

## Notice of Meeting and Meeting Agenda Electoral Areas Committee

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Wednesday, December 8, 2021

11:00 AM

6th Floor Boardroom  
625 Fisgard St.  
Victoria, BC V8W 1R7

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### Hearing Session

M. Hicks (Chair), G. Holman (Vice-Chair), D. Howe, C. Plant (Board Chair, ex-officio)

The Capital Regional District strives to be a place where inclusion is paramount and all people are treated with dignity. We pledge to make our meetings a place where all feel welcome and respected.

#### 1. Hearing Under Section 57 of the Community Charter Regarding Notices Against Title

This hearing is being convened pursuant to section 57 of the Community Charter. The Electoral Areas Committee has been delegated the power of the Regional Board to consider a recommendation of the Building Inspector to file a notice on land title of properties that contravene building safety standards and applicable building regulations.

Anyone who considers their interest in property will be affected by a notice on title shall be provided an opportunity to speak before the Committee. Speakers should focus their remarks on the issue under consideration and to address all comments to the Committee Chair.

Once the property owner has been heard, the committee shall determine whether to confirm the recommendation of the Building Inspector, to file a notice against title of the subject property.

During the course of this hearing, this committee is sitting as a quasi-judicial body and in that capacity should only consider the facts brought before it by the Building Inspector and the affected property owners. In making a decision, committee members should refrain from considering facts that are extraneous to the hearing process.

#### 2. Approval of Agenda

#### 3. Adoption of Minutes

- 3.1. [21-901](#) Minutes of the Hearing Session of the October 13, 2021 Electoral Areas Committee Meeting

**Recommendation:** That the minutes of the Hearing Session of the Electoral Areas Committee meeting of October 13, 2021 be adopted as circulated.

**Attachments:** [Minutes - October 13, 2021](#)

#### 4. Comments by Property Owners on the Recommended Notices on Title

**5. Properties to be Considered for Filing Notice against Land Title and Comments by the Building Inspector or Designated Municipal Officer**

- Juan de Fuca [1]
- Salt Spring Island [1]
- Southern Gulf Islands [1]

- 5.1.        [21-867](#)        File Notice on the Land Title of 3891 Trailhead Drive, Lot 8, Section 4, Renfrew District, Plan VIP79213, PID 026-344-912, File NT000316

**Recommendation:** That the Corporate Officer file a Notice in the Victoria Land Title office stating that a Resolution has been made under Section 57 of the Community Charter relating to land legally described as: Lot 8, Section 4, Renfrew District, Plan VIP79213, PID 026-344-912 or any subdivision of said lands as may be affected by the contravention(s).

**Attachments:**        [Staff Report: Notice on Title-3891 Trailhead Drive, PID 026-344-912](#)  
                              [Appendix A: History](#)  
                              [Appendix B: Photos](#)

- 5.2.        [21-868](#)        File Notice on the Land Title of 129 Dean Road, Lot 2, District Lot 24, Section 19, Range 4 East, North Salt Spring Island, Cowichan District, Plan 14116, PID 000-313-777, File NT000272

**Recommendation:** That the Corporate Officer shall file a Notice in the Victoria Land Title office stating that a Resolution has been made under Section 57 of the Community Charter relating to land legally described as: Lot 2, District Lot 24, Section 19, Range 4 East, North Salt Spring Island, Cowichan District, Plan 14116, PID 000-313-777 or any subdivision of said lands as may be affected by the contravention(s).

**Attachments:**        [Staff Report: Notice on Title-129 Dean Road, PID 000-313-777](#)  
                              [Appendix A: History](#)  
                              [Appendix B: Photos](#)

- 5.3.        [21-869](#)        File Notice on the Land Title of 4302 Port Washington Road, Lot 16, Section 18, Pender Island, Cowichan District, Plan 38353, PID 001-026-313

**Recommendation:** That the Corporate Officer file a Notice in the Victoria Land Title office stating that a Resolution has been made under Section 57 of the Community Charter relating to land legally described as: Lot 16, Section 18, Pender Island, Cowichan District, Plan 38353, PID 001-026-313 or any subdivision of said lands as may be affected by the contravention(s).

