

To: Electoral Area Services Committee

Date: 2018-07-10

From: Louise Hinton, Bylaw Compliance and Enforcement Officer File No: Eo6604. 250/3

**Subject:** Building Bylaw, and BC Building Code Contraventions at 4164 Slesse Road, Electoral Area E, legally described as Lot 25 Except: Part within Heavy outline taken by Highway Statutory Right of Way Plan 64013, Section 33 Township 1 Range 29 West of the Sixth M

## 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 4164 Slesse Road Electoral Area E, Fraser Valley Regional District, British Columbia (as Lot 25 Except: Part within Heavy outline taken by Highway Statutory Right of Way Plan 64013, Section 33 Township 1 Range 29 West of the Sixth Meridian New Westminster District Plan 24078; Parcel Identifier: 009-301-780.

## STRATEGIC AREA(S) OF FOCUS

Support Environmental Stewardship  
Support Healthy & Sustainable Community  
Provide Responsive & Effective Public Services

## PRIORITIES

Priority #3 Flood Protection & Management

## BACKGROUND

**July 19, 2011** - Fraser Valley Regional District Bylaw Staff received a complaint by telephone with regards to construction at 4164 Slesse Road. The complainant states that the owners of the property are demolishing a rear portion of the existing Single Family Dwelling and the deck and plan to replace them both. The complainant details that a 24 ft x 30 ft deck with a room built underneath is in the process of being removed. The complainant is very concerned as this area has been part of geological slope scrutiny in the past.



**July 22, 2011** - Regional District Bylaw Enforcement Staff attended the subject property at 4164 Slesse Road for a site inspection. The Property Owners Mr. Marcel and Mrs. Bernice Champigny were in attendance during the inspection. FVRD Bylaw Staff confirmed upon visual inspection that extensive construction works were in progress to the rear of the Single Family Dwelling including the rear deck. Inspection photographs were taken. Regional District Bylaw Staff advised the Property Owners that a Building Inspector would be attending their property for a site inspection on July 25, 2011 to determine if the construction works requires a Building Permit. The Property Owners, Mr. Marcel and Mrs. Bernice Champigny stated their disapproval of the process and that it was their opinion that the FVRD altered their land when a retaining wall was constructed at the front of the property and caused a change in the drainage which caused the slide of their basement bathroom and rotted out the deck which they are replacing.

Site Inspection Photos dated July 22, 2011:



**July 25, 2011** – Regional District Building Inspection Staff attended the property for a follow-up site inspection of the subject property at 4164 Slesse Road. There was nobody on site during the inspection. FVRD Building Inspection Staff discovered that construction works had continued, additional inspection photos were taken and a Stop Work and a No Occupancy Notice were posted on site.



Site Inspection Photos dated July 25, 2011:



**August 3, 2011** -- Regional District Bylaw Staff spoke with Property Owner, Mrs. Bernice Champigny by telephone. FVRD Bylaw Staff advised Mrs. Champigny that a Building Permit was required for the work undertaken to remove the deck and the room underneath the deck. Mrs. Champigny does not agree that a Building Permit is needed and is very unhappy with Staff, stating that they were just replacing the rotten parts of the house. Regional District Bylaw Staff provided information regarding the Building Permit application and its process.

**August 8, 2011** – Property Owner Mrs. Bernice Champigny came into the Regional District Building Office and applied for a Building Permit (BP012605) for the “reduction of the rotten deck”.

**August 23, 2011** Regional District Bylaw, Planning and Building Staff reviewed the Building Permit application regarding the subject property and site specific information and history of slope instability in the area.

**August 24, 2011** – Regional District Planning, Corporate Services, Building Inspection, Bylaw Department and Management Staff conduct a meeting to discuss the recent events, and history of the subject property at 4164 Slesse Road.

- There was a slide event occurred a few years ago and there is a 2007 Overview Slesse Park Geo-Technical Assessment completed as a result; so there are slope stability concerns on this property.
- Concerns regarding the structural integrity of the recent construction.
- The ground slope has continued to erode significantly at the back of the house.
- A Development Permit was applied for in 2007, but was never completed.

