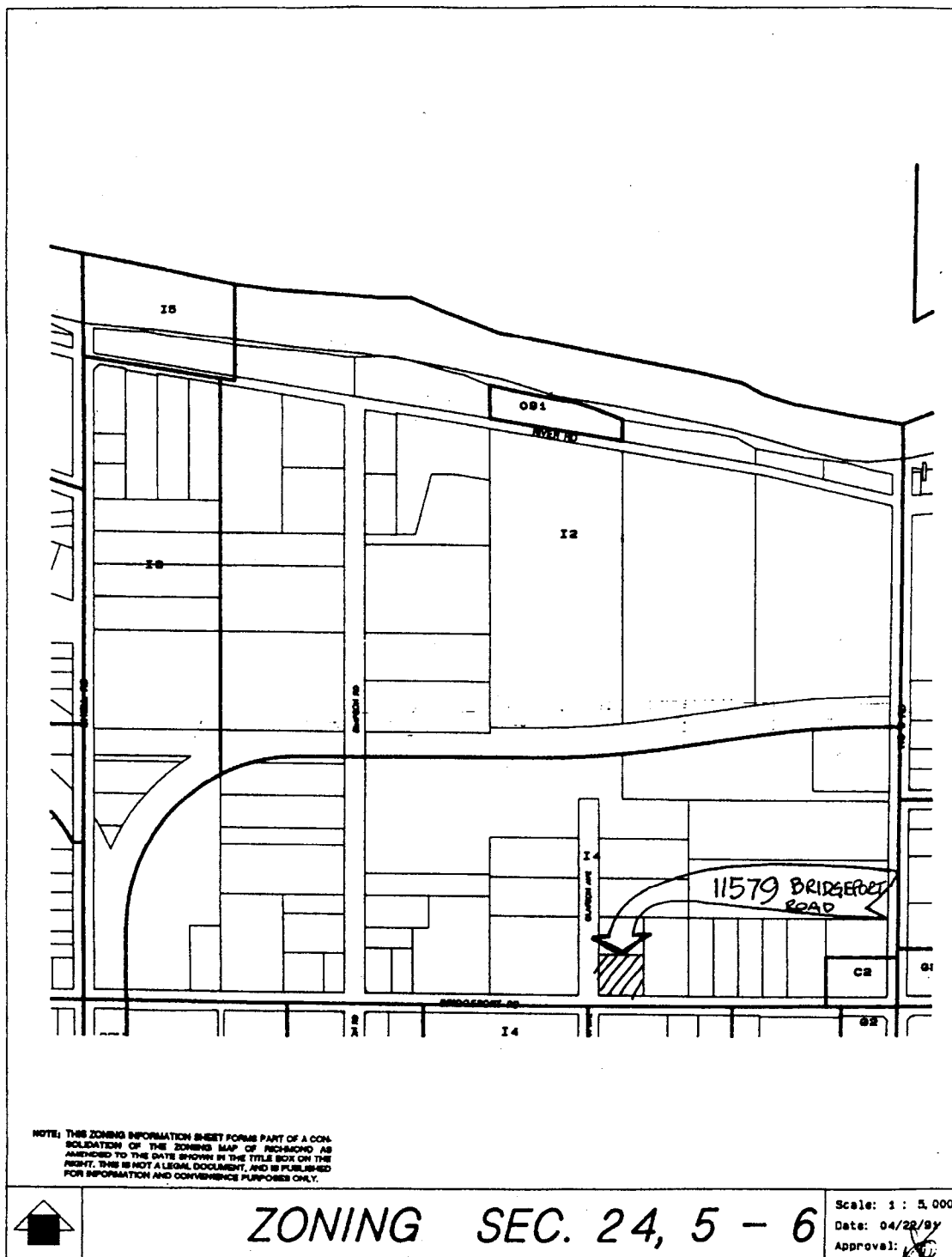
AND WHEREAS the Building Inspector has given a recommendation to the City Clerk, in writing, relating to the above conditions;

AND WHEREAS the City Clerk has notified the registered owner of the property concerning the nature of the recommendation and of the time, date and location of the Council meeting at which the recommendation will be considered;

AND WHEREAS the registered owner of the property was given full opportunity to be heard, prior to adoption of this resolution;

NOW THEREFORE;

- 1.0 The City Clerk is hereby directed to file a Notice in the Lower Mainland Land Title Office, New Westminister, indicating that the Council of the City of Richmond has passed a resolution pursuant to Section 700 of the Local Government Act related to land located at Lot 57, Section 24, Block 5, North Range 6 West, New Westminister District Plan 45172 (P.I.D. 003-445-593) having the civic address of 11579 Bridgeport Road, Richmond, BC, that the Building Inspector considers to be in contravention of City bylaws and regulations under Division (2) of Part 21 of the Local Government Act, Chapter 323.
- 2.0 The City Clerk is further directed to ensure that all records relating to the matter are available for inspection.



