

From: "Mochrie, Paul" <Paul.Mochrie@vancouver.ca>
To: "Direct to Mayor and Council - DL"
Date: 11/21/2024 8:40:06 AM
Subject: Update - 1125 W 12th Avenue

Dear Mayor and Council,

We recognize that Council has received multiple emails from the tenants at 1125 W12th Avenue, due to active enforcement related to the work without permit to create non-compliant micro units.

Below, we have summarized the background, challenges and planned next steps.

BACKGROUND

The City of Vancouver has had active enforcement at 1125 W 12th Ave ("the Building") since 2021 due to unauthorized construction work conducted without permits. This property is owned by Prospero International Realty Inc.

The approved occupancy of the Building is 169 sleeping units and 23 dwelling units (192 total). Several units in the Building have been altered without permits to create 24 additional units, bringing the total number of units in the building to 216.

This unpermitted work poses potential safety risks that need to be addressed through a building permit, trades permits and inspections, as well as Zoning and Development By-Law non-compliance issues related to the use, and related liveability requirements.

While there may not appear to be any immediate safety issues, the City has a responsibility to investigate and address any concerns resulting from unpermitted work.

Staff have also identified numerous unlicensed short-term rentals (STR) being advertised in the Building. We have no record of any licensed STRs in the building, and the observed listings are currently under investigation.

On August 30, 2023, the City received Development Permit application DP-2023-00670 to validate the work without permit from 192 to 216 units.

Enforcement was put on hold following intake of the permit application to provide the property owner with time to work through the permitting process.

The City is aware of a Global News report published on November 10, which inaccurately suggested that the City is requiring residents to vacate the Building. City staff have reached out to the reporter to provide accurate information and are following up on a correction.

DEVELOPMENT PERMIT REVIEW

Staff have identified that the unpermitted work has created non-conforming uses in the Building, that are not listed under the Zoning and Development By-Law. Therefore, a condition was included in the Prior-to letter thereby providing the applicant the option to appeal to the Board of Variance (BOV).

Currently, it would be at the discretion of the BOV to hear the appeal and render a decision to approve/deny/add conditions as they see appropriate.

To ensure that current tenants' concerns of eviction are addressed, staff plan to revise the Prior-to letter to include a Tenant Relocation Plan to comply with Tenant Relocation and Protection Policy requirements.

CHALLENGES AND RISKS

Staff are actively exploring options to preserve the existing units and minimize the risk of tenant displacement, including the potential use of a housing agreement to secure these additional units as rental stock. However, the Building's strata-titled structure poses a significant challenge. While such an agreement could require the units to remain as rentals, strata titling makes it easy for future sellers or buyers to overlook or disregard this covenant, whether intentionally or not. Identifying and addressing violations of housing agreements is difficult, leaving no reliable mechanism to prevent owners from evicting tenants or converting the units into strata lots for sale. This would ultimately undermine the goal of preserving affordable rental units.

Approval of these unpermitted units by the City or BOV, especially with respect to rental housing, is problematic as it could signal to certain landlords that retroactive non-conforming approvals are a way to forgo permitting and licensing regulations. As a result, substandard units with potential health, life-safety, and welfare deficiencies may be constructed and occupied without any oversight. It is the City's position that granting an exception to the Zoning and Development By-law, in this case would set a precedent that other property owners could reference in their appeals to the Board of Variance (BOV). However, it is important to note that BOV cases are not intended to set precedents, as each application is reviewed on a case-by-case basis, taking into consideration a variety of factors.

Alternatively, if the Director of Planning were to allow uses not listed under the Zoning and Development By-Law, it would set a concerning precedent, leading to increased requests for unlisted uses—decisions that are only within Council's purview. Furthermore, this type of decision would inadvertently encourage unpermitted work across the City, potentially resulting in unsafe housing conditions and presenting significant regulatory and safety challenges in the future.

PLANNED NEXT STEPS

The Chief Building Official, as well as a Building Inspector and Electrical Inspector, completed an inspection of the building on November 20, 2024, and determined there are no apparent life safety issues that need to be addressed immediately.

The property owner is scheduled to appear before the BOV on December 3, 2024, where they plan to appeal the Prior-to condition of reverting the units back to the previous approval.

There are 2 potential outcomes at the BOV:

1. They uphold the condition on the Prior-to letter, in effect making the applicants revert the Building to 192 units. The applicant will have to submit a building permit application to address the removal of work without permit items which will lead to some eviction over time. However, a tenant relocation plan will be required and in place before any such actions can proceed.
2. The BOV overturns the condition on the Prior-to letter, in effect, approving the 216 units. The applicant can then submit building and trades permit applications to validate the existing work completed without permits.

If you have any other, please contact Corrie Okell.

Best,
Paul

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The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the x̱m̱ ḵ y̱ m̱ (Musqueam), S̱ wxwú7mesh (Squamish), and s̱ ilw̱ ta̱ (Tsleil-Waututh) Nations.