**August 26, 2011** – A letter is sent by regular mail to the Property Owners Mr. Marcel and Mrs. Bernice Champigny advising them of the geotechnical hazards associated with the proposed construction project. It outlines the requirement under Section 56 of the *Community Charter* that a report from a qualified professional is required. This letter also advised Mr. and Mrs. Champigny that their professional should contact the Regional District's Planning Department for assistance before beginning any work.

**August 31, 2011** - Regional District Bylaw Staff received contact from the Property Owner Ms. Bernice Champigny by telephone. Mrs. Champigny advised FVRD Bylaw Staff that she wanted the Building Permit Application (BP012605) to be amended to be an application for "remove and repair of deck and wall below", instead of "reduce rotten deck". Staff explained that this would not change the Building Permit requirements as outlined in her August 21, 2011 letter. Ms. Champigny stated that she didn't think she should have to provide the listed requirements as outlined in the letter because they were too expensive and that the previous owners did a geotechnical report only a few years prior. Staff went through each of the items outlined in the letter and referred her to the planning department for further information on the Development Permit process.

**April 19, 2012** – A second letter is sent by regular mail to the Property Owners Mr. Marcel and Mrs. Bernice Champigny listing the required outstanding items to complete their Building Permit (BP012605) for the removal and repair of deck and wall below deck.

**July 18, 2012** – A third letter is sent by regular mail to the Property Owners Mr. Marcel and Mrs. Bernice Champigny listing the required outstanding items to complete their Building Permit (BP012605) for the removal and repair of deck and wall below deck.

**October 2, 2012** – A final notice letter is sent by regular mail to the Property Owners Mr. Marcel and Mrs. Bernice Champigny listing the required outstanding items to complete their Building Permit (BP012605) for the removal and repair of deck and wall below deck. The letter advised the Property Owners that the application would be held in abeyance until November 2, 2012 before the FVRD would take steps to close the Building Permit.

**October 2012 – October 2014** - FVRD Planning and Building Department staff corresponded with the Property Owners Mr. Marcel and Mrs. Bernice Champigny to work on their Building Permit Application.

**October 2, 2014** - Regional District Bylaw Staff contacted the Property Owner Mrs. Bernice Champigny by telephone to enquire as to the status of the Building Permit (BP012605). Mrs. Champigny advised Bylaw Staff that it was her intent to reduce the scope of construction work, so that a Building Permit would not be required.

**November 20, 2014** – Regional District Bylaw Staff attempted to contact the Property Owners Mr. Marcel and Mrs. Bernice Champigny by telephone; however there was no answer, so a detailed voicemail was left requesting a call back.

**November 27, 2014** - Regional District Bylaw Staff sent a letter to the Property Owners Mr. Marcel and Mrs. Bernice Champigny by regular mail and email. The letter summarized the October 2, 2014 discussion and requested a meeting on site to confirm that the deck does not exceed 215 square metres with a deadline for response of January 5, 2015.

**December 8, 2014** – Regional District Bylaw Department Staff received contact from the Property Owner Mr. Marcel Champigny by email to schedule a site inspection and advise staff of Ms. Champigny's health concerns. FVRD Bylaw Department staff sent a response to the Property Owner on the same day with condolences and a request to have a site inspection booked in the New Year to provide an extended timeline due to accommodate the mitigating circumstances.

**February 23, 2015** – Regional District Building Inspection Staff attended the subject property at 4164 Slesse Road for a site inspection. A FVRD Building Inspector confirmed on site that the rear deck measures 320 square metres and requires a Building Permit. In addition, construction has continued without a permit as the room below the deck has been enclosed.

Site Inspection Photos dated February 23, 2015:



**February 24, 2015** - Regional District Bylaw staff contacted the Property Owner Mr. Marcel Champigny by telephone to advise him that a Building Permit is required for the construction work, and that this matter has been forwarded to Bylaw Enforcement for follow-up. Mr. Champigny advised that he reduced the deck size to eliminate the requirement of a Building Permit, but was unaware that the deck had not been reduced sufficiently in size. FVRD Bylaw staff also discussed the possibility of registering a Section 57 notice on the title of the property as a possible course of action at this time. Mr. Champigny stated that he will have to have discussions with his wife, Mrs. Champigny before he confirms a direction to proceed.

