

# Memo

January 29, 2018

File No: EN17-1

To: His Worship the Mayor  
And Members of City Council

Re: Response to Enquiry – Capital Pointe

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A Notice of Enquiry was tabled at the November 27, 2017 (EN17-1) City Council meeting with a request to provide a written response at the first City Council meeting in 2018.

Section 31 of *The Procedure Bylaw No. 9004* outlines the requirements to be addressed when an enquiry is tabled by a member of City Council. The Administration is required to provide a written answer at a future meeting of City Council. The enquiry is not debatable by City Council.

The Notice of Enquiry includes five questions. The questions are identified below with the City's response.

1. What steps are the Administration taking to monitor construction activity, and to check for unsafe or emergency conditions, with respect to the foundation and site services work authorized by the building permit issued by the City of Regina on September 15, 2017, in connection with Capital Pointe – 1971 Albert Street, Regina?

## Administration's Response

The Administration is following all regulatory requirements, continuing to monitor construction activity with regular inspections and assessments, as well as maintaining open communication with the developer.

If the property is properly constructed, tidy and safe, but construction has simply ceased, the City has no authority to force the developer to continue construction to completion. However, if upon inspection it is determined that unsafe conditions exist, the City has options under *The Cities Act* and *The Uniform Building and Accessibility Standards Act* to address unsafe or emergency conditions.

The City has sought both information and action through voluntary compliance and enforcement action through *The Uniform Building and Accessibility Standards Act*. To date, requests have focused on ensuring the property is secured, providing pedestrian access along Victoria Avenue and monitoring of the shoring. The owner has provided information and taken the action requested by the City.

2. Will the results of the any such monitoring activity be reported to City Council and, if so, when?

Administration's Response

The monitoring activities described above are weekly, sometimes daily, occurrences. It would not be feasible to report to City Council on all City monitoring activities of the site. It is Administration's intention to brief City Council on status of the project from the City's perspective after March 15, 2018. March 15, 2018, is the six month mark from the date of second building permit issuance.

3. In the event that meaningful construction activity does not resume at the Capital Pointe construction site by March 15, 2018, the date on which the City can deem the current building permit expired, what will be the status of the development permit for that site and what options will the City have to require the developer to mitigate that site?

Administration's Response

To demonstrate meaningful construction activity, the property owner must begin work on the foundation and site services by March 15, 2018. The City's *Building Bylaw* contains a provision for a building permit to be deemed expired if the work authorized by the permit has not been meaningfully commenced within 6 months of the date of permit issuance. If work has not meaningfully progressed within 6 months, the expiration of the permit is not automatic. The City must first determine whether meaningful work under the permit has occurred, as a matter of fact. If, as a matter of fact, meaningful work has not occurred, the City must then make a determination whether it is appropriate to deem the permit expired.

If any action by the City is appropriate in relation to the building permit or the site after March 15, 2018, the action will be determined by status of the project and the site at that time.

4. What additional powers, if any, by way of a new bylaw or other authority does the City administration need to require completion within a reasonable time at the Capital Pointe site and at future construction sites?

Administration's Response

*The Uniform Building and Accessibility Standards Act* regulates construction and demolition. The Act establishes powers and responsibilities of municipalities to administer and enforce construction laws including the power to issue permits. The Act enables municipalities to adopt bylaws to aid in conducting their responsibilities under provincial legislation; however, the legislation restricts what may and must be included in municipal bylaws. The legislation also requires municipal bylaws and bylaw amendments to be approved by the Province before they become valid through City Council resolution.

How the City exercises its powers under provincial legislation and municipal bylaws is also subject to other legal considerations: powers must be exercised in good faith, be non-discriminatory and comply with the requirements of natural justice.

The Administration is in discussions with the Province related to enhanced powers for municipalities in the Act. The Province has advised *The Uniform Building and Accessibility Standards Act* is being reviewed in 2018. The Administration will formalize proposals to modernize the legislation during the review period. Key proposals will focus on better protection for municipalities from liability in the context of building regulation, as well as the ability for municipalities to use tools, such as holding financial securities until completion of construction projects.

5. What powers do other cities have to deal with construction sites where construction is not proceeding, or is not proceeding within a stipulated time period, or is proceeding at an unreasonably slow pace?

#### Administration's Response

It is not uncommon for cities across the country to deal with construction proceeding at a slow pace or abandoned construction sites. Municipal powers to direct property owner's use of their land is set in provincial legislation. Each Province has legislation which establishes building regimes which are different across the country. The regimes are premised on a basic legal tenant for land ownership in Canada: the owner of the land is entitled to make whatever use of the land they desire, subject to some regulation enacted for public good.

In Saskatchewan, the authority to regulate construction and demolition is found in *The Uniform Building and Accessibility Standards Act*. Municipalities do not have powers to compel property owners to adhere to a construction schedule through any means, financial or otherwise.

Respectfully submitted,



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Development Services

Respectfully submitted,



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City Planning & Development