Appendix "C"

BYLAW CONTRAVENTION NOTICE

IN THE MATTER OF SECTION 700 OF THE LOCAL GOVERNMENT ACT

AND IN THE MATTER OF Lot 57, Section 24, Block 5, North Range 6 West, New Westminster District Plan 45172 (P.I.D. 003-445-593)

TAKE NOTICE that in confirmation of the recommendation of the Building Inspector, the Council of the City of Richmond passed a resolution pursuant to Section 700 of the Local Government Act with regard to lands located at 11579 Bridgeport Road more particularly known as Lot 57, Section 24, Block 5, North Range 6 West, New Westminster District Plan 45172 (P.I.D. 003-445-593)

The City of Richmond hereby gives Notice that the owners of the said lands have allowed and continue to allow the buildings and structures to contravene provisions of City bylaws and regulations, under Division (2) of Part 21 of the Local Government Act, Chapter 323, namely the construction and occupancy of the building without first obtaining building and plumbing inspection approvals of the construction. Further information regarding this Notice may be inspected at the offices of the City Clerk, 6th Floor, Richmond City Hall, 6911 No. 3 Road, Richmond, B.C. during regular working hours.

GENERAL LIST OF DEFICIENCIES

11579 BRIDGEPORT ROAD, RICHMOND, BC

Legal Description: Lot 57, Section 24, Block 5, North Range 6 West, New Westminster
District Plan 45172 (P.I.D. 003-445-593)

OBSERVATIONS AS OF MARCH 11, 2002.

PLUMBING PERMIT 02-202614

1. Piping and capping-off of piping for removed ground floor washroom to be exposed for inspection.

BUILDING PERMIT: 01-185779

1. Obtain final plumbing approval.



City of Richmond

6911 No.3 Road, Richmond, BC V6Y 2C1
Telephone (604) 276-4000
www.city.richmond.bc.ca

February 19, 2003
File No. 8360-02-2001-185779

City Clerk's Office
Telephone: (604) 276-4007
Fax: (604) 278-5139

REGISTERED MAIL

Terra Copia Estates Ltd.
#2233 Jefferson Avenue
West Vancouver, BC V7V 2A9

Dear Sir:

**Re: Serving of Notice Under the Provisions of Section 700 of the
Local Government Act Regarding 11579 Bridgeport Road, Richmond**

This is to advise you that the Council of the City of Richmond will be considering a recommendation from the Building Inspector in connection with the above referenced matter, based on conditions which he observed, which are in contravention of bylaws and regulations adopted pursuant to Division (2) of Part 21 of the *Local Government Act*, Chapter 323, in relation to the following property, of which you are the registered owner(s):

11579 Bridgeport Road - Lot 57, Section 24, Block 5, North Range 6 West, New Westminster District Plan 45172 (P.I.D. 003-445-593)

On Monday, March 24th, 2003, at 7:00 p.m., in the Council Chambers, Richmond City Hall, 6911 No. 3 Road, Richmond, B.C., City Council will consider a recommendation that the City Clerk be directed to file a notice against the above land in the Land Title Office. This notice would state that a resolution relating to the land has been made under Section 700 of the *Local Government Act*, and that further information respecting the resolution may be inspected at the City Clerk's office. The purpose of the notice is to advise interested parties of violations that are occurring on the property and to provide warning that the City intends to pursue this matter until compliance is achieved.

You are encouraged to attend this March 24th, 2003 Council meeting to make representation to Council, prior to its consideration of the recommendation. Should you have any questions concerning the procedures for appearing before Council, please contact the City Clerk's office at 604-276-4007.

For your information, we are enclosing:

1. A copy of the proposed Resolution recommended by the Manager, Building Approvals Department;
2. A copy of the proposed Notice to be filed in the Land Title Office; and
3. A copy of Section 700 of the *Local Government Act*.

Further documentation relating to this matter may be inspected at this office during regular business hours.