**Attachments:**        [Staff Report: 4302 Port Washington Road, PID 001-026-313](#)  
                              [Appendix A: History](#)  
                              [Appendix B: Photos](#)

**6. Adjournment**

## Meeting Minutes

### Electoral Areas Committee

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Wednesday, October 13, 2021

11:00 AM

6th Floor Boardroom

625 Fisgard St.

Victoria, BC V8W 1R7

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#### Hearing Session

#### PRESENT

Directors: M. Hicks (Chair), G. Holman (Vice-Chair), P. Brent (for D. Howe)

Staff: R. Lapham, Chief Administrative Officer; N. Chan, Chief Financial Officer; K. Lorette, General Manager, Planning and Protective Services; K. Morley, General Manager, Corporate Services; S. Carby, Senior Manager, Protective Services; R. Lachance, Senior Manager, Financial Services; J. Reimer, Manager, Electoral Area Fire and Emergency Programs; J. Starke, Manager, Service Delivery, Southern Gulf Islands Electoral Area; M. Taylor, Manager, Building Inspection; L. Xu, Manager, Finance Services; M. Lagoa, Deputy Corporate Officer; T. Phillipow, Committee Clerk (Recorder)

Regrets: Directors D. Howe, C. Plant (Board Chair, ex-officio)

The meeting was called to order at 11:00 am.

#### 1. Hearing Under Section 57 of the Community Charter Regarding Notices Against Title

This hearing is being convened pursuant to section 57 of the Community Charter. The Electoral Areas Committee has been delegated the power of the Regional Board to consider a recommendation of the Building Inspector to file a notice on land title of properties that contravene building safety standards and applicable building regulations.

Anyone who considers their interest in property will be affected by a notice on title shall be provided an opportunity to speak before the Committee. Speakers should focus their remarks on the issue under consideration and to address all comments to the Committee Chair.

Once the property owner has been heard, the committee shall determine whether to confirm the recommendation of the Building Inspector, to file a notice against title of the subject property.

During the course of this hearing, this committee is sitting as a quasi-judicial body and in that capacity should only consider the facts brought before it by the Building Inspector and the affected property owners. In making a decision, committee members should refrain from considering facts that are extraneous to the hearing process.

#### 2. Approval of Agenda

**MOVED by Alternate Director Brent, SECONDED by Director Holman,  
That the agenda for the Hearing Session of the October 13, 2021 Electoral Areas  
Committee meeting be approved.**

**CARRIED**

### 3. Adoption of Minutes

- 3.1. [21-781](#) Minutes of the Hearing Session of the September 8, 2021 Electoral Areas Committee Meeting

**MOVED** by Alternate Director Brent, **SECONDED** by Director Holman,  
That the minutes of the Hearing Session of the Electoral Areas Committee  
meeting of September 8, 2021 be adopted as circulated.  
**CARRIED**

### 4. Comments by Property Owners on the Recommended Notices on Title

There were no comments by property owners.

### 5. Properties to be Considered for Filing Notice against Land Title and Comments by the Building Inspector or Designated Municipal Officer - Juan de Fuca [1]

- 5.1. [21-682](#) File Notice on the Land Title of 2713 Woodhaven Road, Lot 26, Section 81, Renfrew District, Plan 24939, PID 002-843-196, File NT000312

M. Taylor spoke to Item 5.1.

**MOVED** by Director Hicks, **SECONDED** by Alternate Director Brent,  
That the Corporate Officer file a Notice in the Victoria Land Title office stating  
that a Resolution has been made under Section 57 of the Community Charter  
relating to land legally described as: Lot 26, Section 81, Renfrew District, Plan  
24939, PID 002-843-196 or any subdivision of said lands as may be affected by the  
contravention(s).  
**CARRIED**

### 6. Adjournment

**MOVED** by Director Holman, **SECONDED** by Alternate Director Brent,  
That the Hearing Session of the October 13, 2021 Electoral Areas Committee  
meeting be adjourned at 11:02 am.  
**CARRIED**

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CHAIR

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RECORDER



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## REPORT TO ELECTORAL AREAS COMMITTEE MEETING OF WEDNESDAY, DECEMBER 8, 2021

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**SUBJECT**     **File Notice on the Land Title of 3891 Trailhead Drive, Lot 8, Section 4, Renfrew District, Plan VIP79213, PID 026-344-912, File NT000316**

### **ISSUE SUMMARY**

The purpose of this staff report is to recommend that a notice be placed on the land title of the property described above as a result of non-compliance with Capital Regional District (CRD) or other regulations.

