

March 16, 2018

VIA REGISTERED MAIL

Karl Herrington
Wendy Herrington
4150 Slesse Road
Chilliwack, BC V4Z 1B3

FILE: E06604.230

CIVIC: 4150 Slesse Road

PID: 002-053-578

LEGAL: LOT 23 EXCEPT: PART WITHIN HEAVY OUTLINE TAKEN BY HIGHWAY SRW PLAN 64013;
SECTION 33 TOWNSHIP 1 RANGE 29 WEST OF THE SIXTH MERIDIAN
NEW WESTMINSTER DISTRICT PLAN 24078

Dear Property Owners;

RE: Final Warning – Construction without a Building Permit and Alteration of Land without a Development Permit

As you may already be aware, the Fraser Valley Regional District continues to have an open bylaw enforcement file with regards to construction requiring a building permit and the alteration of land requiring a development permit at 4150 Slesse Road in Electoral Area E (the “property”). Although you may be the new owners of this property, a change of ownership in no way negates these bylaw enforcement issues.

The previous property owners have not fulfilled the outstanding requirements of their building permit application. This application has now been closed; therefore the Regional District shall proceed with the process of registering a Notice with the Land Title Office as outlined in Section 57 of the *Community Charter*. Please review the attached information sheet for further details on this process.

Development Permits ensure the safe development of property and minimize hazard risks to buildings, infrastructure and occupants. Building Permits ensure that all buildings comply with the health, safety, building and zoning requirements of the Regional District and the Province of British Columbia. Non-approved buildings place the occupants at risk, and should an unfortunate incident occur the owner may be held liable. We encourage you to read the *Occupiers Liability Act* regarding property safety and negligence, available online at: http://www.bclaws.ca/civix/document/id/complete/statreg/96337_01

Should you wish to work with staff to bring your property in to compliance with all current regulations, you will be required to submit the following applications:

- Development Permit application for the ‘alteration of land and removal of felled/dangerous trees’; and
- Building Permit application to ‘remediate retaining wall’.

For further information on these application processes, please contact the Planning Department and Building Department directly. Applications are also available on the Regional District website at: www.fvrd.ca. Please

note that obtaining permits may be challenging because your property is in a known slope hazard area and because the construction that has been completed to date requires registered professional requirements.

If we do not hear from you with regards to these matters by **April 16, 2018** we will move forward with the Notice on Title process. If you have any questions or wish to discuss this matter further, you may contact me 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 Compliance and Enforcement Officer

enc: Geotechnical Review dated June 10, 2015
Letters dated December 15, 2014
Letter dated November 6, 2014
Section 57 Information Sheet

cc: Bill Dickey, Director of Electoral Area D
Margaret-Ann Thornton, Director of Planning & Development



Fraser Valley Regional District
45950 Cheam Avenue, Chilliwack, British Columbia V2P 1N6
Phone: 604-702-5000 Toll Free: 1-800-528-0061 (BC only)
Fax: 604-792-9684 website: www.fvrd.bc.ca

File Number: 3800-30-BP013282H

15 December 2014

LAZOUSKI, ANATOLI F
LAZOUSKAYA, ALA I
4150 SLESSE RD
CHILLIWACK BC V4Z 1B3

Dear Owners:

Re: Building Permit Application No. BP013282 for the purpose of constructing a remediation of retaining wall on property legally described as LOT 23, SECTION 33, TOWNSHIP 1, RANGE 29, MERIDIAN 6, NEW WESTMINSTER DISTRICT, PLAN NWP24078 MERIDIAN W6, EXCEPT PLAN R/W64013. known as 4150 SLESSE RD.

Thank you for submitting a building permit application on Nov 27, 2014 for the above referenced project. In order to complete this application, please submit the following documentation:

1. The property is located within Development Permit Area 3-E and a geotechnical report is required pursuant to Section 56 of the Community Charter. Please see the attached form letter. Before engaging a geotechnical engineer contact the Planning Dept. at 604-702-5487 for information on preparing the report for the Development Permit process (and potential covenant). You should be aware that there may be conditions specified in the report which would require supervision by an engineer on site.
2. The following information is required from a *Registered Professional of Record*:
 - a. Schedule B and 3 sets of sealed drawings for all structural aspects of the project that reflect a frost depth of 0.45m,
 - b. Schedule B and a sealed letter for all geotechnical aspects of the project.
3. A revised, scaled site plan that includes: a) the entire property complete with all existing buildings and structures, b) the retaining wall, c) the location of the septic field, tank, driveway and Statutory Right of Ways and d) rock pit/storm drainage system (minimum 5.0m from any foundation).
4. 3 complete sets of *construction drawings* that reflect all requirements of the above noted geotechnical report (final version). Note this item and item 2a may be combined
5. Have Ala Lazouskaya complete and submit the attached "Owners Acknowledgement of Responsibility".

The permit application will be held in abeyance pending the receipt of the above. Further information may be required upon review of this documentation. Please contact building inspection staff (604-702-

5016 or toll free 1800-528-0061) at your convenience if you require any further information or clarification regarding any of the items on this letter. Note that items in this letter that appear in italics receive further explanation on the attached definition sheet.

Yours sincerely,

R. WIELER

Rudy Wieler, AScT, RBO, CCBO,
Building Official.

