



City of Richmond

Report to Council

To: Richmond City Council
From: Barbara Sage, City Solicitor

Date: September 14, 2018
File: 12-8080-12-01/Vol 01

Carli Williams, Manager Community Bylaws & Licencing

Re: Report to Seek Injunctive Relief and Notice on Title for 11111 Bird Road

Staff Recommendation

1. That Council authorize the City Solicitor, in their discretion, to instruct external legal counsel to commence a legal action or proceeding and to seek injunctive relief to render the property at 11111 Bird Road compliant with City Bylaws; and
2. That, according to Section 57 of the *Community Charter*, City staff be directed to file a notice against land title that building regulations have been contravened in respect to the building located at 11111 Bird Road.



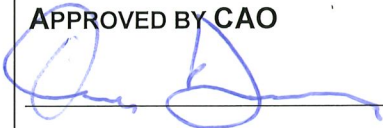


Barbara Sage
City Solicitor
(604-247-4636)



Carli Williams
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(604-276-4136)

Att. 1

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Building Approvals Richmond Fire Rescue	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE	INITIALS: 	APPROVED BY CAO 

Staff Report

Origin

The property located at 11111 Bird Road contains work and structures that were added without permits or approval and is non-compliant with Building Regulation Bylaw No. 7230, Fire Protection and Life Safety Bylaw No. 8306 and Richmond Zoning Bylaw No. 8500. After several attempts to warn the owner and to enforce the City's bylaws through Provincial Court, the property remains non-compliant.

The *Community Charter*, Section 274 (1), allows a municipality to enforce, prevent or restrain the contravention of a bylaw by a proceeding in Supreme Court. Further, Section 57 of the Community Charter provides a mechanism for the City of Richmond to register a notice on land title to serve as a warning to prospective purchasers of the existence of bylaw violations.

This report supports Council's 2014-2018 Term Goal #3 A Well-Planned Community:

Adhere to effective planning and growth management practices to maintain and enhance the livability, sustainability and desirability of our City and its neighbourhoods, and to ensure the results match the intentions of our policies and bylaws.

Findings of Fact

The dwelling at 11111 Bird Road was constructed in 1989 and the property is zoned RS1/E (single detached housing). The property is owned by Baldish Sandhu and Mohinder Sandhu. Photos are included in Attachment 1.

City Inspectors have conducted numerous inspections of the home, including in December 2017 when they required an entry warrant to gain access. During the inspections they found additions to the home as well as three accessory structures built on the property without permits. There are presently seven secondary suites on the property. The unpermitted construction includes the enclosing of a deck, which has been converted into 2 suites, plus 3 large workshops that have been created at the back of the property.

In addition to the unpermitted suites and accessory structures, there are a variety of conditions on the property which change from time to time and may constitute other violations of City Bylaws, including the Fire Protection and Life Safety Bylaw. Some of the buildings are missing smoke alarms and carbon monoxide detectors and have insufficient fire exits. In addition, the owners have paved over much of the property and are storing vehicles and other items not consistent with the approved zoning.

The property owners were found guilty in Provincial Court in 1995 and 1996 for illegal suites and in 2000 for buildings without permits. In the time since the prosecutions in Provincial Court, the property owners have made inquiries to the City to rezone or gain variances for the suites but all have been declined. Throughout this time, the property owners have failed to return the house to its original condition and remove the suites and illegal structures.

Analysis

Despite several attempts by the City to enforce the bylaws, the owners have failed to remove the unapproved construction or cease using the illegal suites. While 2 of the suites were created by unapproved alterations to the main portion of the house, 5 of the suites are in structures built without permits or inspections. These inspections would include structural elements, plumbing, gas, fire safety and electrical works. There are approximately 10 people living in the illegal suites and the City is unable to attest to the safety of the rental units.

Pursuing action in Supreme Court will enable the City to seek a mandatory and permanent injunction, or court order, to compel the owners to take the necessary steps to comply with all bylaws including doing all the work necessary to restore the home and property to a compliant state. The City will be able to seek an order prohibiting the owners from continuing to rent out secondary suites they are not permitted to have or otherwise using the property in a manner that does not accord with the Zoning Bylaw. Such an order from the Supreme Court is continuing, and does not expire. Thus, the property owners will be responsible to the Court for complying with City Bylaws at all times or risk being in contempt of Court.

In the event that the owners try to sell the property, a notice registered on title will warn perspective purchasers of the building regulation violations. As part of this process, the City must give notice to the property owner and Council must pass a resolution directing staff to register the notice. Registering a notice on title is an effective tool to supplement bylaw enforcement measures and does not relieve the obligation to comply with bylaws.