### **BACKGROUND**

Since August 4, 2020, CRD Building Inspection staff has attempted to persuade the owners to comply with Building Regulation Bylaw No. 3741 (see Appendix A-History).

A Stop Work Order was posted August 4, 2020 on a workshop converted to a secondary suite without a building permit. A registered letter was sent to the owners August 5, 2020.

Following discussions with the owners, and an agreed upon extension, a building permit application was received September 28, 2020. Juan de Fuca Community Planning rejected the application October 13, 2020, since secondary suites are only permitted in the principal dwelling, as per CRD Bylaw No. 2040 4.19(1)(a). A registered letter was sent to the owners October 28, 2020, advising that the application was rejected and that the next step would be to register a notice on the land title and refer the file for further action.

The owners have been advised of the outstanding issues and requirements for compliance to the BC Building Code. The owners of the property violated the following sections of the Bylaw:

#### **2.1.2 Permits Required**

Every person shall apply for and obtain a building permit before commencing construction, repairing or altering a building or structure.

#### **3.1.1 Work Without Permits**

No person shall commence or continue any construction, alteration, reconstruction, demolition, removal or relocation of any building or structure or other work related to construction, for which a Permit is required under this Bylaw, unless a building official has issued a valid and subsisting permit for the work.

#### **3.1.3 Occupancy**

No person shall occupy or use any building or structure unless a valid and subsisting Certificate of Occupancy has been issued by a building official for the building or structure. No person shall occupy or use any building contrary to the terms of any Permit issued or contrary to any notice given by a building official.

#### **3.1.8 Work Contrary to Requirements**

No person shall do any work or carry out any construction contrary to a provision or requirement of the Bylaw, the *Building Code* or any other applicable enactment.

#### **4.1.1 Stop Work Notice**

A building official may order the cessation of any work that is proceeding in contravention of the *Building Code* or the Bylaw by posting a Stop Work Notice.

## **ALTERNATIVES**

### *Alternative 1*

That the Corporate Officer file a notice in the Victoria Land Title office stating that a Resolution has been made under Section 57 of the *Community Charter* relating to land legally described as: Lot 8, Section 4, Renfrew District, Plan VIP79213, PID 026-344-912 or any subdivision of said lands as may be affected by the contravention(s).

### *Alternative 2*

That a notice not be filed and staff be directed to take no further action.

## **IMPLICATIONS**

### *Financial*

The cost of the process to file notice on land title is included in the annual Building Inspection budget. In the event that the notice can be removed, there will be a \$500 removal fee charged to the owner.

### *Legal*

If a notice is not filed on the land title, the liability of the CRD is potentially increased and possible future owners may not be advised of a building inspection deficiency and may be exposed to potential loss. If CRD Bylaw Services is unable to achieve compliance, staff may bring forward a recommendation to proceed with legal action as required.

## **CONCLUSION**

The Chief Building Inspector recommends placing notice on the land title to notify potential buyers of building deficiencies, the concerns of the CRD Building Inspector, and to reduce the liability of the CRD. Due to work carried out prior to inspection, it may be necessary to have the notice remain on title in perpetuity, as complete inspection of the work may not be possible.

## **RECOMMENDATION**

That the Corporate Officer file a Notice in the Victoria Land Title office stating that a Resolution has been made under Section 57 of the *Community Charter* relating to land legally described as: Lot 8, Section 4, Renfrew District, Plan VIP79213, PID 026-344-912 or any subdivision of said lands as may be affected by the contravention(s).

