

January 25, 2018

VIA REGISTERED MAIL

Shannon Bauman
311-2533 Penticton Street
Vancouver, BC V5M 4T8

FILE: E06605.036
CIVIC: 4135 Slesse Road, Electoral Area "E"
PID: 009-331-247
LEGAL: LOT 57 SECTION 33 TOWNSHIP 1 RANGE 29 WEST OF THE SIXTH MERIDIAN
NEW WESTMINSTER DISTRICT PLAN 24441

Dear Ms. Bauman;

RE: Multiple Bylaw Enforcement Contraventions

Further to our letter dated August 15, 2017 the above noted property remains in contravention of multiple Regional District bylaws. An inspection was conducted on November 7, 2017 to verify further complaints of contraventions occurring on this property. During this inspection, staff observed that construction has continued on the "Atco" trailers previously posted with Stop Work and No Occupancy orders on July 19, 2017. Furthermore, camping uses have resumed, a Marijuana Grow Operation has restarted within the Shipping Containers, and the property remains unsightly and unwholesome.

The following summary outlines the bylaw contraventions occurring on your property:

1. Fraser Valley Regional District Unsightly Premises and Unwholesome Matter Bylaw No. 0037, 1996
Bylaw 0037, 1996 prohibits a property from becoming unsightly, restricts the accumulation of unwholesome matter, and forbids littering. Staff verified the presence of the following:

- a) Accumulation of building material and assorted rubbish



2. Fraser Valley Regional District Building Bylaw No. 1188, 2013

Bylaw 1188, 2013 regulates construction, alteration, repair, or demolition of buildings and structures for the health, safety, and protection of persons and property. Every owner is required to obtain a building permit before any construction, works, or change in occupancy. Staff verified the following works:

a) SHIPPING CONTAINERS

- i. Two (2) shipping containers remain on the property without a valid building permit; and
- ii. Change of occupancy without a valid building permit into marijuana grow operation.

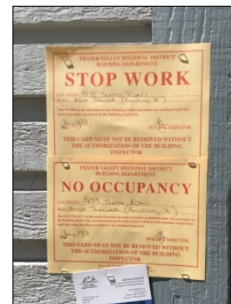
Photographs taken November 7, 2017:



b) ATCO TRAILERS

- i. Two (2) "Atco" trailers remain on the property without a valid building permit; and
- ii. Disobey Stop Work and No Occupancy orders posted on July 19, 2017 by continuing works on the "Atco" trailers, including electrical connection.

Photographs taken on July 19, 2017:



Photographs taken on November 7, 2017:



The placement of the shipping containers and "Atco" trailers without a valid building permit, the change of occupancy of the shipping containers to a Marijuana Grow Operation, and disobeying the Stop Work and No Occupancy orders placed on the "Atco" trailers are all violations of Bylaw No. 1188; therefore bylaw offence notices have been issued to you as the property owner (enclosed separately).

3. Zoning Bylaw for Electoral Area "E", 1976 of the Regional District of Fraser-Cheam

Bylaw 66, 1976 regulates the use, size and location of structures; the size and location of building setbacks; and the use of the property. This property is zoned MULTI USE RESIDENTIAL (RS-2) which provides for the establishment of a one-family residence, or mobile home or modular home. It is unlawful to erect, construct, locate any building, or use any building or land which is contrary to the permitted uses specified in the RS-2 zone. Staff verified the following unpermitted uses:

- a) Marijuana Grow Operation
- b) Camping

Photographs taken November 7, 2017:

