

To: Electoral Area Services Committee

Date: 2018-03-13

From: Louise Hinton, Bylaw Compliance and Enforcement Officer

File No: F02784.012

Subject: Regional District Building Bylaw Contraventions at 13089 Sylvester Road Electoral Area F, Fraser Valley Regional District, British Columbia (legally described as Lot 2 Section 30 Township 21 New Westminster District Plan 69714 (Parcel Identifier 001-905-1

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, at 13089 Sylvester Road Electoral Area F, Fraser Valley Regional District, British Columbia (legally described as Lot 2 Section 30 Township 21 New Westminster District Plan 69714); Parcel Identifier 001-905-147.

STRATEGIC AREA(S) OF FOCUS

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BACKGROUND

December 31, 2008 - Regional District Bylaw Staff received a complaint that a large fire took place within the single family dwelling located on the property at 13089 Sylvester Road on December 20, 2008 at 04:58hrs.

February 13, 2009 - Regional District Bylaw Staff attempted to complete a site inspection of the property, but left promptly after suspecting a marihuana grow operation on the property.

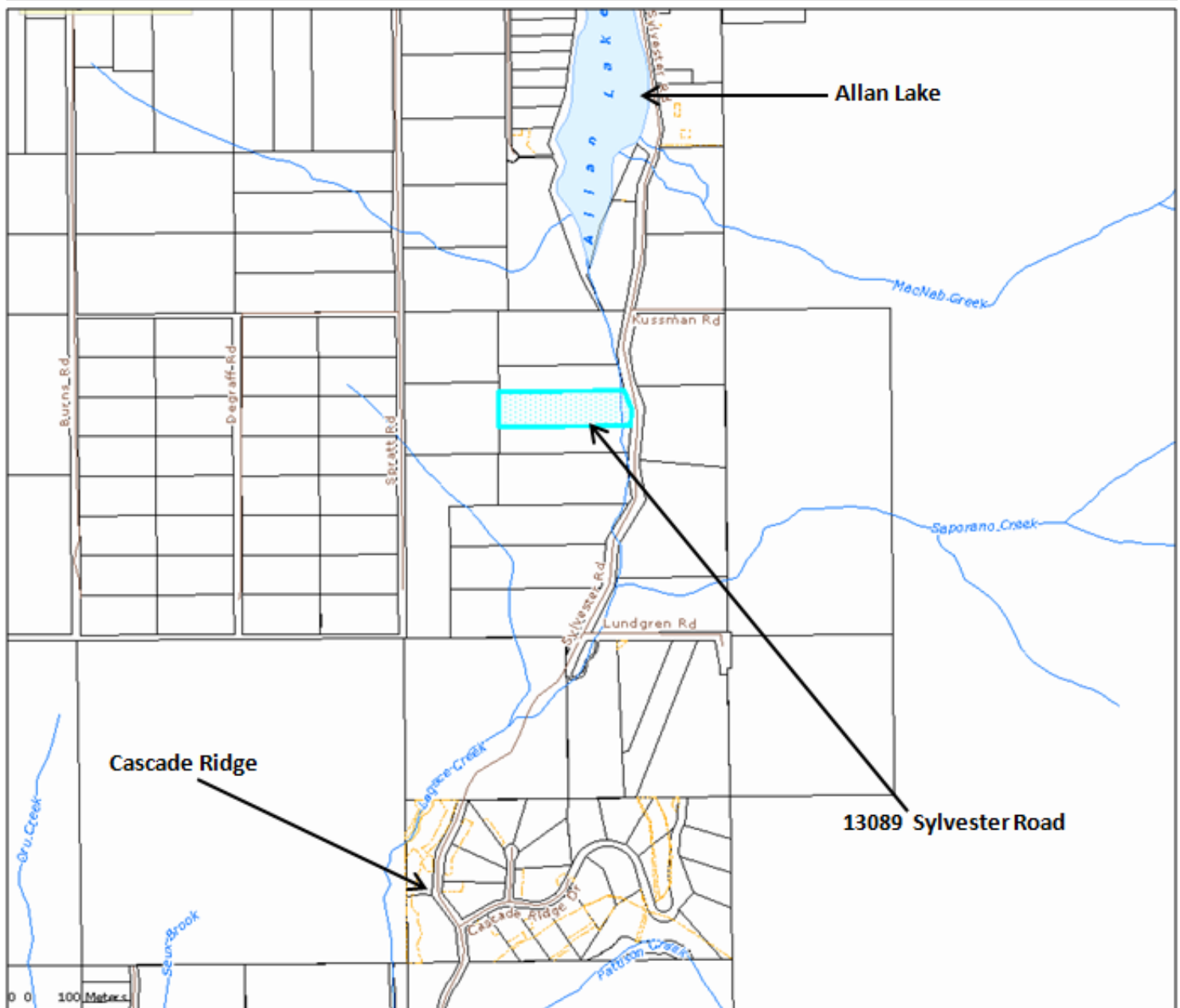
February 16, 2008 - Regional District fire dispatch confirms that there is a marihuana Grow Operation on the property at 13089 Sylvester Road (RCMP File #2008-17033).