Submitted by:	Mike Taylor, RBO, Manager and Chief Building Inspector, Building Inspection
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services

## **ATTACHMENTS**

Appendix A: History  
Appendix B: Photos

Appendix A

**History:**

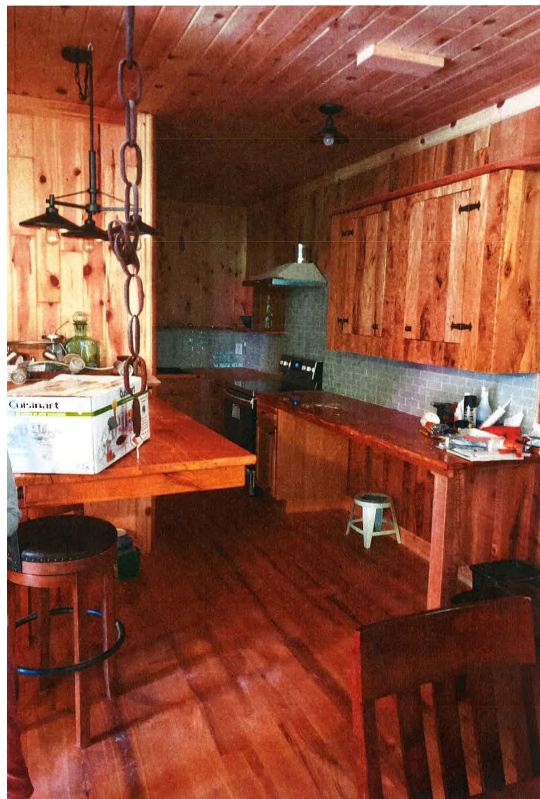
Jul 31, 2020	Building Inspector received a complaint for possible building violation.
Aug 4, 2020	Stop Work Notice posted on a workshop converted to a secondary suite without a building permit. Photos taken. (VF000524)
Aug 5, 2020	Letter sent to owners by registered mail advised that the Stop Work Notice was posted and a building permit application was required by September 3, 2020.
Aug 7, 2020	Email from Juan de Fuca Community Planning (Planning) Manager raised concerns about land use and the number of suites permitted in principal and secondary dwellings in Wildwood Terrace One (WT-1) zoning.
Aug 17, 2020	Call received from the owners. Building Inspector requested that a BC Land Survey and construction drawings be submitted for compliance.
Aug 24, 2020	Call received from the owners requesting an extension to submit the building permit application. Building Inspector approved extension to September 30, 2020.
Sep 28, 2020	Building permit application received from the owners. (BP006723)
Oct 9, 2020	Site visit conducted by Building Inspector.
Oct 13, 2020	Application rejected by Planning.
Oct 28, 2020	Letter sent to owners by registered mail referencing letter of August 5, 2020 and advised that, as the application received on September 28, 2020 was rejected, the next step would be to register a notice on title and refer the file for further action.
Nov 17, 2020	Site visit conducted by Building Inspector.
Jan 5, 2021	The Chief Building Inspector left telephone message with owner's father-in-law inquiring about the status of the project.
Nov 1, 2021	The Chief Building Inspector authorized an invitation letter and staff report be prepared for committee.
Nov 19, 2021	The Chief Building Inspector spoke with the owners regarding options to resolve this matter. They will take it into consideration.



Appendix B

Photos:

August 4, 2020







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## REPORT TO ELECTORAL AREAS COMMITTEE MEETING OF WEDNESDAY, DECEMBER 8, 2021

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**SUBJECT**      File Notice on the Land Title of 129 Dean Road, Lot 2, District Lot 24, Section 19, Range 4 East, North Salt Spring Island, Cowichan District, Plan 14116, PID 000-313-777, File NT000272

### **ISSUE SUMMARY**

The purpose of this staff report is to recommend that a notice be placed on the land title of the property described above as a result of non-compliance with Capital Regional District (CRD) or other regulations.

### **BACKGROUND**

Since March 24, 2006, CRD Building Inspection staff has attempted to persuade the owner to comply with Building Regulation Bylaw No. 3741 (see Appendix A - History).

Alterations have taken place in this Single Family Dwelling (SFD) since March of 2006. Multiple building permits were issued, but only a permit from 2006 to make alterations was completed and approved. A permit application in 2007 to convert the SFD to a Multi-Family Dwelling (MFD) was rejected. We understand that the building is currently being occupied as a boarding house that does not conform with previously issued permit plans or use approvals.