Yours truly,

A handwritten signature in black ink that reads "David Weber". The signature is written in a cursive style with a large, stylized initial "D".

David Weber
Acting City Clerk

DW:fja

pc: Manager, Building Approvals Department

Appendix "A"

RESOLUTION

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AND WHEREAS the Building Inspector has given a recommendation to the City Clerk, in writing, relating to the above conditions;

AND WHEREAS the City Clerk has notified the registered owner of the property concerning the nature of the recommendation and of the time, date and location of the Council meeting at which the recommendation will be considered;

AND WHEREAS the registered owner of the property was given full opportunity to be heard, prior to adoption of this resolution;

NOW THEREFORE;

- 1.0 The City Clerk is hereby directed to file a Notice in the Lower Mainland Land Title Office, New Westminster, indicating that the Council of the City of Richmond has passed a resolution pursuant to Section 700 of the Local Government Act related to land located at Lot 57, Section 24, Block 5, North Range 6 West, New Westminster District Plan 45172 (P.I.D. 003-445-593) having the civic address of 11579 Bridgeport Road, Richmond, BC, that the Building Inspector considers to be in contravention of City bylaws and regulations under Division (2) of Part 21 of the Local Government Act, Chapter 323.
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- (b) the covenant contains conditions respecting reimbursement by the covenantor for any expenses that may be incurred by the covenantee as a result of a breach of a covenant under paragraph (a), and
- (c) the covenant be registered under section 219 of the *Land Title Act*.
- (7) On application of an owner, a council or board may, by resolution, direct its building inspector to issue a building permit but subject to the condition that a covenant referred to in subsection (6) be entered into and registered.

RS1979-290-734(2) to (4) and (6); 1985-79-2; 1987-14-5; 1989-32-8; 1990-53-12; 1990-59-1; 1990-60-2; 1994-53-2; 1998-34-141.

Note against land title that building regulations contravened

700. (1) In addition to any other action that a building inspector is authorized or permitted to take, a building inspector may recommend to the council that it consider a resolution under subsection (3) if, during the course of carrying out duties, the building inspector

- (a) observes a condition, with respect to land or a building or structure, that the inspector considers
- (i) results from the contravention of, or is in contravention of, a bylaw or regulation under this Part or under any other enactment relating to the construction or safety of buildings or structures, and
 - (ii) as a result of that condition, a building or structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or
- (b) discovers that
- (i) something was done with respect to a building or structure or the construction of a building or structure that required a permit or an inspection under a bylaw, regulation or enactment referred to in paragraph (a) (i), and
 - (ii) the permit was not obtained or the inspection not satisfactorily completed.

Sub
Sept. 23/98

(2) A recommendation under subsection (1) must be given in writing to the designated municipal officer, who must

- (a) notify the registered owner of the land to which the recommendation relates, and
- (b) after notice under paragraph (a), place the matter before the council.

Sub
Sept. 23/98

(3) After hearing the building inspector and the owner, the council may confirm the recommendations of the building inspector and pass a resolution directing the designated municipal officer to file a notice in the land title office stating that

- (a) a resolution relating to that land has been made under this section, and
- (b) further information about it may be inspected at the municipal hall.

Sub
Sept. 23/98

(4) The designated municipal officer must ensure that all records are available for the purpose of subsection (3) (b).

(5) If the registrar of land titles receives a notice under subsection (3) and payment of the prescribed fee, the registrar must make a note of the filing against the title to the land that is affected by the notice.

(6) The note of a filing of a notice under this section is extinguished when a new title to the land issues in consequence of the deposit of a plan of subdivision or a strata plan.

(7) In the event of any omission, mistake or misfeasance by the registrar or an employee of the registrar in relation to the making of a note of the filing under subsection (5) after the notice is received by the land title office,

- (a) the registrar is not liable nor is the Provincial government liable vicariously, and
- (b) the assurance fund or the Attorney General as a nominal defendant is not liable under Part 20 of the *Land Title Act*.

(8) Neither the building inspector nor the municipality is liable for damage of any kind for the doing of anything, or the failure to do anything, under this section or section 701 that would have, but for this subsection, constituted a breach of duty to any person.

Rep
Aug. 30/00

(9) *Repealed.* [2000-7-63]

RS1979-290-750.1(1),(2),(3),(5),(9),(10),(11); 1987-14-6; 1998-34-142; 2000-7-63.