



# City of Richmond

## Report to Committee

**To:** Community Safety Committee

**Date:** March 21, 2013

**From:** Phyllis L. Carlyle  
General Manager

**File:** 12-8060-01/2009-Vol  
01

**Re:** New Provincial Legislation - Bill 12-2013 Community Safety Act

### Staff Recommendation

That the staff report titled New Provincial Legislation-Bill 12-2013 Community Safety Act (dated March 21, 2013 from the General Manager, Law & Community Safety) be received for information.

Phyllis L. Carlyle  
General Manager  
(604-276-4104)

Att. 1

REPORT CONCURRENCE			
<b>ROUTED TO:</b>	<b>CONCURRENCE</b>	<b>CONCURRENCE OF GENERAL MANAGER</b>	
Community Social Development	<input checked="" type="checkbox"/>		
Law	<input checked="" type="checkbox"/>		
RCMP	<input checked="" type="checkbox"/>		
<b>REVIEWED BY DIRECTORS</b>	<b>INITIALS:</b>	<b>REVIEWED BY CAO</b>	<b>INITIALS:</b>

## Staff Report

### Origin

This report provides information regarding the provincial government's Bill 12 -2013 and its potential impact on the City of Richmond. The proposed legislation introduces the "*Community Safety Act*" which is designed to target problem properties within the Province of British Columbia.

This report supports Council's Term Goal # 1: *to ensure Richmond remains a safe and desirable community to live, work and play in, through the delivery of effective public safety services that are targeted to the City's specific needs and priorities.*

### Background

The "*Community Safety Act*" received first reading on February 21<sup>st</sup>, 2013 and is designed to target problem properties where unlawful, dangerous and threatening activities continually detract from neighbourhood safety and security. The government intends to use the *Act* to target and in some cases shut down properties negatively impacting communities.

If passed, the *Act* will enable members of the public to submit confidential complaints to the designated director of community safety who will be charged with investigating, mediating and working with property owners to curb various threatening and dangerous activities. In response to substantiated complaints the director will take steps to force the property owner to address identified issues. Where problems persist the director may apply to a court for a community safety order, which may bar certain individuals from the property or close it for up to a period of 90 days.

Unlike criminal laws, the new civil legislation will target properties where the occupants may change frequently, but the problem activity persists, and the property owner(s) fail to take effective action to correct the issue.

The proposed community safety investigation unit differs from B.C.'s Civil Forfeiture Office, which does not conduct investigations and acts on case referrals from Police rather than reports from the public.

### Analysis

An overview of the proposed legislation is contained in **Appendix A**.

### Potential Impact

Similar legislation in other provinces (Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia and the Yukon), has seen most identified problems nullified without court involvement. Current data indicates that less than one percent of complaints received have led to an application to the court for a community safety order.

Research on similar legislation in the Province of Alberta - "*Safer Communities and Neighbourhoods (SCAN) Act (2008)*" indicates that the legislation did not expand the powers of municipalities and that the enforcement power resides with the director of law enforcement at Alberta Solicitor General and Public Security. The Provincial Ministry works collaboratively

with municipal law enforcement and social service agencies to address property use issues. All criminal activity detected under the authority of the Act involving a property is transferred to the police for investigation.

Staff was able to confirm that in major cities in Alberta there has been no impact to municipal resources. Both the City of Calgary and the City of Edmonton stated that property concerns are referred to the police for appropriate action. The police subsequently deal with the individuals but not the property. If the activity on the property becomes problematic the affected citizens are advised to make a complaint through the appropriate provincial agency.

Research findings in the Cities of Winnipeg and Saskatoon rendered the same results with staff reporting minimal or no impact to municipal resources.

### *Community and Social*

It is anticipated that this *Act* will provide an additional tool to respond to citizen concerns with regard to chronic problem properties that are attracting illegal activities. Concerned citizens can be directed to make confidential complaints to the responsible provincial body in addition to the police. As the police can only deal with the individuals, it is hoped that this *Act* will promote responsible property ownership and positively impact the safety of the community.

It is important to note that the optional provisions of the proposed Community Safety Act can require the occupants of a property to vacate. Since providing housing placement for displaced individuals is a provincial responsibility, the City would work closely with agencies such as the Richmond Homelessness Coalition, BC Housing, BC Ministry of Social Development, and other community partners to coordinate efforts. Any evictions that may occur as a result of actions under the proposed Community Safety Act that render people homeless may in some way impact the community.

As with most new legislation it is difficult to gauge the complete level of impact on the community until several scenarios involving the legislation unfold.

### **Financial Impact**

There is no financial impact resulting from this report.

## Conclusion

The proposed Community Safety Act promotes community safety by targeting properties that are chronically used for repetitive illegal activity. Currently police manage offenders and have minimal interaction with the property. Experience in other provinces with similar legislation indicates that the Act can assist police and municipalities with problem properties.

This collaborative approach will result in safer neighbourhoods and communities and is congruent with Council Term Goal 1: *Ensure Richmond remains a safe and desirable community to live, work and play in through an interdisciplinary approach to community safety.*



Edward Warzel  
Manager, Community Bylaws  
(604-247-4601)

EW:ml

## APPENDIX A

### Community Safety Unit Structure

A director of community safety will be appointed under the Public Service Act. The director may in turn delegate to a person(s) powers or duties under this Act and may designate investigators who are appointed under the Public Service Act.