Staff have been pursuing compliance on this file for over 20 years, trying a variety of enforcement measures and providing information to the owner on options for compliance. This is not an acceptable timeline by the standards of today's enforcement practices. Regardless, in the continuous effort to compel compliance with City bylaws, staff recommend pursuing injunctive relief and a notice on title.

Financial Impact

The costs to pursue legal action on this matter are estimated to range between \$10,000 and \$20,000, with funding provided within the existing budget for legal services. In actions of this nature there is precedent for obtaining an award of special costs in these circumstances. If obtained, special costs would reimburse the City for the majority of its legal expenses.

Conclusion

The property at 11111 Bird Road is non-compliant with Building Regulation Bylaw No. 7230, Fire Protection and Life Safety Bylaw No. 8306 and Richmond Zoning Bylaw No. 8500.

September 14, 2018

- 4 -

Despite several attempts to gain compliance, including through Provincial Court, the owners of the property have not removed the illegal construction nor ceased operating illegal suites. Authorizing the City Solicitor to pursue action in Supreme Court will allow the City to seek an injunction, a court order, to compel compliance with all bylaws. Further, a notice registered on title will ensure that prospective purchasers are warned of the bylaw violations.



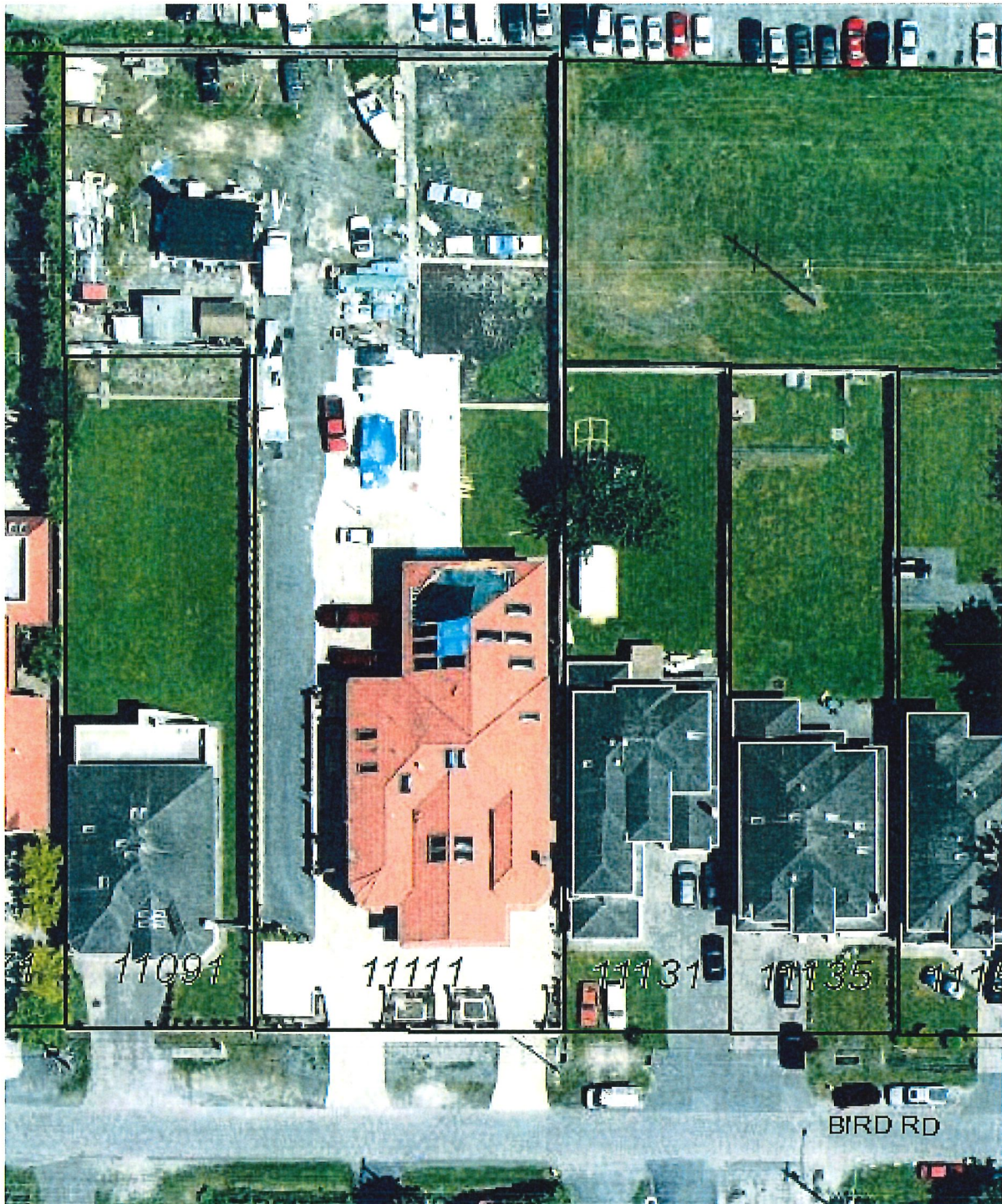
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CW:cw

