

CONFIDENTIAL

INFORMATION REPORT

REPORT TITLE: DOMESTIC ENVIRONMENTAL HEALTH ISSUE
ITEM NUMBER: 1209
DATE OF MEETING: 28 JULY 2014
AUTHOR: JACK DARZANOS
JOB TITLE: MANAGER ENVIRONMENTAL HEALTH
RESPONSIBLE OFFICER: MEGAN BERGHUIS
JOB TITLE: GENERAL MANAGER COMMUNITY
COMMUNITY GOAL: Living – Our Path to a Thriving City
S04: Healthy and Active Community
REPRESENTOR/S: NIL
ATTACHMENTS: NIL

PURPOSE

To provide Council with up-to-date information on the severe domestic squalor situation at the property located at [REDACTED] Fullarton.

RECOMMENDATION

MOVED:
SECONDED:

That:

1. The report be received.
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BACKGROUND

The residential property at [REDACTED] Fullarton is in a situation of severe domestic squalor. The cleanliness and state of this property has been an on-going public health concern, with regular complaints received from local residents and interventions of the Environmental Health staff dating back to September 2012.

This report provides a summary of the situation to date and information on possible options to be considered in a future report.

DISCUSSION

Case History

In **September 2012**, Council's Environmental Health Services received an email from Carramar Acute Services (community mental health service) of a possible public health risk at the property located at [REDACTED] Fullarton. The risks included potential fire hazards, rodents, hoarding issues and poor maintenance at the property. They also advised that the person living there may have mental health issues.

After the occupant failed to meet with Council's Environmental Health Officers (EHOs) on two occasions, the EHOs conducted an inspection of the property in late September 2012. At this time, the officers observed that the mini-skip that had been previously located in the property driveway had been removed and a small amount of hard rubbish was on the property. At the time there was no odour detected and the property was not considered to be in an insanitary condition.

In **December 2012**, an email was received by Council's Finance team from Families SA requesting a stay of all proceedings against the property at [REDACTED] Fullarton for rates in arrears. Families SA believed that the property had been inherited by grandchildren. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In **March 2013**, Council received a complaint from a neighbour regarding the conditions of the property and concerns about the wellbeing of the occupant. Council's EHOs contacted the Public Trustee and sought further information on the ownership of the property. [REDACTED]

At this time, Council was given the details of a solicitor that had provided advice to the executor of the property in the past, the executor being the nephew of the

deceased owner. Consequently, the solicitor was contacted and an inspection of the property was carried out by Council's EHOs. A number of items of concern were detected and Council staff met with a solicitor to review the potential order-making process and most suitable options for addressing conditions on the land.

Between **April – July 2013**, further inspections of the property were conducted by Council's EHOs. This resulted in a natural justice letter sent to the occupier warning of a potential insanitary condition on the property under the *Public and Environmental Health Act 1987*. The letter detailed the requirements for the property to be cleaned and specified the date for a follow up inspection scheduled on the 28 May 2013.

Several visits to monitor the progress of the remediation were made and a large skip bin in the driveway was noted. By July 2013 the yard had been progressively cleaned and a large skip bin had been filled for a number of weeks. On the last week of July the bin was removed, with the entire contents deposited onto the driveway of the property. It seemed that the occupant had begun a clean-up but then did not pay the mini-skip company. Subsequently, on **20 August 2013** a notice of Proposed Order under Section 255 of the *Local Government Act 1999* was delivered to the property.

In **September 2013**, we received notification that *Today Tonight* was preparing a story on the state of the property and the occupant's welfare. Given the risk to public health, coupled with the media exposure and the independent involvement of a cleaning service, our EHOs facilitated a one-off clean-up of the yard, returning the property to a sanitary condition. Eight mini-skip bins and collections were provided at a cost of approximately \$7,000. This cost was borne by Council. The actual cleaning was done by a forensic cleaning company free of charge (independent of Council) as an act of goodwill towards the occupant.

On **17 September 2013** the occupier advised that the cleaner had left. At this time the cleaning company contacted Council and advised they had pulled out of the cleaning job due to the occupant being "difficult" to work with and risks associated with drugs and dangerous people. The officers observed that the yards were clean but a number of rooms in the house were still cluttered. Subsequently, a meeting was held at Unley Council to discuss options relating to issues with the property (e.g. rates in arrears, issue of notice and legal proceedings). The meeting included key stakeholders including the solicitor acting on behalf of the executor. The outcome of this meeting was that all stakeholders were up to date with the situation but no resolutions were determined.

