

To: Electoral Area Services Committee

Date: 2018-06-12

From: Louise Hinton, Bylaw Compliance and Enforcement Officer

File No: Do6642.027/2

Subject: Building Bylaw, and BC Building Code Contraventions at 10363 Royalwood Boulevard, Electoral Area D, legally described as: Lot 27 Section 1 Township 3 Range 29 Meridian 6 New Westminster District Plan LMP17398 Meridian W6 (PID: 018-813-798).

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 10363 Royalwood Boulevard Electoral Area D, Fraser Valley Regional District, British Columbia (legally described as: Lot 27 Section 1 Township 3 Range 29 Meridian 6 New Westminster District Plan LMP17398 Meridian W6 (PID: 018-813-798).

STRATEGIC AREA(S) OF FOCUS

Support Healthy & Sustainable Community

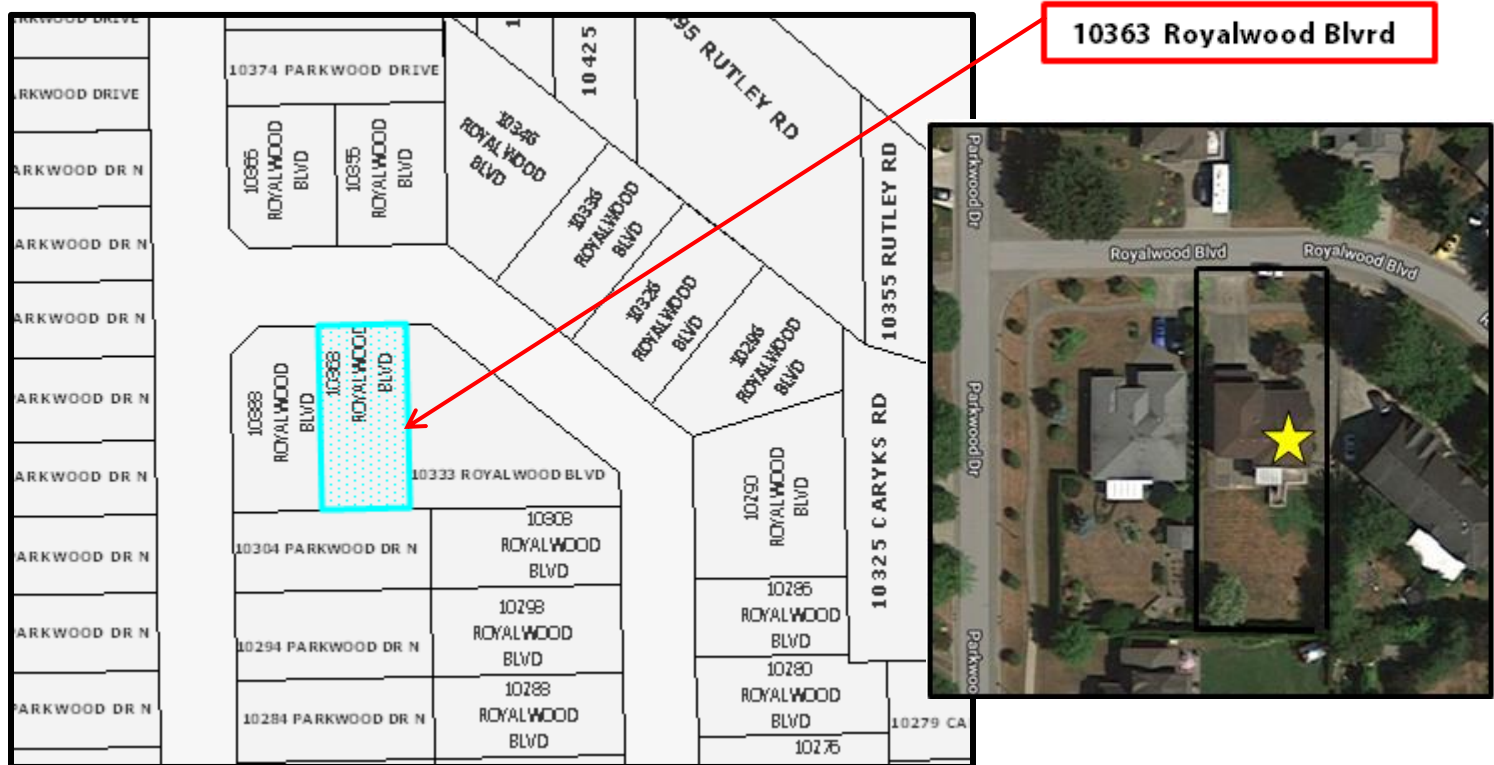
Provide Responsive & Effective Public Services

BACKGROUND

Previous Bylaw Enforcement File History:

In August of 2010 Regional District Bylaw Staff opened a new Bylaw Enforcement file when the Chilliwack Detachment of the Royal Canadian Mounted Police (RCMP) contacted the Regional District Bylaw Department by telephone and provided information that a Marijuana Grow Operation was discovered on the subject property at 10363 Royalwood Boulevard. (RCMP File # 2010-23928). The Single Family Dwelling had undergone significant renovations without the benefit of a Building Permit for the purposes of the Marijuana Grow Operation. Subsequently the Fraser Valley Regional Board resolved to place a notice on the subject property (charge BB1280401) in accordance with Section 57 of the *Community Charter* because of the above outlined violations of the *Fraser Valley Regional District Building Bylaw No. 0034,1996*.