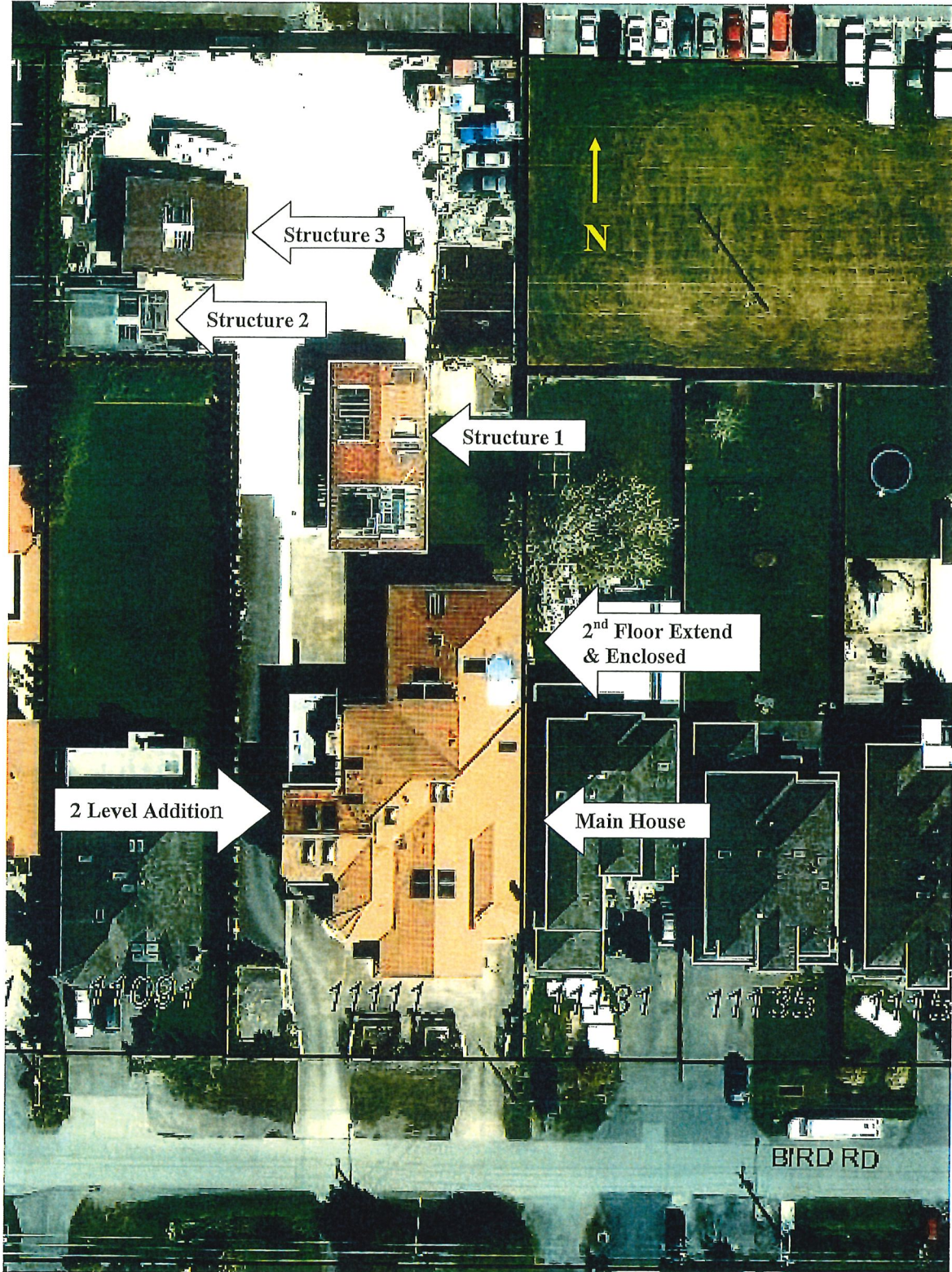
Att. 1: Photos of property and buildings at 11111 Bird Road

