

To: CAO for the Electoral Area Services Committee

Date: 2019-05-08

From: Louise Hinton, Bylaw Compliance & Enforcement Officer

File No: F02302.025

**Subject:** Building Bylaw and BC Building Code Contraventions at 13085 Degraff Road, Electoral Area F, Legally Described as: Lot 14 Section 25 Township 18 East of the Coast Meridian New Westminster District Plan 2782 (PID: 010-712-453).

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## RECOMMENDATION

**THAT** the Fraser Valley Regional District Board direct staff to file a Notice in the Land Title Office in accordance with Section 57 of the *Community Charter* due to the contraventions of the *Fraser Valley Regional District Building Bylaw No. 1188, 2013 and the BC Building Code*, at 13085 Degraff Road Electoral Area F, Fraser Valley Regional District, British Columbia (Legally described as: Lot 14 Section 25 Township 18 East of the Coast Meridian New Westminster District Plan 2782. (PID: 010-712-453)

## STRATEGIC AREA(S) OF FOCUS

Support Environmental Stewardship

Provide Responsive & Effective Public Services

## BACKGROUND

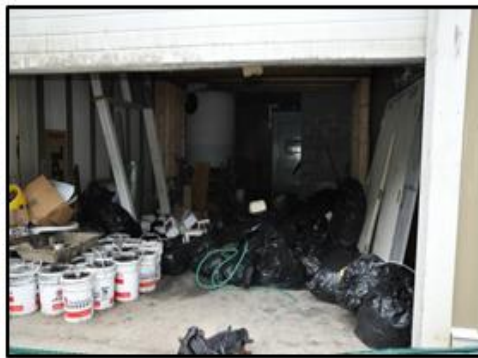
July 15, 2011	Bylaw Officer is contacted by the RCMP that a marijuana grow operation has been dismantled on the property. The large detached shop/barn structure had five shipping containers inside and all of them were utilized to manufacture marijuana.
Aug. 5, 2011	Bylaw Officer conducted site inspection and posted stop work and no occupancy notices on the large accessory shop/barn structure.  Bylaw Letter mailed to owner, requests compliance of all matters and the deadline for response to FVRD is September 5, 2011.
Aug. 29, 2011	Owners submits Building Permit Application (BP012617) for the detached shop and marijuana growing operation remediation.
Oct. 6, 2011	Building Department Letter is mailed to owner advising him of outstanding items remaining to complete his Building Permit Application (BP012617).
Dec. 19, 2011	Bylaw Officer received a telephone enquiry regarding this property from a Real Estate Agent of a potential purchaser.

Feb. 1 2012	Bylaw Officer received a separate telephone enquiry regarding this property from another Real Estate Agent of a potential purchaser.
Feb. 3, 2012	Bylaw Officer received another separate telephone enquiry regarding this property from another Real Estate Agent of a potential purchaser.
Feb. 10, 2012	Second Building Department Letter is mailed to owner advising him of outstanding items remaining to complete his Building Permit Application (BP012617).
May 18, 2012	Third Building Department Letter is mailed to owner advising him of outstanding items remaining to complete his Building Permit Application (BP012617).
July 19, 2012	Building Department mailed a final notice letter to owner advising him that his building permit application (BP012617) remains incomplete.
Oct. 2, 2013	File is referred back to bylaw enforcement for follow-up as Building Permit Application (BP012617) has been closed due to inactivity.
Nov. 28, 2013	Bylaw Letter mailed to Owner advising him that his file has been referred back to bylaw enforcement for follow-up. Deadline to respond to FVRD is January 13, 2014.
Dec. 6, 2013	Bylaw Officer received phone call from owner – the following was discussed: (1) one of the owners has passed away and single ownership will go on from now, (2) the structure remains on site and is currently in use, (3) Bylaw Officer explained that Building Permit is still required for building, and (4) Owner seems willing to comply.
Jan. 15, 2014	A new Building Permit Application (BP013074) has been submitted to the FVRD for the same single structure, as an accessory agricultural barn for growing.
Mar. 3, 2016	Building Department mailed a letter to the owner advising him that his building permit application (BP0113074) is closed due to outstanding items.
Mar. 16, 2016	Bylaw Letter mailed to owner with a bylaw ticket (No. 22884) attached advising him that his building permit file was closed and referred back to bylaw enforcement for follow-up. Deadline to respond to FVRD is April 17, 2016.
April 18, 2016	Bylaw Notice Ticket is paid in full.  A third Building Permit Application (BP013569) has been submitted to the FVRD for the same accessory structure; this building permit describes the same structure as a barn.
June 22, 2016	Building Department Letter is mailed to owner advising him of outstanding items remaining to complete his Building Permit Application (BP013569).