January 6, 2015 - Regional District Bylaw Staff attempted to meet with the property owners at the Regional District Chilliwack Office, but discovered they were meeting with the people who initially reported the structure fire in 2008 instead of the property owners. It was discovered during this meeting that the structure fire destroyed the single family dwelling. The other structure on the property was a storage building with three bays and a generator at the rear, that housed the marijuana

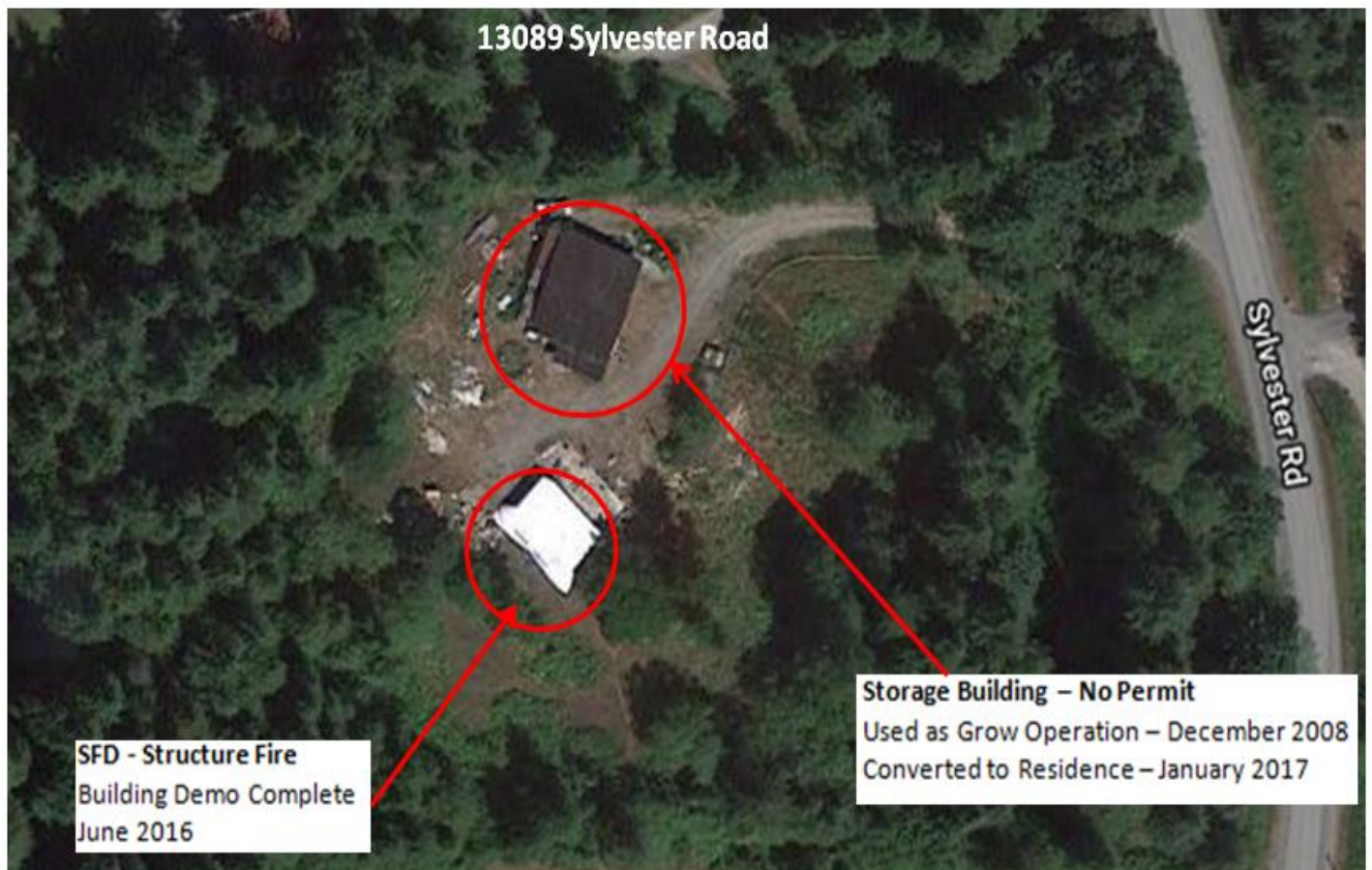
grow operation. Regional District Staff was told by the area residents that the property was also up for foreclosure sale.