To follow up on a complaint, a site visit was conducted on September 13, 2019. The Building Inspector advised the agent that a new building permit application was required for fire safety. Communications between the agent and the Building Inspection Division took place between October 8, 2019 and March 25, 2021. No building permit application was received.

The owner has been advised of the outstanding issues and requirements for compliance to the BC Building Code. The owner of the property violated the following sections of the Bylaw.

#### **2.1.2 Permits Required**

Every person shall apply for and obtain a building permit before commencing construction, repairing or altering a building or structure.

#### **3.1.1 Work Without Permits**

No person shall commence or continue any construction, alteration, reconstruction, demolition, removal or relocation of any building or structure or other work related to construction, for which a Permit is required under this Bylaw, unless a building official has issued a valid and subsisting permit for the work.

#### **3.1.3 Occupancy**

No person shall occupy or use any building or structure unless a valid and subsisting Certificate of Occupancy has been issued by a building official for the building or structure. No person shall occupy or use any building contrary to the terms of any Permit issued or contrary to any notice given by a building official.

#### **3.1.5 Approved Plans**

No person shall do any work that is substantially at variance with the approved design, plans or specifications of a building, structure or other works for which a Permit has been issued, unless that variance has been accepted in writing by a building official.

### **3.1.8 Work Contrary to Requirements**

No person shall do any work or carry out any construction contrary to a provision or requirement of the Bylaw, the *Building Code* or any other applicable enactment.

### **ALTERNATIVES**

#### *Alternative 1*

That the Corporate Officer file a notice in the Victoria Land Title office stating that a Resolution has been made under Section 57 of the *Community Charter* relating to land legally described as: Lot 2, District Lot 24, Section 19, Range 4 East, North Salt Spring Island, Cowichan District, Plan 14116, PID 000-313-777 or any subdivision of said lands as may be affected by the contravention(s).

#### *Alternative 2*

That a notice not be filed and staff be directed to take no further action.

### **IMPLICATIONS**

#### *Financial*

The cost of the process to file notice on land title is included in the annual Building Inspection budget. In the event that the notice can be removed, there will be a \$500 removal fee charged to the owner.

#### *Legal*

If a notice is not filed on the land title, the liability of the CRD is potentially increased and possible future owners may not be advised of a building inspection deficiency and may be exposed to potential loss. If CRD Bylaw Services is unable to achieve compliance, staff may bring forward a recommendation to proceed with legal action as required.

### **CONCLUSION**

The Chief Building Inspector recommends placing notice on the land title to notify potential buyers of building deficiencies, the concerns of the CRD Building Inspector, and to reduce the liability of the CRD. Due to work carried out prior to inspection, it may be necessary to have the notice remain on title in perpetuity, as complete inspection of the work may not be possible.

### **RECOMMENDATION**

That the Corporate Officer shall file a Notice in the Victoria Land Title office stating that a Resolution has been made under Section 57 of the *Community Charter* relating to land legally described as: Lot 2, District Lot 24, Section 19, Range 4 East, North Salt Spring Island, Cowichan District, Plan 14116, PID 000-313-777 or any subdivision of said lands as may be affected by the contravention(s).

Submitted by:	Mike Taylor, RBO, Manager and Chief Building Inspector, Building Inspection
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services