In November of 2013 the condition that gave rise to the filing of the Notice on the Title of the property (Charge BB1280401) were rectified by means of Building Permit (BP012342). Accordingly pursuant to Section 58 of the *Community Charter* a cancellation notice was filed with the Registrar of Land Titles, and the Bylaw Enforcement File was closed.



Current Bylaw File:

June 8, 2016 – Regional District Bylaw Enforcement Staff opened a new Bylaw Enforcement file when Bylaw Staff received a complaint that there was a new Marijuana Grow Operation at the subject property at 10363 Royalwood Boulevard.

June 10, 2016 – Regional District Bylaw Staff spoke with Chilliwack RCMP at the front Counter of the FVRD Chilliwack Office. The RCMP Constable was unable to confirm if there is a legal Medical Marijuana Growing Licence for the subject property at 10363 Royalwood Boulevard because of privacy concerns, but they did confirm that they had no ongoing police files at the subject property.

September 28, 2016 – Regional District Bylaw Staff left a voice message with the Upper Fraser Valley Detachment of the RCMP Crime Reduction Unit - Drug Section requesting information if there is a legal Medical Marijuana Growing Licence for the subject property at 10363 Royalwood Boulevard.

January 13, 2017 – Regional District Bylaw Staff was advised by the Upper Fraser Valley Detachment of the RCMP that Health Canada has issued a Possession and Personal Production Licence in the name of the Property Owner of the subject property at 10363 Royalwood Boulevard Mr. John Fritz.

January 25, 2017 – Regional District Bylaw Staff sent a letter requesting access to the property for an inspection to the property owner Mr. John Fritz by regular mail with a deadline for a response of February 27, 2017.

February 28, 2017 - Regional District Bylaw Staff received contact by email from Mr. John Pederson, Legal counsel for the property owner, requesting a one month extension.

March 20, 2017 - Regional District Bylaw Staff made contact with Mr. Dale Pederson, legal counsel for the property owner Mr. John Fritz by email. FVRD Staff advised Mr. Pederson that the Regional District requires access to the property for a site inspection with a deadline for a response for a convenient date be no later than of April 30, 2017.

July 12, 2017 - Regional District Bylaw Staff sent a second letter requesting access to the property for an inspection to the property owner Mr. John Fritz and his legal counsel Mr. Dale Pederson by email and regular mail with a deadline for a response of July 28, 2017.

July 20, 2017 - Regional District Bylaw Staff received contact from Dale Pederson, legal counsel for the property owner Mr. John Fritz by email with a letter that disputed the allegation that a bylaw violation was occurring on the property. Mr. Pederson made a request asking the FVRD if a letter or video submission could be a substitute for a site inspection.

July 24, 2017 – Regional District Bylaw Staff received contact from legal counsel Mr. Dale Pederson's Office when they left a voicemail for FVRD Staff, requesting a return call back.

August 18, 2017 - Regional District Bylaw Staff made contact with the property owner's legal counsel Mr. Dale Pederson's Office listing a number of possible inspection dates.

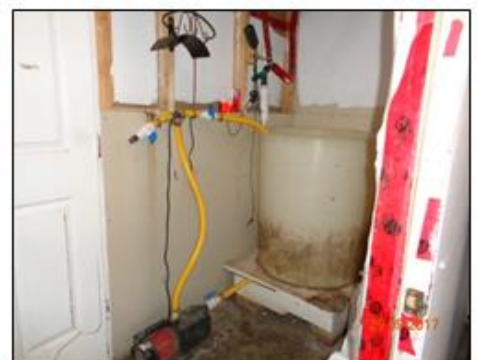
August 22, 2017 - Regional District Bylaw Staff made contact with Mr. Dale Pederson, legal counsel for the Property Owner Mr. John Fritz and scheduled a site inspection for September 29, 2017 at 10:00am.

September 29, 2017 10:00hrs – Regional District Bylaw, Building and Management Staff attended the subject property at 10363 Royalwood Boulevard for a scheduled site inspection. Property Owner Mr. John Fritz and Legal counsel for the Property Owner Mr. Dale Pederson were on site during the inspection. A full site inspection of the Single Family Dwelling was completed; inspection photographs were taken, and the following items of concern were noted:

- Unable to determine the extent of the structural alterations for the change of use;
- Electrical work that may or may not have been permitted;
- Four rooms on the garage level that are being used to grow Marijuana;
- One of the rooms has air intake coming in from the garage with a fan;
- Expired Federal Health Canada Licence posted on the wall in the hallway.

Property owner Mr. Fritz and Legal counsel Mr. Pederson agreed to provide the FVRD with a letter from Health Canada addressing his expired permit.

