

Staff Report

Origin

This report recommends that Council declare the residential structures (house and associated sheds and outbuildings) at 12620 No. 3 Road to be a nuisance and order their removal based on the authority granted under Section 72 of the *Community Charter*. This authority cannot be delegated to staff and must be declared in a specific motion from City Council. Demolition ordered through this process does not exempt the owners from obtaining permits and complying with all City bylaws.

Also related to 12620 No. 3 Road, staff have issued an Order to Comply (the “Order”) under Unightly Premises Regulation Bylaw No. 7162 (“Unightly Bylaw”) for the owners to remove and clear the property of discarded items and offending property. The owners have not complied with the Order but have appealed to Council to rescind the Order. This report presents evidence to support the recommendation that this appeal be denied and the Order confirmed.

This report supports Council’s Strategic Plan 2018-2022 Strategy #1 A Safe and Resilient City:

Enhance and protect the safety and well-being of Richmond.

1.1 Enhance safety services and strategies to meet community needs.

Findings of Fact

Staff have been dealing with complaints and deteriorating conditions at 12620 No. 3 Road for at least 10 years. This is a 4.1 ha site, zoned AG1, which contains a three story vacant house plus several sheds and outbuildings that shelter a variety of discarded and unused items. While a large portion of the property is farmed, the concerns about maintenance, cleanliness and safety relate to the unfarmed, residential portion of the property. This property is owned by Michael George Fairhurst and Verna Marie Fairhurst.

The house on this property has been vacant since at least 2011 when the City was first called upon to deal with a vacant home. Since that time, bylaw enforcement staff have issued several orders to clean up the property and the house has deteriorated further with broken windows, visible mould and complaints of rat and squirrel infestations. As a result of recent windstorm, a tree has fallen over and rests against the front of the house. It is now uninhabitable and in a visible state of disrepair. Pictures of the house and some of the sheds and outbuildings are provided as Attachment 1.

The most recent bylaw enforcement activity on this site began in June 2019 when the City received a complaint that the property contained abandoned boats, trailers and cars, overgrown blackberry bushes and shrubs, an abandoned in-ground pool as well broken windows in the house. An inspection on the property confirmed the conditions described in the complaint and also the presence of abandoned tires, appliances, storage containers, tarps, metal panels, scraps of wood and lumber and chairs. Subsequent to the inspection, the owners were issued an Order to clean the site and comply with the Unightly Bylaw no later than August 23, 2019 (see Attachment 2).

Analysis

Nuisance Structures

The house at 12620 No. 3 Road has been vacant since at least 2011 and City staff have attended the site several times since then as a result of complaints from the neighbourhood. In addition to the vacant home, there are a number of sheds and outbuildings on the residential portion of the site that are being used to store discarded and disassembled materials.

In consideration of the history of this file, it is recommended that the vacant house and residential sheds and outbuildings on this property be declared a nuisance as they interfere with the public's reasonable use of the neighbourhood and are of such condition as to be offensive to the community. Staff recommend that the owners be ordered to demolish the structures within 60 days of Council's order. Should the owners ignore the order or not complete the work within 60 days, the City will undertake the work at the their expense. The timeline of 60 days has been chosen to give the owners adequate time to obtain permits and contractors to perform the work.

In order to provide an opportunity to address the issues ahead of further enforcement action, the owners of this property, Verna Fairhurst and Michael Fairhurst, have been notified that a motion, to declare the house a nuisance and order its demolition, is being presented to Council. Notifying the owners of a motion and providing the owners an opportunity to address Council are considered to be principles of procedural fairness related to Council's authority to declare a nuisance.

Appeal of Order to Comply

On July 22, 2019, the owners of 12620 No. 3 Road were issued an Order to Comply with the Unsightly Bylaw. This Order specified steps to be taken to bring the condition of the property into conformity with the Unsightly Premises Bylaw, namely:

- a) Removal of black berry bushes and other overgrown vegetation;
- b) Removal of derelict vehicles, tires, batteries, and other dismantled vehicle parts;
- c) Removal of styrofoam, plastic containers, plastic/metal barrels, chemicals, metal racks, metal panels, metal/wooden rods, wooden boards, wooden pallets, glass panels, plastic trap, bags, cardboard boxes, newspaper and other discarded items; and
- d) Removal of metal/wooden shelves, appliances, refrigerators, water tub, shopping cart, trollies, bicycles, sign stands, chairs, seat cushions, Christmas decorations and other non-farm used equipment and items.