### **ATTACHMENTS**

Appendix A: History  
Appendix B: Photos

Appendix A

**History:**

Mar 24, 2006	Permit SS06-146 issued to alter/repair a Single Family Dwelling (SFD). Maximum number of bedrooms not to exceed 11 without further approval.
Apr 11, 2007	Received a revised application to alter SFD for Change of Use to Multi-Family Dwelling (MFD). Required Islands Trust approval.
Aug 25, 2008	Site visit conducted by Building Inspector. Photo taken.
Dec 17, 2008	Permit SS06-146 completed with SFD occupancy.
Apr 13, 2009	Islands Trust rejected Change of Use application. Revised application to alter SFD expired.
Sep 14, 2010	New application received to alter SFD. Permit SS10-276 issued. Inspection of fire separations failed.
Sep 14, 2012	Permit SS10-276 expired.
Oct 11, 2012	Site visit conducted by Building Inspector.
Sep 13, 2019	Site visit conducted by Building Inspector to follow up on a complaint. Fire separations required between all rooms for rent.
Sep 18, 2019	Dormant file reviewed. Issues included: <ul style="list-style-type: none"><li>• Basement development not in accordance with submitted plans;</li><li>• Fire separations incomplete;</li><li>• Fire alarm system required as total number of rooms rented is 12 bedrooms/suites which would be an occupant load of 24 (2 per bedroom);</li><li>• Property developed as a SFD with boarders, but code requirements for SFD with boarders requires that boarders are part of proprietor's residence. No proprietor lives at the residence;</li><li>• Code permits up to eight boarders (four bedrooms) in SFD without having to provide fire separations to the remainder of the floor area. Fire separations of rooms would be required; and</li><li>• Public corridors are not fire separated and no exit from the top floor with three rooms for rent. Main floor also has public area not fire separated.</li></ul>
Oct 4, 2019	Letter sent to owner and agent advised that Permit SS10-276 expired September 14, 2012 and a permit application would be required by October 11, 2019.
Oct 8, 2019	Building Inspector met with agent. Discussed deficiencies, including: <ul style="list-style-type: none"><li>• Fire separations are either incomplete or do not exist;</li><li>• Fire alarm system required; and</li><li>• Exiting.</li></ul> <p>Building Inspector advised agent to seek professional assistance to provide design solutions.</p>

Oct 23, 2019	Letter received from agent indicated that code consultant had been contacted. Requested further information on occupant load requirements.
Jan 3, 2020	Building Inspector instructed staff to prepare File Report.
Feb 12, 2020	Letter sent to owner and agent by registered mail referencing letter of October 4, 2019 and meeting on October 8, 2019 advised that, as no permit application had been received, the next step was to register a notice on title.
Jun 4, 2020	Building Inspection Division arranged site visit with agent.
Jun 11, 2020	Agent requested site visit be delayed.
Jun 15, 2020	The Salt Spring Island Fire Department requested a joint site visit. Site visit scheduled.
Jun 17, 2020	Email sent to agent advised that a site visit would take place June 18, 2020 and that access was required.
Jun 18, 2020	Email received from agent requested site visit be rescheduled due to issues with tenants and to provide more time to prepare permit application.  Email sent to agent requested photos of property. Photos not received.
Jun 19, 2020	Email received from agent included details of work completed since issuance of Permit SS10-276 (drywall inspection of one small room in basement only).  Email sent to agent acknowledged receipt of information and requested photos, number of tenants living in the house and number of bedrooms be provided. Photos and information not received.
Jun 22, 2020	Email sent to agent requested photos and occupancy information, including confirmation of only one kitchen in house.
Jun 23, 2020	Agent visited Building Inspection office with photos of property on her cell phone. Agent was requested to send photos via email or text.
Jun 24, 2020	Agent requested further postponement of site visit.
Jul 15, 2020	Call received from the representative of a housing organization to request information on this property for a possible organizational merger with owner.
Jul 16, 2020	Agent delivered an Agent Authorization Form to give representative permission to access information on this and two of the owner's other properties.
Aug 25, 2020	Email received from representative advised that information would be discussed with the ownership and a response would be provided in September.

- Jan 7, 2021      The Chief Building Inspector advised staff that the organizational merger was not proceeding following a discussion with the representative of the interested housing organization. The photos, occupancy information, and permit application were not received from the agent.
- Jan 26, 2021      Received an email from the agent that requested information about the status of the file and what steps were required to avoid a notice on the land title.
- Jan 27, 2021      Email sent to agent from Chief Building Inspector expressed concerns about the current use of the building and possible alteration without permit approval, as well as the need to verify the building is being safely and appropriately occupied. Advised that the staff report would be prepared for committee and recommended the agent consult a code professional.
- Email received from the agent advised that they contacted the fire department regarding a 2019 compliance report and a code consultant regarding access to the 1999 code book. Indicated they would be willing to put up drywall to address safety concerns if needed.
- Jan 29, 2021      Email received from the agent advised that they had not heard back from the fire department or code consultant, and could not find access to a 1999 code book. Questioned whether a fire alarm system is required. Requested to speak with the Chief Building Inspector.
- Mar 15, 2021      Email sent to agent from Chief Building Inspector advised that work under a 2010 permit was not all inspected or approved, the need for a fire alarm system by code is required by the 1992 and current code, and a recommendation would be made to register a notice on the land title. Advised the agent to call and discuss further.
- Email received from the agent requested time to review, remedy if necessary, and call for inspections on the items that may not yet have passed.
- Email sent to the agent from Chief Building Inspector advised to call and discuss in more detail.
- Mar 25, 2021      Email received from the agent advised that they would call early the following week.
- Nov 1, 2021      To date, no further communications have been received from the agent.
- The Chief Building Inspector authorized an invitation letter and staff report be prepared for committee.
- Nov 18, 2021      The Chief Building Inspector left a telephone message with the property agent advising of the recommended notice on title and asking of her intentions with respect to the required permits.