### Complaint System

The *Act* states that a person may make a complaint to the director if the person believes that

- (a) activities occurring in, on or near a property in the person's community or neighbourhood indicate that one property is being used for a specified use, and
- (b) the community or neighbourhood is being adversely affected by the activities.

After receiving the complaint the director may

- (a) decide to act or not to act on the complaint;
- (b) require the complainant to provide further information;
- (c) investigate the complaint;
- (d) send a warning letter to an owner of the property, an occupant of the property, or any other person the director considers appropriate;
- (e) attempt to resolve the complaint by agreement or informal action; or apply to the court under section 9 for a community safety order.

Pursuant to section 10 (1) of the *Act* a complainant may apply directly to the court for a community safety order respecting a property in the event the director decides not to act on the complaint.

This legislation allows for the court to make a community safety order respecting a property if the court is satisfied, on a balance of probabilities, that

- (a) the activities have been occurring in, on or near the property and being habitually used for a specified use, and
- (b) the community or neighbourhood is being adversely affected by the activities.

In addition, the court may make a community safety order if it is satisfied, on a balance of probabilities, that the activities in respect of which the application is made are a serious and immediate threat to the health, safety and security of an occupant of the property or a person in the community or neighbourhood.

Mandatory provisions of a community safety order respecting a property include the following:

- (a) the address and legal description of the property;
- (b) a description of the activities in respect of which the community safety order is being made;
- (c) a prohibition of all persons from carrying out, contributing to or permitting the activities in or on the property;
- (d) a requirement that the named owner or another owner, or both, to do everything reasonably possible to prevent the activities continuing or reoccurring, including doing anything specifically ordered by the court described in the optional provisions of the community safety order.

Optional provisions of the community safety order include:

- (a) requiring a person to vacate the property on or before the date specified in the community safety order;
- (b) prohibiting a person from entering the property without the director's consent;
- (c) prohibiting a person from occupying the property;
- (d) keeping the property closed for up to 90 days;

The *Act* clearly outlines requirements for the director to serve a copy of the community safety order on the owner and the occupants of the property. In the case where the complainant has directly made the request through the courts there is a requirement for the complainant to serve a copy of the community safety order on the director, the named owner, and the occupants of the property.

### **Variations, Appeals and Compliance**

The *Community Safety Act* includes provisions for the courts to make variations and appeals to community safety orders made under the "*Act*". In addition the legislation provides specifics as to which issues can be appealed, on a question of law, and stipulates that appeals may go before the Court of Appeal.

A section of the *Act* referencing compliance issues includes the following requirements:

- (a) a person is to comply with a community safety order;
- (b) a posted copy of a community safety order shall not be removed or defaced;
- (c) a property that is closed under a community safety order shall not be entered;
- (d) the owner or occupants of the community safety order shall be notified in the case of a transfer of interest in the property or where the right of occupancy has been transferred to another person.

### **Administration and Enforcement**

The "*Community Safety Act*" administratively provides powers for the director to post documents on the property and specifics as to secure the property; hire persons to secure the property; and describes appropriate methods of securing and monitoring properties without setting limitations to any or all of the following

- (a) attaching locks, boarding or other security devices;
- (b) erecting fences;
- (c) changing or terminating utility services; and
- (d) making interior or exterior alterations to the property so that it is not a hazard while it is closed.

The legislation also holds harmless the director for costs as a result of taking any actions to secure the premises and or reversing any of the actions taken.

### **Closure Costs and Review**

The "*Community Safety Act*" provides that if a property is closed under a community safety order, the director may issue to a property owner a certificate that sets out the amount of costs incurred by the director for closing, securing, monitoring, and keeping the property closed. The owner on receiving a certificate must pay the Minister of Finance the amount of costs payable under the certificate within 30 days.

Should the owner named in the certificate not file a review with the court registrar within 14 days of receiving the certificate then the certificate is enforceable in the same manner as if it were a judgment of the court in favour of the government for the recovery of a debt in the amount specified in the certificate.

### **Notation against Title Property**

If the property is subject to a community safety order, the director may file in the land title office a written notice containing a description of the land and a statement that a community safety order that affects the land has been issued under this Act.

### **Offences and Penalties and Limitation period**

Offences under the act include:

- (a) failing to maintain confidentiality of a complainant
- (b) failing to comply with a community safety order
- (c) providing false or misleading information when required under this Act
- (d) refusing to or failing to provide information as required

- (e) obstructing, hindering or otherwise interfering with the posting of documents

Penalties under the act include:

- (a) for a first conviction a \$10,000 fine, imprisonment for not more than 6 months, or both, and
- (b) on a subsequent conviction for contravention a fine of not more than \$25,000, imprisonment for not more than one year, or both.
- (c) in the case of a corporation, the same fines as above but not including any time for imprisonment.

Limitation periods for a prosecution under this act are:

- (a) 2 years after the date on which the act or omission occurred, or
- (b) 2 years after the date on which the director learned of the act or omission and referenced the date in a certificate.

The remainder of the Act details the administrative actions such as the appropriate method of collection, distribution, etc... of personal information. It also provides liability protection for the director, investigators, and employee(s) under direction of the director. In addition, it allows for the Lieutenant Governor in Council to make regulations referred to in section 41 of the Interpretation Act.