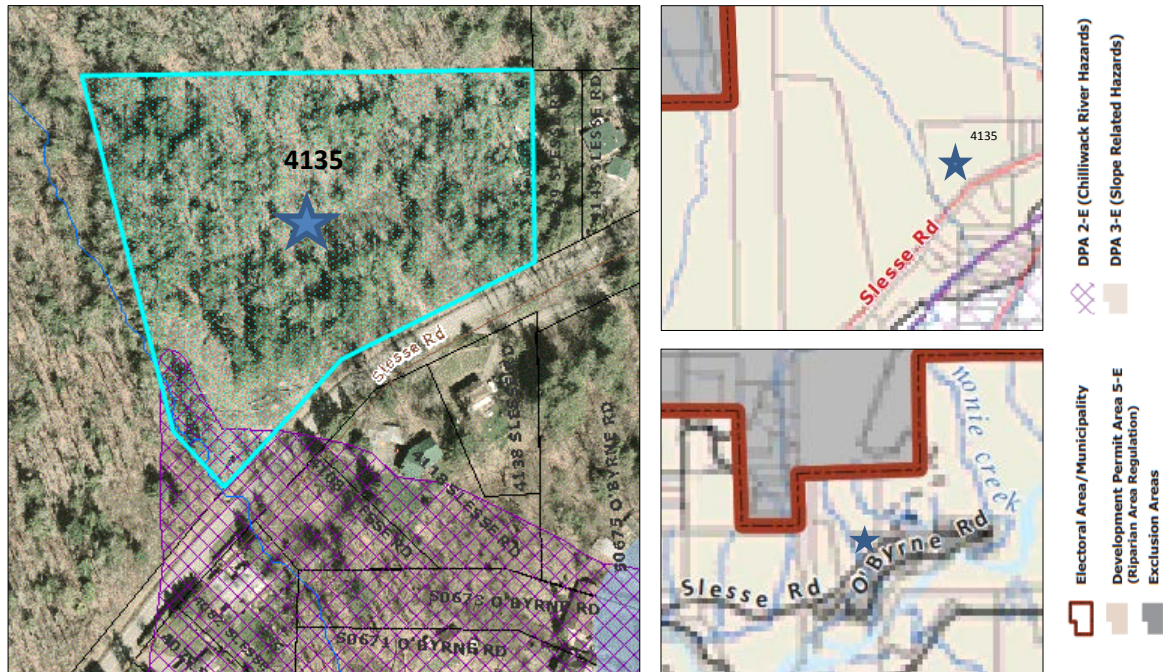


These uses are in violation of Bylaw 66, 1976; therefore a bylaw offence notice has been issued to you as the property owner (enclosed separately).

4. Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011

OCP 1115, 2011 contains statements and map designations respecting restrictions on the use of land that is subject to hazardous conditions. As well, Section 56 of the *Community Charter* stipulates that if a building inspector considers that construction would be on land that is subject to, or is likely to be subject to, flooding, mud flows, debris flows, debris torrents, erosion, land slip, rock falls, subsidence or avalanche, the building inspector may require the owner of land to provide the building inspector with a report certified by a qualified professional that the land may be used safely for the use intended. Lands within Electoral Area "E" are subject to a variety of hazards, including geological and mountain stream hazards; flooding and erosion from the Chilliwack River; seismic slope instability and soil liquefaction caused by earthquakes; and, wild fires. These hazards are a significant constraint to land use and development within the Plan area.

The Regional District has a geotechnical report completed by Thurber Engineering Ltd. dated March 9, 2005 on file for this property. This report notes that the subject area was not suited for residential development due to the large landslide complex. Thurber further notes that the slide is occurring in ancient glacial lake silt and clay deposits, and may move slowly, episodically, discontinuously and in response to heavy seasonal precipitation. A copy of these geotechnical assessments were provided to you in our letter dated November 9, 2015.



- a) *Chilliwack River Valley Slope Hazard Development Permit Area 3-E (DPA 3-E)* is designated for the protection of development from hazardous conditions. A development permit must be obtained prior to alteration of land; or construction of, addition to, or alteration of a building or structure within the development permit area. Staff verified the following:
- The subject property is within DPA 3-E; and
 - A Development Permit was required for the alteration of land (placement of gravel and soil disturbance) and construction (placement of structures) that has taken place on the property; and
 - A Development Permit was not applied for or issued for any of the above noted works.
- b) *Riparian Areas Development Permit Area 5-E (DPA 5-E)* is designated for the protection of the natural environment, its ecosystems and biological diversity. A development permit must be obtained prior to the alteration of land; the disturbance of soil or vegetation; or construction of or addition to a building or structure within a riparian assessment area. Staff verified the following:
- The subject property is within DPA 5-E; and
 - A Development Permit is required for the alteration of land (placement of gravel and soil disturbance) and construction (placement of structures) that has taken place on the property; and
 - A Development Permit was not applied for or issued for any of the above noted works.

Photographs taken on July 19, 2017:



5. Water Sustainability Regulations

The *Water Sustainability Act* (WSA) is the principal law for managing the diversion and use of water resources. Water is used for diverse purposes, and a variety of laws and rules govern water use, protection, conservation and sustainability. Provincial authorities, local governments and federal agencies work to ensure that water is managed and the supply is protected for use by people and the environment. A water right is the authorized use of surface water or groundwater. All water in British Columbia is owned by the Crown on behalf of the residents of the province. If you own land that contains or has access to surface water or groundwater, in most cases you must apply to the province for the right to use the water and pay an annual rental fee for that use.