The following site inspection photos taken on **September 29, 2017**





October 17, 2017 – Management Staff made contact with the property owner Mr. John Fritz and his legal counsel Mr. Dale Pederson by email with a request that they forward a copy of the valid Health Canada Licence as advised during the previous site visit.

October 30, 2017 – Fraser Valley Regional District received a copy of the property owner's letter from Health Canada regarding his Personal Production Licence by his legal counsel Mr. Dale Pederson.

November 2, 2017 – Regional District Bylaw Staff sent a letter to the property Owner Mr. John Fritz and his legal counsel Mr. Dale Pederson by email and regular mail with a deadline for compliance of December 4, 2017.

November 29, 2017 – Regional District Bylaw Staff received contact from Mr. Dale Pederson, legal counsel for the property Owner Mr. John Fritz by email. Mr. Pederson states in writing that his client is willing to cooperate, but asked for another extension, so that Mr. John Fritz is able to harvest his current crop of medical cannabis. The email provided a copy of a human rights case filed against another local government for our reference; requesting we review it for discussion in the New Year.

December 5, 2017 - Regional District Bylaw Staff contacted the Property Owner's legal counsel, Mr. Dale Pederson's Office by email requesting a response to schedule a meeting between both parties to discuss compliance options in person at the Regional District Office.

December 20, 2017 – Regional District Bylaw Staff contacted the Property Owner's legal counsel, Mr. Dale Pederson's Office by email requesting a response to schedule a meeting between both parties to discuss compliance options in person at the Chilliwack Regional District Office.

March 21, 2018 - Regional District Bylaw Staff sent a letter to the Property Owner Mr. John Fritz and his legal counsel Mr. Dale Pederson by email and regular mail with a deadline for compliance of April 16, 2018.

April 12, 2018- Regional District Bylaw Staff received contact from Property Owner Mr. John Fritz by telephone. Mr. Fritz wanted to set up a meeting without his legal counsel to discuss what compliance options were available to him. We agreed to meet at the Chilliwack Regional District Office on April 20, 2018 at 10am.

April 20, 2018 10:00hrs – Regional District Bylaw and Management Staff met with the Property Owner, Mr. John Fritz at the Chilliwack Regional District Office for a scheduled meeting. The following matters were discussed:

- Review of the March 21, 2018 enforcement letter, Bylaw Enforcement history on the subject property, and Building Permit Requirements.
- Mr. Fritz provided a copy of a report on his septic system. The report did not contain a letterhead, and Mr. Fritz advised the company who completed the work; and agreed FVRD could follow-up with them.
- Mr. Fritz advised an Engineering Firm completed a report on the building. The FVRD has not received this report. Mr. Fritz advised that he will provide a copy of the Engineering report to the FVRD.
- The use of the property and need for re-zoning was discussed, including the re-zoning process, signage and Public Hearing requirements. Other options including: Temporary Use Permit and Notice on Title were discussed.

Mr. Fritz advised that it was his intent for staff to proceed with a Notice on Title as the best course of action moving forward. Mr. Fritz advised that he does not intend to sell the property, and will remediate the property at a later date when he intends to sell the property (10+ years). Bylaw Enforcement Staff outlined the Section 57 Notice on Title requirements, letter and Show of Cause hearing process and requirements.

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 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 alteration works to the Single Family Dwelling were done without a required Building Permit.

In September 2017 it was confirmed that the Single Family Dwelling was again converted to a Marijuana Grow Operation. Any residential structure that houses a Marijuana Grow Operation requires a Building Permit to remediate the building for health purposes once the Marijuana 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 Single Family Dwelling was for residential use, so a permit is required for the change of use to a Marijuana Grow Operation.

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

Zoning Bylaw

This property is in Electoral Area D, and is zoned Suburban Residential Two (SBR-2) under the *Fraser Valley Regional District of the Fraser Cheam Bylaw No. 75, 1976* (Bylaw No. 75). The primary purpose of this zone is to encourage an orderly growth of residential areas at country residential densities while protecting the long-term potential for higher density development of these lands.

The Single Family Dwelling had alteration works to operate a Marijuana Grow Operation. A Marihuana Grow Operation Use is not listed as a permitted use in the SBR-2 zone.

A successful rezoning of the property would be required to authorize the unpermitted use of a Marijuana Grow Operation.

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 unpermitted alteration and construction work on the Single Family Dwelling is either:

1. Demolished with a Building Permit issued by the FVRD, with a successful final inspection; or
2. A fully completed Building Permit for the alteration and construction works to the Single Family Dwelling is issued by the FVRD and receives a successful final inspection. Prior to Building Permit issuance, application and a successful rezoning of the property to permit a Marijuana Grow Operation Use.

CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the construction works on the Single Family Dwelling and the construction without a Development Permit violate 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 including rezoning of the property, or a Building Permit for demolition of the Single Family Dwelling.

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

No further financial comments.

Paul Gipps, Chief Administrative Officer

Reviewed and supported