Following this meeting, Notices to Secure Compliance with the General Duty were issued pursuant to Section 92(1) (a) of the *South Australian Public Health Act 2011*, on the executor and the occupier of the property. Compliance with this Notice, dated 20 February 2014, is a clean-up of the property so that it is restored to a sanitary condition.

In **January 2014** correspondence was received from [REDACTED] Solicitors advising that the executor was wishing to renounce as executor over

the property. The solicitors suggested that Council pursue the matter against the occupier.

Council proceeded with obtaining quotations to clean the property and sent letters to both the executor and to the occupier advising them that Council intended to commence action on the default of the Section 92(1) notice under the *South Australian Public Health Act 2011*. Quotes for the clean-up were estimated at approximately \$19,000.

The property was again inspected by our EHOs in **May 2014** whereby the property was once again found to be in very poor condition. A subsequent letter under the *South Australian Public Health Act 2011*, was sent to the occupier advising of the action Council would now undertake.

During the inspection the occupier was advised that Council would commence the clean-up of the property on 30 June 2014. Council's solicitors advised the executor in writing of the proposed action, the cost of the clean-up and the overdue rates that were due. The executor was also advised that if the Council acts under Section 93 of the Act, all reasonable costs and expenses would be recovered as a debt from the occupier. In the event the occupier does not make payment of the debt, the Council would proceed to recover the outstanding amount as rates in arrears pursuant to section 144 of the *Local Government Act 1999*. This means that the money owed for the clean-up costs would be due in the same way that the overdue rates are due and could be recovered at the sale of the property if not paid before.

The clean-up was undertaken on 30 June 2014. This course of action by Council is the only manner which was considered to sufficiently mitigate the risk of harm that the property posed to public health and safety, and thereby allay increasing community concerns. It also demonstrated Council's discharge of its functions under the Act as the local health authority for its area.

At this stage the rates in arrears against the property total \$8,293.50 and the estimated cost for the clean-up is \$19,000 (excluding GST). In addition, the outstanding rates continue to incur interest as per Section 181 of the *Local Government Act 1999*.

Options for Consideration

There are on-going concerns that Council should note and consider in this matter. These include:

- The occupant's welfare and the welfare and public safety of the neighbours and community;
- The occupant's inability to maintain the property (hence continuing public health risks);
- The likelihood of the property once again returning to squalor and action needing to be regularly repeated;
- [REDACTED]
- Deterioration and therefore a reduced value of the asset in the estate;

- Increasing liabilities for the executor and occupant (and their inability to meet debts);
- Increasing debts owed for utilities.

There are a number of options for Council to consider in terms of a course of action.

Firstly, Council can, in the interests of its residents and ratepayers, recover the associated costs from the occupier. Council would be exercising its powers to sell the property under Chapter 10 of the *Local Government Act 1999 (Section 184)*. This is an option that is regularly exercised by other councils which means Council can recover all outstanding costs, as well as ensure any other outstanding debt associated with the property (such as utilities) are settled and what remains of the estate is left to the children. The sole concern with enacting this option is the welfare of the occupant who would be displaced.

As such we have written to the Hon. Jack Snelling, the Minister for Health, Ageing and Mental Health seeking assistance and intervention to achieve a satisfactory solution in the interests of the community and the beneficiaries of the estate. The occupant has alleged that she has requested assistance from various agencies and without success. This is appropriate as such actions are outside the functions of the Council and we are not in a position to provide the occupier with the support and assistance she requires, including finding alternative accommodation. We have also notified David Pisoni as the State Member for Unley, again requesting support and assistance in effectively resolving this matter.

Another option is to take no further action. The most likely outcome of this is that the property will again return to squalor and further expensive clean-ups will be required to resolve the ongoing public health risks. Also, consideration needs to be given to Council's part in the dwindling estate for the [REDACTED] as well as the increasing liabilities of the executor and the occupant.

Alternatively the executor may seek and obtain a Court Order to sell the property to discharge the debts of the estate. The executor has been advised that where Council acts to carry out the requirements of the Notice, this is a step which, ultimately, is in the executor's interest since such action will likely assist any subsequent process to sell the property. To date Council has not received a response.

Next Steps

It is proposed that before taking further action, we await the response from the Hon. Jack Snelling and David Pisoni MP regarding assistance and intervention. It is hoped that this will determine a course of action to assist and accommodate the current occupier and therefore reduce the risk of the property returning to a state of squalor and enable Council to consider the option to proceed to sale of the property.

The Administration will prepare a further report early in 2015 for Council's consideration regarding options going forward.