Under the WSA, "changes in and about a stream" means:

- Any modification to the nature of the stream, including any modification of the land, vegetation and natural environment of a stream or the flow of water in a stream, or
- Any activity or construction within a stream channel that has or may have an impact on a stream or stream channel.

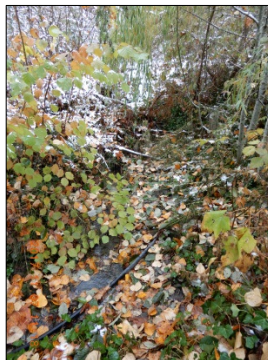
The authority to work in and about a stream, either through a change approval or notification, is generally granted with terms and conditions attached. Terms and conditions vary from region to region, and work in each region is generally restricted to specific times of the year called regional timing windows. For further information please contact Front Counter BC at:

<http://www.frontcounterbc.gov.bc.ca/info/>

Staff verified the following:

- A creek runs year round through the southern portion of the subject property;
- Staff observed hoses leading from the subject property into this creek on all site inspections;
- A Water License and/or Approval is required to obtain/discharge water from/into this creek;
- Staff observed works within a ditch (culvert replacement) adjacent to Slesse Road on July 19, 2017;
- Notification must be made to the Ministry of Forests, Lands and Natural Resources Office, and Approval must be granted before beginning any works.

Photographs taken on July 19, 2017 and November 7, 2017:



The community continues to express concern over non-compliance with the Regional District bylaws, and our previous attempts to work with you to resolve this matter have failed. Therefore, we are obligated to pursue alternate means of enforcement. **Please be advised that if you do not immediately CEASE and DESIST the above noted contraventions and/or violations, the Fraser Valley Regional Board will commence legal proceedings to enforce its bylaws without further notice.** The unpermitted works occurring on your property may create a safety concern for yourself, your neighbors and/or visitors to your property. We strongly encourage you to read the *Occupiers Liability Act* regarding property safety and negligence.

Furthermore, staff is preparing a recommendation to place a legal notation referencing the bylaw contraventions on your property's Land Title, which will be referred to the Regional Board for their consideration. The presence of this notice may negatively affect your property's potential sale, perceived property value, access to a mortgage, and/or (re)financing. You are advised to undertake inquiries with your lenders, insurance companies, and any other relevant parties to determine how it may impact you now and in the future. An information pamphlet regarding Notices on Title is enclosed.

Please contact our office no later than **February 15, 2018** if you have any questions or wish to discuss this matter further. Should you fail to meet this deadline, we will move forward with the process of registering a notice on the title of your property as outlined in Section 57 of the Community Charter. You may contact me toll-free at 1-800-528-0061, directly at 604-702-5017, or by email at asnashall@fvrd.ca. Our office hours are Monday through Friday from 8:30am to 4:30pm.

Respectfully,

Adriana Snashall
Bylaw, Permits & Licences Technician

enc: Bylaw Offence Notice letter dated January 25, 2018
Notice on Title Information Pamphlet

cc: Orion Engar, Director of Electoral Area E
Margaret-Ann Thornton, Director of Planning & Development
Royal Canadian Mounted Police
BC Safety Authority
Fraser Health Authority – Chilliwack Health Protection Office
Ministry of Environment – Conservation Officer Service
Ministry of Forests, Lands and Natural Resources – Compliance and Enforcement Office

The following web addresses are provided for your convenience:

Fraser Valley Regional District Unsightly Premises and Unwholesome Matter Bylaw No. 0037, 1996

<http://www.fvrd.ca/assets/Government/Documents/Bylaws/Other/Bylaw%20No.%200037,%201996%20Unsightly%20Premises%20and%20Unwholesome%20Matter%20Regulations.PDF>

Zoning Bylaw for Electoral Area "E", 1976 of the Regional District of Fraser-Cheam

<http://www.fvrd.ca/assets/Government/Documents/Bylaws/Planning~and~Land~Use/Zoning%20Bylaw%2066%20-%20Area%20E.pdf>

Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011

<http://www.fvrd.ca/assets/Government/Documents/Bylaws/Planning~and~Land~Use/Area%20E%20-%20OCP%20Bylaw%201115%20-%20Columbia%20Valley,%20Lindell%20Beach,%20Chilliwack%20River%20Valley.pdf>

Fraser Valley Regional District Building Bylaw No. 1188, 2013

<http://www.fvrd.ca/assets/Government/Documents/Bylaws/Building/Building%20Bylaw%201188,%202013.PDF>

Fraser Valley Regional District Building and Bylaw Enforcement website

www.fvrd.ca/EN/main/services/building-enforcement.html

Downloadable application forms

<http://www.fvrd.ca/EN/main/services/building-permits-inspection/forms.html>

Occupiers Liability Act

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96337_01

Water Sustainability Act

<http://www.bclaws.ca/civix/document/id/lc/statreg/14015>

Water Sustainability Regulations

http://www.bclaws.ca/civix/document/id/complete/statreg/36_2016

NOTICE ON TITLE INFORMATION SHEET

WHAT IS A NOTICE ON TITLE?