Appendix B

**Photos:**

August 25, 2008



The Building Inspection Division has been unable to gain access to obtain current photos.





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## **REPORT TO ELECTORAL AREAS COMMITTEE MEETING OF WEDNESDAY, DECEMBER 8, 2021**

---

**SUBJECT**     **File Notice on the Land Title of 4302 Port Washington Road, Lot 16, Section 18, Pender Island, Cowichan District, Plan 38353, PID 001-026-313**

### **ISSUE SUMMARY**

The purpose of this staff report is to recommend that a notice be placed on the land title of the property described above as a result of non-compliance with Capital Regional District (CRD) or other regulations.

### **BACKGROUND**

Since September 7, 2016, CRD Building Inspection staff has attempted to persuade the owners to comply with Building Regulation Bylaw No. 3741 (see Appendix A-History).

An application was received September 7, 2016 to convert an accessory building into a cottage. The Building Inspector notified the owners on May 18, 2017 that the application had expired. A new application would be required, along with a 219 Geotechnical Covenant for hazards created as a result of excavation.

Permit BP003312 was issued on August 15, 2018 to convert an accessory building into a cottage. The Chief Building Inspector notified the owners on August 23, 2018 that an amendment to the 219 Geotechnical Covenant was required. Permit BP003312 expired in 2020 and a subsequent application BP006955 expired as it was incomplete.

Additional emails and letters addressing the need for permits and updates to the 219 Geotechnical Covenant were sent to the owners on February 25, April 3, April 16, and October 15, 2020, with no response received.

The owners have been advised of the outstanding issues and requirements for compliance to the BC Building Code. The owners of the property violated the following sections of the Bylaw:

#### **2.1.2 Permits Required**

Every person shall apply for and obtain a building permit before commencing construction, repairing or altering a building or structure.

#### **3.1.1 Work Without Permits**

No person shall commence or continue any construction, alteration, reconstruction, demolition, removal or relocation of any building or structure or other work related to construction, for which a Permit is required under this Bylaw, unless a building official has issued a valid and subsisting permit for the work.

#### **3.1.3 Occupancy**

No person shall occupy or use any building or structure unless a valid and subsisting Certificate of Occupancy has been issued by a building official for the building or structure. No person shall occupy or use any building contrary to the terms of any Permit issued or contrary to any notice given by a building official.



### **3.1.8 Work Contrary to Requirements**

No person shall do any work or carry out any construction contrary to a provision or requirement of the Bylaw, the *Building Code* or any other applicable enactment.

### **ALTERNATIVES**

#### *Alternative 1*

That the Corporate Officer file a notice in the Victoria Land Title office stating that a Resolution has been made under Section 57 of the *Community Charter* relating to land legally described as: Lot 16, Section 18, Pender Island, Cowichan District, Plan 38353, PID 001-026-313 or any subdivision of said lands as may be affected by the contravention(s).

#### *Alternative 2*

That a notice not be filed and staff be directed to take no further action.

### **IMPLICATIONS**

#### *Financial*

The cost of the process to file notice on land title is included in the annual Building Inspection budget. In the event that the notice can be removed, there will be a \$500 removal fee charged to the owners.

#### *Legal*

If a notice is not filed on the land title, the liability of the CRD is potentially increased and possible future owners may not be advised of a building inspection deficiency and may be exposed to potential loss. If CRD Bylaw Services is unable to achieve compliance, staff may bring forward a recommendation to proceed with legal action as required.