Initially, the owners made progress in cleaning the site and were given an extension to comply with the Order. However, inspections in August, and again in October confirmed that the site has not been cleaned up and remains in non-compliance with the Unsightly Bylaw. Pictures of the site in October are provided as Attachment 3.

An order issued according to the Unsightly Bylaw instructs the owners to comply by the deadline given or the City will do the work on the owners' behalf and at the owners' expense. The Unsightly Bylaw also has provisions to allow property owners to appeal to Council to have the

Orders rescinded. In this case, Mr. Fairhurst has asked to appeal to Council to have the Order rescinded (Attachment 4).

According to telephone conversations and documents submitted by Mr. Fairhurst:

- The property is an old farm and the farm and the house are in the process of renewal;
- The complainant has destroyed the property, trespassed and dumped garbage on the site;
- The property is being winterized; and
- Significant change has taken place in the last month and the farm is being preserved.

Mr. Fairhurst further claims that he has made significant progress on cleaning the site but that he will never be able to meet the City's expectations and have the site cleaned up to the point that it complies with the Unsightly Bylaw.

In consideration of the conditions of the site and Mr. Fairhurst's claims that he won't be able to meet the City's expectations, it is recommended that the appeal is denied and the Order upheld. Should Council agree to uphold the Order, staff will arrange to have the site cleaned at the owners expense.

Financial Impact

None.

Conclusion

12620 No. 3 Road is a large property with a residential area containing a vacant house, deteriorating sheds and outbuildings and an unsightly yard with numerous discarded items. This report proposes that Council pass motions declaring the residential structures at 12620 No. 3 Road a nuisance and order them to be demolished under the authorities granted to City Councils under provisions of the *Community Charter*. Also in this report is the recommendation that appeal of the July 22, 2019 Order to Comply be denied and the Order confirmed so that the property can be cleaned up, in compliance with the Unsightly Bylaw. In both cases, if the owner does not demolish the structures or clean the yard, the City can undertake the work at the owners' expense.



Carli Williams, P.Eng.
Manager, Community Bylaws and Licencing
(604-276-4136)

- Att. 1: Pictures of house and structures at 12620 No. 2 Road
2: July 22, 2019 Order to Comply
3: Pictures of October Inspection of the site
4: Notice of Appeal submitted to City Clerk





CNCL - 8
(Special)



CNCL - 9
(Special)



CNCL - 10
(Special)