A *Notice on Title*, note against land title, or Section 57 of the *Community Charter*, was provided to local governments by the Province of British Columbia as a tool to administer and enforce the *BC Building Code* and local building bylaws. It involves the registration of a *Notice* on a property title at the Land Title Office, which, once in place, is documented on the title search under the "Legal Notations" section.

A *Notice on Title* serves as notification to anyone searching a property title that the property may be in breach of bylaws or regulations. The *Notice* itself does not disclose details of the breach but specifies that further information may be obtained from the local government office.

WHAT IS THE PURPOSE OF A NOTICE ON TITLE?

The purpose of a *Notice on Title* is to provide information to potential owners and stakeholders of a breach of bylaws or regulations. It also encourages voluntary compliance to reduce risk to the local government. The filing of a *Notice* is not intended to be a punitive action; rather, it is a method to protect future owners and others with an interest in the property.

WHEN CAN A NOTICE ON TITLE BE FILED?

A *Notice on Title* may be filed by a local government where there is a breach of bylaws or regulations in respect to a property. Specifically, a *Notice on Title* may be filed where a Building Inspector is made aware of any of the following:

- a) construction has occurred without a valid building permit;
- b) construction deficiencies noted have not been corrected;
- c) covering construction without required inspections;
- d) a permit has expired and the owner refuses to reapply for a new permit;
- e) construction that is in contravention of the *BC Building Code* or Building Bylaw; or
- f) any such circumstances as the Building Inspector may deem necessary.

HOW IS A NOTICE ON TITLE FILED?

Step 1: When the Building Inspector is made aware of a breach, a letter is mailed to the registered owner of the property advising of the breach and the required remedial action. The owner is provided approximately thirty (30) days to contact staff and take the necessary steps to resolve the breach. This timeframe may be reduced where there appears to be a serious safety concern.

Step 2: If no action to contact staff and resolve the issue, a second letter is mailed to the owner advising of the breach and the required remedial action. The owner is provided approximately fourteen (14) days to contact staff and take the necessary steps to resolve the breach. This timeframe may be reduced where there appears to be a serious safety concern.

- Step 3: If no action to contact staff and resolve the issue, the Building Inspector may forward a report to the Corporate Officer and a "Show Cause Hearing" is scheduled. A Show Cause Hearing is held during an Electoral Area Services Committee (EASC) meeting. An invitation is mailed to the registered owner of the property advising the specific date and time they are to attend the Show Cause Hearing. A copy of the report produced by the Building Inspector will be included.
- Step 4: On the day of the EASC meeting, the Show Cause Hearing will be announced. The owner of the property, or their agent, will be asked if they would like to make representation to the Committee. The Committee shall listen objectively to the owner as well as the Building Inspector. Please note that **attendance is not required** if the owner does not wish to challenge the recommendation.
- Step 5: After hearing from the registered owner of the property and Building Inspector, the committee will then resolve to:
- a) direct the staff to file a *Notice* in the Land Title Office;
 - b) direct staff not to file a *Notice* in the Land Title Office; or
 - c) defer filing a *Notice* to allow the registered owner more time to comply.

HOW IS A NOTICE ON TITLE CANCELLED?

Once a *Notice on Title* is filed, it may be cancelled from the title of a property by way of:

- a) the local government after a Building Inspector has provided a report confirming that the condition which caused the *Notice* to be filed has been rectified; or
- b) an Order obtained by the registered owner from the *British Columbia Supreme Court*.

WHAT IS THE COST OF PLACING OR CANCELLING THE NOTICE ON TITLE?

The Fraser Valley Regional District does not charge the registered owner of the property when a *Notice on Title* is filed at the Land Title Office. However, there is a \$500.00 administrative fee payable to the Fraser Valley Regional District by the property owner when the *Notice* is removed from the Title. The property owner will also be responsible for their legal costs to have a *Notice* removed at the Land Title Office.

