

Memo



TO: Mayor and Council

SUBJECT: Required Remedial Action – 63 Cowichan Lake Road

DATE: April 21, 2023

FROM: Chief Administrative Officer

BACKGROUND

With the public's concerns regarding the unsightliness and safety conditions at the above property as well as its dilapidated condition, staff were directed to seek resolution of these concerns. Staff generally make a concerted effort at seeking voluntary compliance from the property owners on matters such as these. Despite repeated attempts to seek compliance, the property owner has proven recalcitrant and for that very reason direct Council action is being sought.

Remediation Action Requirement for building located at 63 Cowichan Lake Road – Lot A, Plan VIP6727 (PID:000-408-956)

It is incumbent on Council to act to protect public safety. Lake Service Garage Ltd., Inc. No.27850 is the registered Owner of the property at the address, above described.

An inspection of the property was undertaken by the building department and fire department on Wednesday, April 12th, 2023. Those reports and accompanying photographs which are not part of this report raise building permit, fire safety and unsightly concerns.

Under Division 12 of the Community Charter, Council may impose remedial action requirements in relation to hazardous conditions and/or nuisance related to buildings:

Council may impose remedial action requirements.

- 72.(1)A council may impose remedial action requirements in relation to
- (a) matters or things referred to in section 73 [*hazardous conditions*],
 - (b) matters or things referred to in section 74 [*declared nuisances*], or
 - (c) circumstances referred to in section 75 [*harm to drainage or dike*].
- (2)In the case of matters or things referred to in section 73 or 74, a remedial action requirement
- (a) may be imposed on one or more of
 - (i) the owner or lessee of the matter or thing, and
 - (ii) the owner or occupier of the land on which it is located, and
 - (b) may require the person to
 - (i) remove or demolish the matter or thing,
 - (ii) fill it in, cover it over or alter it,
 - (iii) bring it up to a standard specified by bylaw, or

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- (iv) otherwise deal with it in accordance with the directions of council or a person authorized by council.
- (3) In the case of circumstances referred to in section 75, a remedial action requirement
- (a) may be imposed on the person referred to in that section, and
 - (b) may require the person to undertake restoration work in accordance with the directions of council or a person authorized by council.

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Hazardous conditions

73. (1) Subject to subsection (2), a council may impose a remedial action requirement in relation to any of the following:
- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
 - (b) a natural or artificial opening in the ground, or a similar matter or thing;
 - (c) a tree;
 - (d) wires, cables, or similar matters or things, that are on, in, over, under or along a highway;
 - (e) matters or things that are attached to a structure, erection or other matter or thing referred to in paragraph (a) that is on, in, over, under or along a highway.
- (2) A council may only impose the remedial action requirement if
- (a) the council considers that the matter or thing is in or creates an unsafe condition, or
 - (b) the matter or thing contravenes the Provincial building regulations or a bylaw under section 8 (3) (l) [*spheres of authority – buildings and other structures*] or Division 8 [*Building Regulation*] of this Part.

RECOMMENDATION

The Property at the address, above stated and described, is not fit for occupation in its present state. Currently conditions are so dilapidated and unsafe for public accessibility that it is recommended that Council pass the following resolution:

WHEREAS Division 12 of Part 3 of the Community Charter (the “Charter”) authorizes Council to impose a remedial action requirement on the owner or owners of a building including a requirement to remove or demolish the building where:

- 1) Council considers that the premises are in an unsafe condition;
- 2) Council considers that the buildings contravene the Provincial building regulations or the Community Charter under s. 8(3) (l) (buildings and other structures); and
- 3) Council declares the premises are a nuisance;

AND WHEREAS Lake Service Garage Ltd. Inc. No.27850 is the registered owner (the “Owner”) of the premises at 63 Cowichan Lake Road, Lake Cowichan, British Columbia, PID # 000-408-956 (the Property);

AND WHEREAS the building on the Property is in a state of disrepair and have been occupied or left vacant and unsecured for a considerable period and are a threat to public safety and have not been repaired, secured, or demolished, despite the Town’s efforts to persuade the owner to take remedial action;

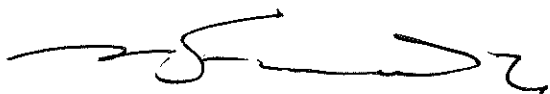
NOW THEREFORE, the Council of the Town of Lake Cowichan, in open meeting assembled, resolves as follows:

1. that Council hereby considers that the building or buildings and the property located at 63 Cowichan Lake Road, Lake Cowichan, BC are in a hazardous condition, within the meaning of Section 73(2)(b) of the Community Charter in that it contravenes the building regulations for British Columbia and the Town of Lake Cowichan Building Bylaw No. 1075-2022 (the Building Bylaw) and the Town of Lake Cowichan Fire Protection Bylaw 865-2009;
2. that Council hereby considers that the buildings on the Property are in and create an unsafe condition within the meaning of Section 73(2)(a) of the Community Charter, because of the buildings being vacant and insecure, the buildings continuing to deteriorate and/or the building contravening the Building Bylaw;
3. that Council hereby declares that the buildings on the Property are a nuisance, within the meaning of Section 74(2) of the Community Charter, as Council considers the buildings on the Properties to be so dilapidated as to be offensive to the community;
4. that Council hereby declares that the buildings on the Property are nuisances, within the meaning of Section 74(2) of the Community Charter, as Council has received community complaints about the unsightliness of the Properties;
5. that Council hereby requires pursuant to its remedial action powers under Part 3, Division 12 of the Community Charter that the Owner:
 - (a) remediate or demolish the buildings on the Property and remove all remnants of the demolished buildings no later than thirty (30) days after notice of this remedial action requirement under s. 77 of the Charter has been sent by the Town to the Owner;
 - (b) erect a strongly constructed fence at least 1.5 meters tall around the area where the building was formerly located immediately after the building is remediated or demolished, and removed and maintain the fence until the requirement in s. 5(c) of this resolution has been complied with; and
 - (c) fill in and level any hole created by the removal of the building no later than thirty (30) days after notice of this remedial action requirement under s. 77 of the Community Charter has been sent by the Town to the Owner.
6. and that the Town advise the Owner that he may request that Council reconsider the Remedial Action Requirement by providing the Town written notice within 14 days of the date on which notice under s. 77 of the Community Charter was sent and that if any or all of the actions required by the Remedial Action Requirement is not completed by the date specified for compliance, the Town may take action in accordance with section 17 of the Community Charter and undertake any or all of the actions required by the Remedial Action requirement without further notice to and at the expense of the Owner.

CONCLUSION

While staff can issue safety orders and remedial orders, it is quite apparent that the subject property owner has made no attempt to undertake repairs to any of the buildings or secure entry to the building.

It is recommended that immediate enforcement actions as outlined in the proposed resolution above should be commenced to compel the owner to begin remediation work, failing which the Town will proceed to undertake any or all actions without further notice wholly at the expense of the Owner.



Joseph A. Fernandez