Enc.

cc: Taryn Dixon, Director of Electoral Area H
Margaret Thornton, Director of Planning & Development.

Definitions

Registered professional means:

- a) a person who is registered or licensed to practise as an architect under the Architects Act, or
- b) a person who is registered or licensed to practise as a professional engineer under the Engineers and Geoscientists Act.

Construction Drawings means:

Scaled drawings which provide sufficient information to show that the proposed work and proposed occupancy will conform to the British Columbia Building Code, FVRD Bylaws, other relevant legislation or regulations.



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File Number: 3800-30-BP013282H

15 December 2014

LAZOUSKI, ANATOLI F
LAZOUSKAYA, ALA I
4150 SLESSE RD
CHILLIWACK BC V4Z 1B3

Dear Owners:

Re: Building Permit Application No. BP013282 for the purposes of constructing a remediation of retaining wall on property legally described as LOT 23, SECTION 33, TOWNSHIP 1, RANGE 29, MERIDIAN 6, NEW WESTMINSTER DISTRICT, PLAN NWP24078 MERIDIAN W6, EXCEPT PLAN R/W64013. known as 4150 SLESSE RD.

In connection with the above referenced application, an inspection of the proposed site carried out on **8 December 2014** indicated that the proposed construction would be on land which may be subject to certain geotechnical hazards. Therefore, pursuant to Section 56 of the Community Charter (2003, SBC Chap 326), in order to have your building permit application processed further, you are required to submit a report from a qualified professional which certifies that the land may be used safely for the use intended. This report may then have to be registered on the title of the subject property before the building permit is issued.

I enclose some guidance notes to assist you in this matter. Please note that it is important that your qualified professional contacts the Regional District Planning Department before commencing any work on the report.

If you require any clarification or further information regarding this matter, please contact me at your convenience.

Yours sincerely,

Rudy Wieler, ASCT, RBO, CCBO,
Building Inspector.

Enc.



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November 6, 2014

File Number: 4010-20-E06604.230

Anatoli Lazouski
Ala Lazouskaya
4150 Slesse Road
Chilliwack, BC V4Z 1B3

Dear Mr. Lazouski and Ms. Lazouskaya:

Re: Potential Hazard and Permit Requirements at 4150 Slesse Road; Legally Described as Lot 23 Except: Part Within Heavy Outline Taken by Highway SRW Plan 64013; Section 33 Township 1 Range 29 West of the Sixth Meridian New Westminster District Plan 24078; Parcel Identifier: 002-053-578

The Regional District wishes to thank you for providing access for staff to inspect your property on September 25, 2014. As requested by the Regional District, Golder Associates Ltd. carried out a visual geotechnical inspection of the slope and associated retaining wall on your property. As we discussed, the intent of the inspection and subsequent report (attached for your convenience) was to obtain a professional opinion as to the stability of the slope and retaining wall, as well as the potential risk to the downslope residence at 50721 O'Byrne Road. Works, which were performed on the property without the required Development or Building Permits, engineering design, or construction supervision, include the following:

1. The removal of trees from your property; and
2. The construction of a retaining wall at the rear of your existing residence.

The report noted that, should the retaining wall fail, it is likely that the failure would not be catastrophic and that the run of the debris would not extend downslope beyond the existing terminus of the 2009 event, nor directly impact the residence at 50721 O'Byrne Road. Please be advised that the report indicates that failure of the wall could, however pose a risk to the stability of the foundation for the existing residence on the subject property. The Regional District wishes to work with you to rectify the potentially unsafe conditions on your property. In order to accomplish this, we ask that you:

1. Apply for and carry out the requirements of a Development Permit* to continue with the removal of felled and dangerous trees from your property (application enclosed); and
2. Apply for and carry out the requirements of a Building Permit and Development Permit* to remediate the retaining wall structure (application enclosed).

**Please note that only one (1) Development Permit Application is required to cover both contraventions.*

In addition to the above matter, the Regional District is aware that the subject property has been listed for sale. It would be prudent to advise any potential purchaser that the Regional District continues to have an open Bylaw Enforcement file with respect to the potentially hazardous conditions and the illegal works and construction that have taken place on the property. A change in ownership in no way negates the Bylaw Enforcement issues.

Should you fail to comply with this request by **December 5, 2014**, you may be subject to ticketing and your file may be referred to the Regional Board for their consideration and recommendation regarding further bylaw enforcement.

You may reach the Planning Department at the toll-free number above, 8:30am to 4:30pm, Monday through Friday to discuss this issue further. You may also contact me directly at 604-702-5004, or by email at mthornton@fvrd.bc.ca if you have any questions. Thank you in advance for your co-operation.

Yours truly,

A handwritten signature in black ink, appearing to read 'M Thornton', written over a horizontal line.

Margaret Thornton
Director of Planning & Development

Encl: Copy of Slope and Retaining Wall Geotechnical Report 2014
Copy of Letter dated January 24, 2011
Copy of Slesse Park Geotechnical Report 2007

cc: David Lamson, Director of Electoral Area E
Jennifer Wells, Bylaw, Permits & Licences Technician
Tareq Islam, Director of Engineering and Community Services
Graham Daneluz, Manager of Planning / Deputy Planner
Chris Wilson, Manager of Electoral Area Emergency Services

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@fvrd.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.