Properties with a *Notice on Title* may be sold at any time; however, the presence of the *Notice* may negatively affect a property's potential sale, perceived property value, access to a mortgage, and/or (re)financing. If a *Notice* is registered or is recommended to be registered upon the title of your property, you are advised to undertake inquiries with your lenders, insurance companies, and any other relevant parties to determine how it may impact you now and in the future.

If you have any questions regarding this process, please email staff at enforcement@fvrld.bc.ca or phone directly at 1-800-528-0061.

This document is provided for informational purposes and does not constitute legal advice. The Fraser Valley Regional District makes no representations or warranties about the accuracy of the information contained in this document. If you have any questions or concerns as to the nature and effect of Notices on Title, please refer to the actual text of Sections 57 and 58 of the Community Charter and seek your own independent legal advice.

Excerpts from the *Community Charter*:

NOTE AGAINST LAND TITLE THAT BUILDING REGULATIONS CONTRAVENED

- 57 (1) A building inspector may recommend to the council that it consider a resolution under subsection (3) if, during the course of carrying out duties, the building inspector
- (a) observes a condition, with respect to land or a building or other structure, that the inspector considers
 - (i) results from the contravention of, or is in contravention of,
 - (A) a municipal bylaw,
 - (B) a Provincial building regulation, or
 - (C) any other enactmentthat relates to the construction or safety of buildings or other structures, and
 - (ii) that, as a result of the condition, a building or other structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or
 - (b) discovers that
 - (i) something was done with respect to a building or other structure, or the construction of a building or other structure, that required a permit or an inspection under a bylaw, regulation or enactment referred to in paragraph (a) (i), and
 - (ii) the permit was not obtained or the inspection not satisfactorily completed.
- (2) A recommendation under subsection (1) must be given in writing to the corporate officer, who must
- (a) give notice to the registered owner of the land to which recommendation relates, and
 - (b) after notice under paragraph (a), place the matter before the council.
- (3) After providing the building inspector and the owner an opportunity to be heard, the council may confirm the recommendations of the building inspector and pass a resolution directing the corporate officer to file a notice in the land title office stating that
- (a) a resolution relating to that land has been made under this section, and
 - (b) further information about it may be inspected at the municipal hall.
- (4) The corporate officer must ensure that all records are available for the purpose of subsection (3) (b).
- (5) If the registrar of land titles receives a notice under subsection (3) and payment of the prescribed fee, the registrar must make a note of the filing against the title to the land that is affected by the notice.
- (6) The note of a filing of a notice under this section is extinguished when a new title to the land is issued as a result of the deposit of a plan of subdivision or a strata plan.
- (7) In the event of any omission, mistake or misfeasance by the registrar or an employee of the registrar in relation to the making of a note of the filing under subsection (5), or a cancellation under section 58, after the notice is received by the land title office,
- (a) the registrar is not liable and neither the Provincial government nor the Land Title and Survey Authority of British Columbia is liable vicariously,

- (a.1) the assurance fund or the Land Title and Survey Authority of British Columbia as a nominal defendant is not liable under Part 19.1 of the Land Title Act, and
 - (b) the assurance fund or the minister charged with the administration of the Land Title Act as a nominal defendant is not liable under Part 20 of the Land Title Act.
- (8) Neither the building inspector nor the municipality is liable for damage of any kind for the doing of anything, or the failure to do anything, under this section or section 58 that would have, but for this subsection, constituted a breach of duty to any person.
- (9) The authority under this section is in addition to any other action that a building inspector is authorized to take in respect of a matter referred to in subsection (1).

CANCELLATION OF NOTE AGAINST LAND TITLE

- 58
- (1) On receiving a report from a building inspector that the condition that gave rise to the filing of the notice under section 57 (3) has been rectified, the corporate officer must file a cancellation notice and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.
 - (2) An owner of land with respect to which a notice has been filed under section 57 (3), may apply to the council for a resolution that the note be cancelled.
 - (3) After hearing an applicant under subsection (2), the council may pass a resolution directing the corporate officer to file a cancellation notice.
 - (4) If a resolution has been passed under subsection (3), the corporate officer must file a cancellation notice in the land title office and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.
 - (5) If the council does not pass a resolution under subsection (3), the owner may apply to the Supreme Court and notify the municipality to attend before the court to show cause why the note should not be cancelled.
 - (6) On an application under subsection (5), after reviewing any evidence that the owner and the municipality may adduce, the court may make an order directing the registrar to cancel the note made under section 57 (5) and, on receiving the order, the registrar of land titles must cancel the note accordingly.