

Remedial Action Order for 855 Kingsway Avenue

RECOMMENDATION:

WHEREAS the Council of the City of Port Coquitlam considers the conditions of the property located at 855 Kingsway Avenue (the property) to be a hazard as it creates an unsafe condition and is a danger to public health and safety:

AND WHEREAS the Council has considered the following documents

- (1) Building location and summary*
- (2) Enforcement summary within the body of report;*

NOW THEREFORE, pursuant to Sections 72, 73, and 74, of the Community Charter, Council of the City of Port Coquitlam, resolves:

- 1. That the building identified in Attachment 1 of this report located at 855 Kingsway Avenue creates a hazardous condition.*
- 2. That the registered Owner of the Property (the "Owner") be required to:*
 - a. Remove the building and any surrounding items identified in Attachment 1 of City property in this report as per the Highway Use Bylaw No. 4033;*
- 3. That the Owner be required to comply with the resolution by the date that is 30 days after notice of this resolution and is served or provided by registered mail; and*
- 4. That if the Owner has not complied with the resolution within the specified time, City staff by its workers and others, may enter onto the Property without further notice to the Owner and perform the work specified in this resolution, the cost of performing the work shall immediately become debt owed to the City; and such debt, if unpaid by December 31, 2024, with applicable interest on the City's standard terms for unpaid accounts, may be recovered by transferring the debt to the property tax account for the Property pursuant to Section 258 of the Community Charter.*

PREVIOUS COUNCIL/COMMITTEE ACTION

None.

REPORT SUMMARY

This report is to bring forward a proposed remedial action order to Council pertaining to a structure that is creating hazardous conditions and potential liability for the City. The property at 855 Kingsway Avenue, Port Coquitlam is in contravention of the Highway Use Bylaw No. 4033 and Building and Plumbing Bylaw No. 3710. A structure located at this property built without required building permits,



Report To: Council
Department: Community Safety & Corporate Services
Approved by: D. Long
Meeting Date: February 13, 2024

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is encroaching onto City property (highway). This report proposes that a remedial action requirement be imposed to have the following completed within 30 days.

1. Removal of the building/structure, and any surrounding items, deemed to be encroaching onto City property (highway).

BACKGROUND

This property has been the subject of investigation by the Building and Bylaw Departments since October 2022. This property, along with many of the surrounding properties, are owned by the same owner and have multiple bylaw violations. The structure at 855 Kingsway Avenue operates as a weigh scale station for the adjacent business located at 750 Kingsway Avenue. The office for the weigh scale is a Britco type container (structure) located on the south side of the property. The structure has been encroaching onto City property (highway) since approximately 2020 as per PoCo map overhead views. The most recent PoCo map depicted below illustrates the structure and the encroachment onto a City Highway contrary to Highway Use Bylaw No. 4033 indicated by the red arrow.



Highway as defined in the bylaw:

includes every highway within the meaning of the Transportation Act, S.B.C. 2004, c. 44 and amendments thereto, and every road, street, lane or right-of-way designed or intended for or used by the general public for the passage of vehicles, and every private place or passage way to which the public, for the purpose of the parking or servicing of vehicles has access or is invited, and includes

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disable zones and the roadway, shoulder, boulevard, ditch and sidewalk, and whatever lands lie between the property lines of the highway, and further includes every Off-Street Parking Facility.

The structure encroaching onto the City Highway presents a hazard and a potential liability risk should there be any damage to property or person. The properties in this area are mostly zoned M2 Heavy Industrial and there is a large volume of both large trucks and regular vehicles on a daily basis. In addition, this area is used by cyclists and pedestrian patrons detouring off the PoCo Trail and the structure creates an additional safety risk.

Furthermore, the structure has been erected without permits contrary to Building and Plumbing Bylaw No. 3710 posing a safety risk to persons using the structure. The structure is essentially a container placed on lock blocks with a makeshift stairway and deck for entrance and access. Despite staff attempts to have the owner remediate the situation, there has been no movement by the owner to address these issues.

The photo below shows the stairway entrance to the structure and the pink flag shows the property lines. City property is to the left of the pink marker flag.



Summary of Enforcement History:

March 23, 2023, Letter sent from Bylaw Department advising of encroachment with direction to remove and apply for permits by April 27, 2023, (owners verbally said they would comply).

January 5, 2024, site inspection by the Building, Bylaw, and Fire Department. Inspection failure notice issued by the Building Department requiring removal of the structure from City property. Owner or agent verbally advised staff that they would remove (move) the building within 30 days.

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February 5, 2024 – site inspection. Building remains encroaching onto City property (highway).

DISCUSSION

Legal/Statutory Authority: Hazardous conditions S. 73 of the Community Charter.

Remedial action may include removing or demolishing a building or otherwise dealing with it in accordance with direction of Council. Council may declare that it considers a building, structure, pond or surface water as a hazard if “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.

The Community Charter empowers Council to impose remedial action requirements on properties that are a nuisance or in a hazardous condition. Remedial action may include the removal or demolition of a building or other remedy specified by Council. A hazardous condition includes anything that Council considers is in an unsafe condition or contravenes building regulations or bylaws.

A resolution imposing remedial action must specify the time by which the required action is to be completed, which may be no earlier than 30 days. If Council imposes a remedial action requirement, notice must be given to the property owner who may, within 14 days, request Council reconsideration. Council may set shorter time limits if it considers that there is a significant risk to health or safety if action is not taken earlier. If the owner fails to take the required remedial action, the City may step in and complete the work at the property owner’s expense. Costs incurred by the City may be collected as taxes in arrears.

At the time of writing the structure on this property is still encroaching onto the City Highway and no work permits have been applied for.

Forcing the removal of the building will:

- protect public safety
- improve neighbourhood appearance
- reduce the City’s risk of civil liability

It is recommended that these authorities be applied to the property at 855 Kingsway Avenue and that a remedial order for removal of the structure be issued.

FINANCIAL IMPLICATIONS

The City may incur costs for removal of the structure should the owner default on the remedial action requirements. Should the owner default, the City may enter the land and complete the work with

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costs invoiced to the owner. If the owner does not pay the invoice, the costs may then be added to the property tax roll as taxes in arrears. Recovery of these costs could take some time to complete.

OPTIONS (✓ = Staff Recommendation)

	#	Description
<input checked="" type="checkbox"/>	1	That the Remedial Action Order be approved by Council.
<input type="checkbox"/>	2	That Staff be required to provide further information.

ATTACHMENTS

Attachment 1 - Building/Structure Photos 855 Kingsway Avenue

Lead author(s): Paula Jones