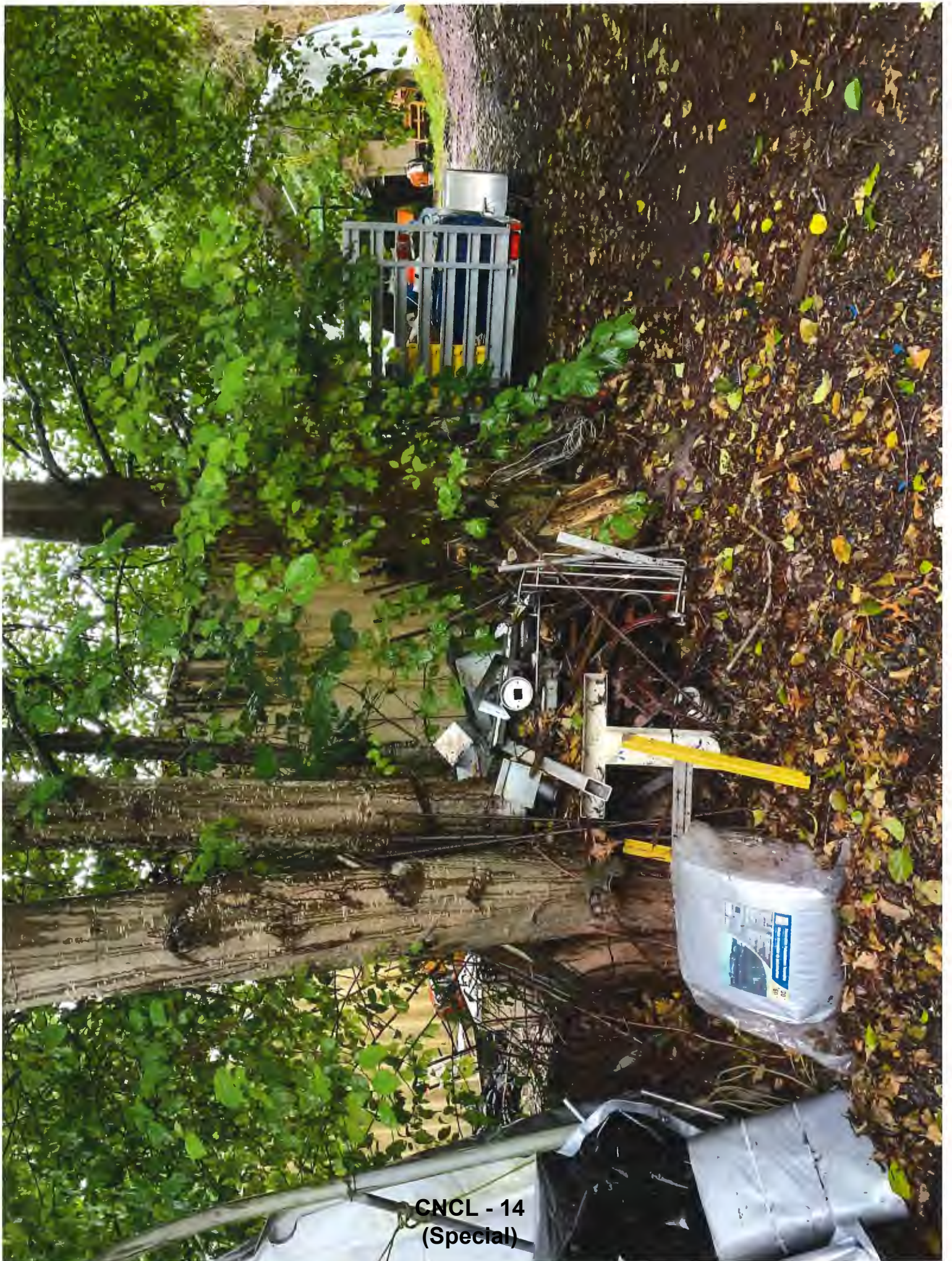
CNCL - 11
(Special)



CNCL - 12
(Special)



CNCL - 13
(Special)



CNCL - 14
(Special)



CNCL - 15
(Special)



City of
Richmond

6911 No. 3 Road
Richmond, BC V6Y 2C1
www.richmond.ca

July 22, 2019
File: 94685

COPY

Community Safety Division
Community Bylaws
Telephone: 604-276-4345
Fax: 604-276-4036

DELIVERED BY HAND
FAIRHURST MICHAEL G
12620 NO 3 RD
RICHMOND BC V7A 1X5

Dear Property Owner:

Re: Contravention of Unsightly Premises Regulation Bylaw No. 7162 at:
Civic Address: 12620 NO 3 RD RICHMOND BC V7A 1X5
Legal Description: LOT 13 SEC 9 BLK 3N RG 6W PL NWP41607 Lot 13, Block 3N, Plan NWP41607, Section 9, Range 6 W, New Westminster Land District

City records show that you are the owner of the above properties and as such this is to advise you of the contravention of the Unsightly Premises Bylaw No. 7162. The City is seeking mandatory compliance to its bylaws through the issuance of the attached "Order to Comply". The Order to Comply is issued prior to the City initiating clean-up action at the expense of the property owner.

The legal authority for this action is set out in the Unsightly Premises Regulation Bylaw 7162 and is also shown in the paragraph below.

- 2.2.2 *If the owner or the occupier of such property, or their agents fail to remove or clear the offending material from the real property as directed in an Order to Comply, City staff, or a contractor engaged by the City, may enter on the real property, at reasonable times and in a reasonable manner, to remove or clear the offending material at the expense of the defaulting owner or occupier of the real property, or their agents.*
- 2.2.3 *Where offending material has been removed or cleared in accordance with subsection 2.2.2, the charges for such removal or clearance, if unpaid on or before December 31st in the year in which the charges are incurred, form part of the taxes payable on such property, as taxes in arrears.*

This action is based on an authority provided in the Community Charter.