### **CONCLUSION**

The Chief Building Inspector recommends placing notice on the land title to notify potential buyers of building deficiencies, the concerns of the CRD Building Inspector, and to reduce the liability of the CRD. Due to work carried out prior to inspection, it may be necessary to have the notice remain on title in perpetuity, as complete inspection of the work may not be possible.

### **RECOMMENDATION**

That the Corporate Officer file a Notice in the Victoria Land Title office stating that a Resolution has been made under Section 57 of the *Community Charter* relating to land legally described as: Lot 16, Section 18, Pender Island, Cowichan District, Plan 38353, PID 001-026-313 or any subdivision of said lands as may be affected by the contravention(s).

Submitted by:	Mike Taylor, RBO, Manager and Chief Building Inspector, Building Inspection
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services

### **ATTACHMENTS**

Appendix A: History

Appendix B: Photos

Appendix A

**History:**

Sep 7, 2016	Building permit application BP002536 received to convert an accessory building into a cottage.
May 18, 2017	Email sent to owners advised that application BP002536 had expired and a new application would be required. Building Inspector also advised a 219 Covenant would be required for hazards created as a result of excavation.
May 23, 2017	Email received from owners advised that the application was in the mail and the 219 Geotechnical Covenant had been submitted.
Apr 3, 2018	New covenant submitted by owners' lawyer.
Aug 15, 2018	Permit BP003312 issued to convert an accessory building into a cottage.
Aug 23, 2018	Email sent to owners advised that an amendment to the Geotechnical Engineer's report for the 219 Covenant was required.
Nov 20, 2018	Email sent to owners referenced email of August 23, 2018. Requested a status update.
July 22, 2019	Site visit conducted by Building Inspector, but access was not granted. Building Inspector reviewed file and determined no progress had been made.
Feb 24, 2020	As no correspondence had been received from the owners, an email was sent to the owners' lawyer advised that revisions were required for the covenant.
Feb 25, 2020	Phone call received from owners' lawyer to advise that he had difficulty reaching his client and recommended the owner be contacted by email.  Email sent to owners advised that changes were required to the covenant. No response received.
Apr 3, 2020	Email sent to owners referenced email of February 25, 2020. No response received.
Apr 16, 2020	Letter sent to owners referenced emails of February 25 and April 3, 2020 and advised of the changes required for the covenant.
May 27, 2020	Site visit conducted by Building Inspector. Observed structural and plumbing work yet to be completed, and residential use appeared to be taking place. Photos taken.
Aug 14, 2020	Permit BP003312 expired.
Oct 15, 2020	Letter sent to owners by registered mail advised that permit BP003312 had expired and referenced the letter dated April 16, 2020 regarding changes to the covenant. Also advised that the next step would be to register a notice on

	title, the fee for removing the notice is \$500, and an invitation to attend the public meeting would be sent.
Nov 10, 2020	Voicemail left with owners from the Chief Building Inspector advised that a recommendation would be made to place a notice on the land title for issues of non-compliance, permit BP003312 had expired, and a covenant was still required. Requested the owners call back to discuss.
Dec 10, 2020	Two emails received from owners in response to the Chief Building Inspector.
Dec 15, 2020	Phone call received from owners advised the Chief Building Inspector that an application had been sent to the Pender Island Building Inspection Office.
Dec 29, 2020	Application received to reactivate permit BP003312 to convert an accessory building into a cottage.
Jan 12, 2021	Email sent to owners from Building Inspector acknowledged receipt of the building permit application, and advised that the 219 Covenant would be required prior to permit issuance.
	Email sent to owners provided details on the changes required to the covenant.
Apr 13, 2021	Deadline passed for owners to complete covenant prior to building permit being issued. The permit was not issued.
Nov 1, 2021	As of this date, the covenant has not been received and the Building Inspector has confirmed that the building is being used part time for residential purposes.
	The Chief Building Inspector authorized an invitation letter and staff report be prepared for committee.
Nov 18, 2021	The Chief Building Inspector left a telephone message with the applicant, asking that he call to discuss his intentions with respect to the required building permit.

Appendix B

Photos:

May 27, 2020