**CNCL - 6
(Special)**

Aerial Photo of the property in 2005



CNCL - 7
(Special)



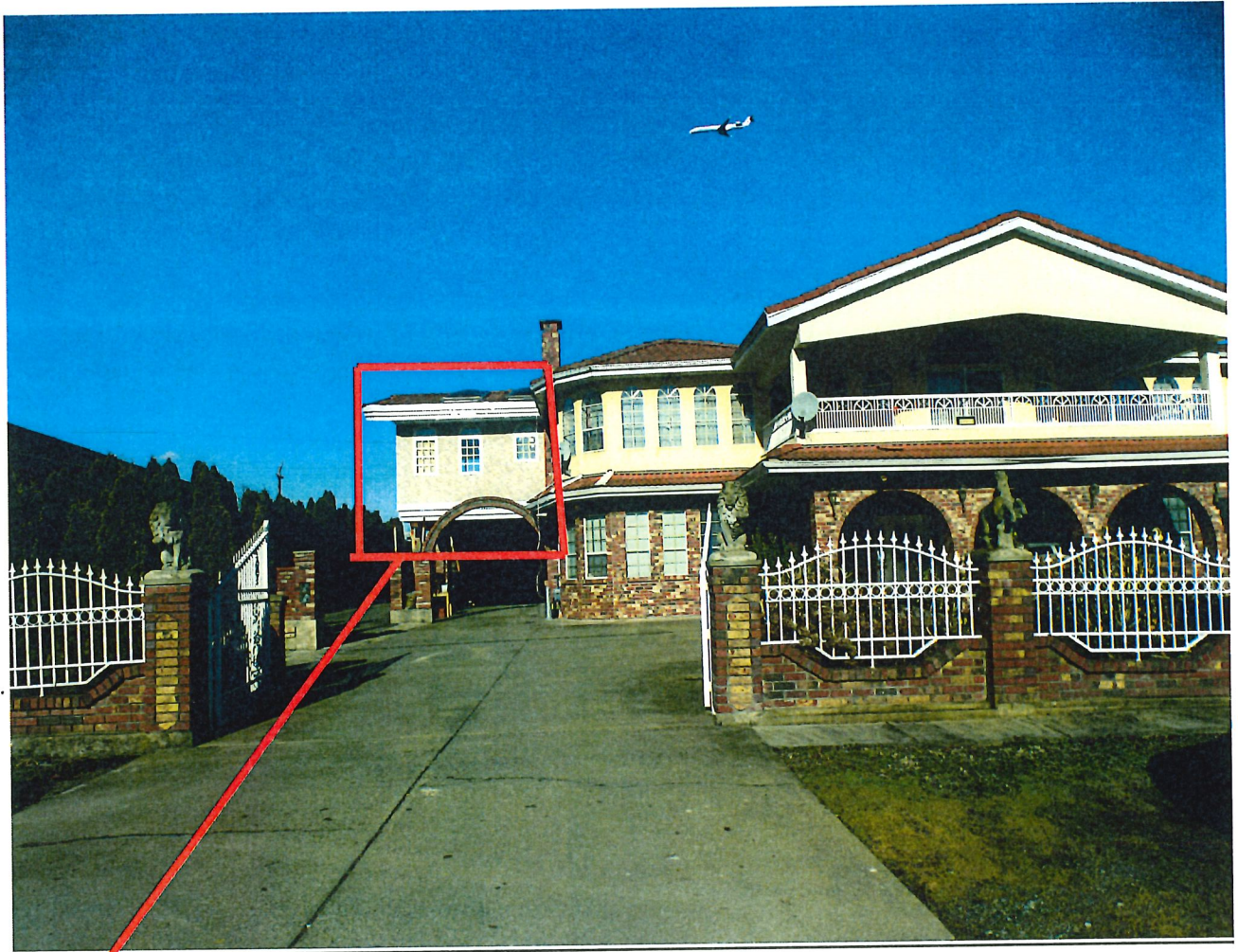
Picture of the front of the house on January 31, 2017



Side profile for the unauthorized addition on the West side of the house.

**CNCL - 9
(Special)**

Picture of the front of the house on Jan 31, 2017



Unauthorized Addition on the west side of the home

Pictures of the addition on the second floor deck on January 31, 2017



Second floor addition that contains two unauthorized suites

Additional structures made on the property





**CNCL - 13
(Special)**