February 12, 2016 – Regional District Bylaw staff performed a scheduled file review on this date and a new title search verified that Mr. Robert Pinoni has owned the property since February 26, 2015.

Property Information Report			
Civic Address:	13089 SYLVESTER RD	Lot Size:	6.871 ACRES
Folio Number:	775.02784.012	Electoral Area:	F
PID:	001-905-147	Map Scale:	1:11660
Legal Description:	LOT 2, SECTION 30, TOWNSHIP 21, NEW WESTMINSTER DISTRICT, PLAN NWP69714		



March 16, 2016 – Regional District Bylaw Staff sent a letter to the new property owner Mr. Robert Pinoni via regular mail informing him of the open bylaw enforcement file on the property. The letter detailed that permits were required for both the fire damaged structure for demolition, and remediation and building permits for the detached storage building that was previously constructed without a building permit.



March 31, 2016 – Regional District Bylaw Staff spoke with Mr. Pinoni via telephone about the outstanding bylaw enforcement issues on his property and explained in detail that several completed building permits, and fees would be required to begin to work towards compliance on his property. A follow up email was sent to Mr. Pinoni listing building permit application requirements.

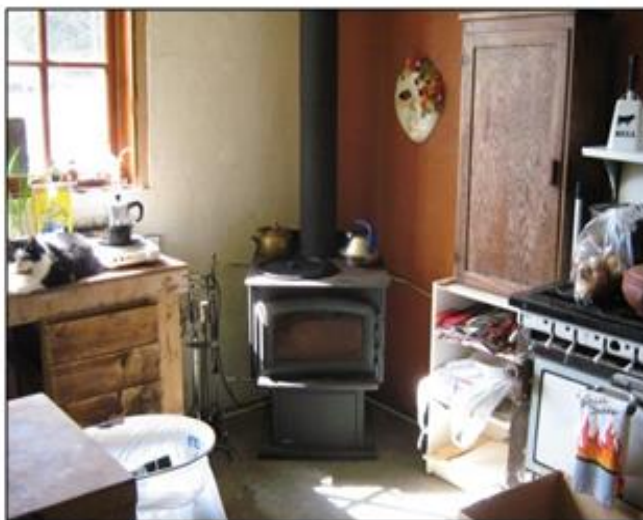
April 18, 2016 – Mr. Pinoni applied for two separate building permits, one to demolish the fire damaged building (BP013567), and one to remediate the detached storage building that was constructed without a building permit and used for a marijuana grow operation (BP013566).

June 28, 2016 – Regional District Bylaw Staff is notified that a demolition permit (BP013567) for the single family fire damaged structure was issued and the final inspection passed for 13089 Sylvester Road.

January 23, 2017 – A site inspection of the storage building at 13089 Sylvester Road was conducted by Regional District Building Inspection Staff. It was discovered that the storage building had been

modified for habitation and was no longer considered a storage building, but a residential dwelling. Mr. Pinoni informed Building Inspection Staff that he turned the storage building into a residence and was now living in it. Mr. Pinoni was told by Regional District Building Inspection Staff that the Regional District would have to cancel his existing permit application (BP01566) for the remediation of the storage building because of the additional construction. Mr. Pinoni was also informed that a NEW building permit for a change of use with remediation would be required for the new construction works. **Please refer to photographs below:**

Site Inspection Photographs dated **January 23, 2017** show some of the interior renovation works that converted the storage building to a residence.



January 23, 2017 - Regional District Bylaw Staff called Mr. Pinoni and spoke with him by telephone and explained to him the items required to complete a new building permit application for the change of use with remediation for the subject building.