Jan. 26, 2017	Staff conducts a file review and the building permit file remains unchanged – no further outstanding building permit items have been submitted to the FVRD Building Department.
Jan. 30, 2017	Second Building Department Letter is mailed to owner advising him of outstanding items remaining to complete his Building Permit Application (BP013569).
Mar. 23, 2018	Third Building Department Letter is mailed to owner advising him of outstanding items remaining to complete his Building Permit Application (BP013569).
July 19, 2018	Building Department mailed a letter to the owner advising him that his building permit application (BP013569) is closed due to inactivity.
Jan. 10, 2019	Bylaw Officer and Building Inspector conduct drive by site inspection – structure remains on the property.
Jan. 17, 2019	A final warning Bylaw letter is mailed to property owner advising owner of staff recommendation to proceed with the process to register a notice on title.
Feb. 20, 2019	A hand written letter is received by FVRD from the property owner outlining his history on the structure.
April 8, 2019	Bylaw Officer attempted to contact the property owner by telephone and the following was discussed (1) lengthy history of Bylaw file, (2) notice on title process, and (3) owner stated he understood and agreed to staff move forward to pursue a Notice on Title on his property.
April 9, 2019	Bylaw Staff sent a letter by mail to owner notifying him of the show cause hearing for May 8, 2019.

**INSPECTION PHOTOS OF SUBJECT PROPERTY:**

July 16, 2011





July 16, 2011 continued



August 5, 2011



January 10, 2019



## DISCUSSION

Section 57 of the Community Charter allows a Building Inspector to recommend a resolution to place a Notice on the Title of a property if a contravention of a bylaw or another enactment that related to the construction or safety of a building is observed. A Notice on Title serves as notice to anyone searching the title that the property may be in breach of local government bylaws or other enactments; provides disclosure to future owners; and protects against potential claims with regard to the contraventions.

Staff would like you to consider the following information:

### Building Bylaw

Staff is authorized to regulate minimum construction standards within electoral areas via the *Fraser Valley Regional District Building Bylaw No. 1188, 2013* (Building Bylaw) for health, safety and the protection of persons and property. The bylaw provides that no person shall commence any construction, alternation, reconstruction, demolition, removal, relocation or change the occupancy of any building.

The construction works to build the detached accessory barn/shop structure was first discovered in 2011 to have been constructed around the placement of six large sixty foot shipping containers for the operation of several marijuana growing operations without any building permits.

The construction of this large accessory structure that encloses the six shipping containers is required to have an issued building permit prior to the start of construction. This construction of this building has been completed for a number of years without a permit.

Any structure that has a change of use from its initial intended use is required to obtain a Building Permit to authorize the new use in order to comply with *Bylaw* and *BC Building Code* Regulations. The initial use of the detached accessory shop/barn would be for storage or possibly agricultural use, so a permit is required for the change of use to a Marijuana Grow Operation.

Three separate building permit applications have been made to the FVRD for this single structure (2011, 2014, and 2016). However, none of the required documentation has ever been submitted to the FVRD for any of the applications. All three applications were closed due to inactivity.

**A Building Permit is required for the construction works undertaken by the property owner.**

### Zoning Bylaw

This property is in Electoral Area F, and it is zoned Upland Agricultural (A-1) of *Zoning Bylaw No. 559, 1992 for Area "G" Portions of "C" and "F"* (Bylaw 559). The primary purpose of this zone is to contain a cohesive and well-defined community of agricultural lands.

The detached accessory barn/shop structure is currently being used to operate Marijuana Grow Operation. A Marihuana Grow Operation Use is listed as a permitted use in the Upland Agricultural (A-1) zone provided that it is approved by the appropriate provincial and federal authorities.

The subject Property is entirely within the Agricultural Land Reserve (ALR) and therefore the production of cannabis in accordance with the Cannabis Act and Agricultural Land Commission Regulations is permitted if it meets the criteria as outlined by the ALC.

## **COST**

Land Titles Office filing fee of approximately \$74.

The owner will be required to pay a removal fee of \$500 in accordance with the *Fraser Valley Regional Building Bylaw 1188, 2013*, after the unauthorized construction works on the detached accessory barn structure is either:

1. Demolished with a Building Permit issued by the FVRD, with a successful final inspection; or
2. Fully completed Building Permit for the construction works to the detached accessory barn/shop structure is issued by the FVRD and receives a successful final inspection.

## **CONCLUSION**

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the construction works of the addition to the detached accessory barn/shop structure without Building Permits violates the *Regional District Building Bylaw*, and the *British Columbia Building Code*. Staff further notes that full compliance will only be achieved with the successful completion of a Building Permit for the construction works to the detached accessory barn structure. Regrettably, but in the interest of full public disclosure and as incentive to achieving voluntary compliance, I, as an Appointed Building Inspector, believe that the filing of Notice is appropriate in this instance and submit the above recommendation in accordance with Section 57 of the *Community Charter*.

Electoral Area Services Committee (EASC) approval and Regional District Board resolution is required to assess Section 57 notices.

The process of filing a Section 57 notice on property title is conducted in accordance with the *Community Charter* and the *Local Government Act*.

Regional District requirements for Building Permit works are being administered in accordance with related Fraser Valley Regional District Building Bylaw, Policies, and the *BC Building Code*.

## **COMMENTS BY:**

**Margaret Thornton, Director of Planning & Development**

Reviewed and supported.

**Mike Veenbaas, Director of Financial Services**

No further financial comment.

**Paul Gipps, Chief Administrative Officer**

Reviewed and supported