You have the right to appeal this Order to Comply as set out in Section 2.3 of the Unsightly Premises Regulation Bylaw as follows:

2.3 Appeal Against an Order to Comply

2.3.1 *A person upon whom an Order to Comply has been served may, by giving notice in writing to the City Clerk at least 72 hours prior to the expiration of the time given in the Order to Comply to remove or clear the offending material, appeal to Council, who must hear and determine the appeal by confirming, amending or rescinding the Order to Comply.*

Please contact the City Clerk's Office, in writing, by 5:00 pm **August 20, 2019**, should you wish to appeal this Order to Comply. The City Clerk's Office is located at Richmond City Hall, 6911 No. 3 Road, Richmond BC V6Y 2C1, telephone contact 604-276-4007.

Bylaw Liaison Officer Christine Chen will be conducting a follow up inspection on **August 23, 2019** to ensure that compliance to this Order is achieved.

Should the inspection reveal that the property continues to contravene the Order, the City will arrange for the necessary actions, detailed in the Order, to be undertaken on your behalf and at your expense.

Please inform Bylaw Liaison Officer Christine Chen of your intentions regarding the matter on or before **August 16, 2019** at 604-276-4079.

Yours truly,



Christine Chen
Bylaw Liaison Officer II

CC:cc

Enc. 1

pc: City Clerk's Office
Christine Chen, Bylaw Liaison Officer

DELIVERED BY HAND
FAIRHURST VERA M
C/O MICHAEL FAIRHURST
12620 NO 3 RD
RICHMOND BC V7A 1X5

TORONTO-DOMINION BANK
5991 NO 3 RD
RICHMOND BC V6X 3Y6

DELIVERED BY HAND
VERNA MARIE FAIRHURST
7860 TWEEDSMUIR AVENUE
RICHMOND BC V7A 1L4



City of
Richmond

Order to Comply
Law and Community Safety Division
Community Bylaws

July 22, 2019

Pursuant to Unsightly Premises Regulation Bylaw 7162
and the Local Government Act

Civic Address 12620 NO 3 RD RICHMOND BC V7A 1X5
Legal Description LOT 13 SEC 9 BLK 3N RG 6W PL NWP41607 Lot 13, Block 3N, Plan
NWP41607, Section 9, Range 6 W, New Westminster Land District

You are hereby ordered to bring the condition of this property into conformity with Richmond's
Unsightly Premises Bylaw 7162 and the Local Government Act by **August 23, 2019** with the:

- a) Removal of black berry bushes and other overgrown vegetation;
- b) Removal of derelict vehicles, tires, batteries, and other dismantled vehicle parts;
- c) Removal of styrofoam, plastic containers, plastic/metal barrels, chemicals, metal racks, metal panels, metal/wooden rods, wooden boards, wooden pallets, glass panels, plastic trap, bags, cardboard boxes, newspaper and other discarded items;
- d) Removal of metal/wooden shelves, appliances, refrigerators, water tub, shopping cart, trollies, bicycles, sign stands, chairs, seat cushions, Christmas decorative and other non-farm used equipment and items;

Details on the Order to Comply process, including appeals, are outlined in the attached letter.

Christine Chen
Bylaw Liaison Officer II

Att.



CNCL - 19
(Special)



August 20, 2019

To: city of Richmond
attention to: City Clerk

RE: File #14685 city of Richmond Bylaws.
Fairhurst, Michael.
12620 No. 3 Road.

SW / Madam

I wish to appeal the ORDER to COMPLY dated July 22, 2019 against the property at 12620 No. 3 Road, Richmond. The reason or grounds for this appeal are as follows and are not limited to these reasons.

- ① as an old farm and farm house the site is in the process of renewal.
- ② the complainant, Rick McKinney, has destroyed property, trespassed and dumped garbage onto the noted property. The conduct under the complaint action was been noted and no retro-action has taken place.
- ③ significant change has taken place in the last month. the farm aspect is being preserved.

thank you
Mike Fairhurst.
604.271 4846.



delivered by hand
to city hall.