February 16, 2017 - Regional District Bylaw Staff sent a letter by email to the property owner Mr. Robert Pinoni advising him that his property remains in breach of regional district bylaws requesting compliance regarding the outstanding building permit on his property.

February 23, 2017 - Property Owner, Mr. Pinoni came into the Chilliwack Regional District Office and inquired about what was required to satisfy the bylaw issues on his property. Building department staff advised him that a building permit application for “change of use with remediation” was required for the storage building that he converted to a residence. He advised staff that he was willing to submit an permit application with a detailed site plan and would hire someone to draw up some construction drawings. He was aware of the March 3, 2017 bylaw enforcement deadline for the application and requested an extension to the deadline to submit the required items.

March 23, 2017 – Regional District Bylaw Staff sent an email to the property owner Mr. Pinoni advising him again of the building permit application requirements in detail that were required bring the storage building that has been converted to a residence into compliance. In this email Mr. Pinoni was given an extended deadline of April 4, 2017.

April 3, 2017 – Mr. Pinoni applied for and paid the application fees for a building permit (BP13874) for the conversion of the storage building to a single family dwelling.

May 12, 2017 – Bylaw Enforcement staff spoke with Mr. Pinoni over the telephone. He advised staff that he was going to be unable to meet the required permit deadlines. He confirmed he would send a request in writing to cancel his existing building permit applications as he plans to obtain the required building permit documents and go through the building permit process at a later date. During this conversation Mr. Pinoni was told that a cancellation of his permits would cause staff to recommend that a section 57 Community Charter notice to be placed on the title of his property. Mr. Pinoni stated he understood and sent an email requesting staff move forward to place a Notice on title on his property.

January 19, 2018 – A letter was sent to the property owner by via email and regular mail advising him of staff's recommendation to proceed with the process of registering a Section 57 Community Charter notice on the title of his property. This letter gave the owner a final opportunity to achieve voluntary compliance by the deadline of February 8, 2018. Staff had not received a response from the property owner to date.

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; provide disclosure to future owners; and protects against potential claims with regard to the contraventions.

Staff requests consideration of the following information:

Building Bylaw

Staff is authorized to regulate minimum construction standards within Electoral Areas by 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 of any structure until a building official has issued a permit for the work.

The subject building was initially a storage building that was built without a building permit at an unknown time. It was discovered in 2008 that the storage building was used for a marihuana grow operation. In January of 2017 it was discovered that the storage building was converted to a residence and was being occupied. Any structure that houses a marihuana grow operation requires a building permit to remediate the building for health purposes once the grow operation has been removed. 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 subject building was for storage use only, so a permit for the change of use to a residence.

A Building permit is required for the works undertaken by the property owner.

Zoning Bylaw

This property is in Electoral Area F, and is zoned Rural 1 (R-1) under the Dewdney-Alouette Regional District Land Use and Subdivision Regulation Bylaw No. 559-1992 (Bylaw 559). The primary purpose of this zone is to maintain the existing rural character of the Plan area and to provide for residential uses that are environmentally sustainable and compatible with existing development and levels of servicing.

The storage building previously housed a Medical Marihuana Grow Operation; a use that is not a listed as a permitted use in this zone. The storage building was converted to a residence. A residence is listed as a permitted use in this zone.

The subject building appears to be very close to the interior side lot line of the property, so there are concerns that the building setback is within the three (3) meters as provided for in section 412(3) of Zoning Bylaw 559. If the building is located within the 3 meter required setback, a Development Variance Permit (DVP) application is required and must receive approval by the FVRD Board.

COST

Land Titles Office filing fee of approximately \$55.

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 building is either:

- Demolished with a Building Permit issued by the FVRD and receiving successful final inspection; or
- A Building Permit for Change of Use with Remediation is issued by the FVRD and receives successful final inspection. This will include the submission of a legal survey of the building location to confirm that the building setbacks fully comply with the Zoning Bylaw; or a Development Variance Permit application is to be submitted and approved by the FVRD.

CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer and the Appointed Building Inspector that the construction to convert the storage building to a residence without the required remediation violates multiple Regional District Bylaws, 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 a change of use with remediation.

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 Bylaws, Policies, and the BC Building Code.

COMMENTS BY:

Margaret Thornton, Director of Planning & Development

Reviewed and supported.

Mike Veenbaas, Director of Financial Services

Not available for comment.

Paul Gipps, Chief Administrative Officer

Reviewed and supported