**February 25, 2015** – A letter is sent by regular mail to the Property Owners Mr. Marcel and Mrs. Bernice Champigny to notify them that their Building Permit (BP012605) for the removal and repair of deck and wall below deck has now been closed due to inactivity. The letter advises the

Property Owners that their file has now been referred back to the Bylaw Enforcement Department for follow-up.

**March 17, 2015** – Regional District Bylaw Department sent a letter to the Property Owners Mr. Marcel and Mrs. Bernice Champigny by regular mail and email advising them that the subject property at 4164 Slesse Road remains in contravention of the FVRD *Building Bylaw No. 1188, 2013*. The letter requests that a Building Permit be re-applied for or the deck removed with a deadline of April 20, 2015.

**April 7, 2015** – Regional District Bylaw Staff received contact from Mr. Marcel Champigny by email to Regional District Bylaw Staff advising of Ms. Bernice Champigny's continued health concerns and financial issues. They advised the FVRD that construction has ceased and the deck is not currently in use, and requested alternative options for compliance.

**April 27, 2015** -Regional District Bylaw Staff sent a letter to the Property Owners Mr. Marcel and Mrs. Bernice Champigny by regular mail and email. The letter summarizing the Bylaw Enforcement issues present on the subject property at 4164 Slesse Road and compliance options available to resolve the Bylaw Enforcement contraventions. It provides an extended timeline of one year due to the mitigating health concerns of the Property Owners. The Regional District provided a one year deadline (May 1, 2016) to apply and obtain the required permits. The property constraints were noted and a copy of the March 30, 2007 Thurber Engineering report entitled "Slesse Park Properties, Chilliwack. Overview Geo-Technical Assessment" was provided. A "Letter of Intent" was also included to be signed by the Property Owners.

**March 16, 2016** - Regional District Bylaw Staff sent a follow-up letter to the Property Owners Mr. Marcel and Mrs. Bernice Champigny by regular mail and email advising them that the subject property at 4164 Slesse Road remains in contravention of the FVRD *Building Bylaw No. 1188, 2013*. The letter requests that a Building Permit be re-applied for or the deck removed with a deadline of May 1, 2016.

**April 7, 2016** – Regional District Bylaw Staff received contact from the Property Owner Mr. Marcel Champigny by email advising FVRD Staff of Ms. Bernice Champigny's declining health concerns and further financial issues, which prevent the submission of a Building Permit building permit application.

**2016 – 2017** - There is no further action by FVRD Bylaw Enforcement Staff during this time period due to reduced Regional District Bylaw Department Staffing levels

**January 24, 2018** - Regional District Bylaw Staff sent a final warning letter to the Property Owners Mr. Marcel and Mrs. Bernice Champigny by regular mail and email. The letter advises Mr. and Mrs. Champigny of staff's recommendation to proceed with the process of registering a Section 57 *Community Charter* notice on the title of their property at 4164 Slesse Road. This letter gave the Property Owners a final opportunity to achieve voluntary compliance by the deadline of February 8, 2018. Regional District Staff have not received a response or any Building Permit Application from the Property Owners Mr. and Mrs. Bernice and Marcel Champigny.



**March 29, 2018** – Regional District Bylaw and Building Inspection Staff conduct a drive-by inspection of the subject property at 4164 Slesse Road. It is noted and photographed that the unauthorized construction of the removal and repair of rear deck and wall below deck still remains in place.



**June 1, 2018** – Regional District Bylaw Staff sent a legal notification letter of the Show Cause Hearing date to the Property Owners Mr. Marcel and Mrs. Bernice Champigny by registered mail. The letter advises Mr. and Mrs. Champigny of staff's recommendation to proceed with the process of registering a Section 57 *Community Charter* notice on the title of their property at 4164 Slesse Road on July 10, 2018.

**June 5, 2018** – Regional District Bylaw Staff checked the Canada Post Online Tracking System and determined that the Property Owners Champigny picked up their Show Cause Hearing legal Notification Package on June 5, 2018.

**June 13, 2018** – Regional District Bylaw Department and Planning Staff received property inquiry from a Real Estate Agent providing that the property had been listed for sale.

**June 2018** – The property is listed for sale by realtor William Coughlin, RE/MAX City Realty under MLS # R2281723.

## **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.

In 2011 the Regional District confirmed that a the rear portion the existing Single Family Dwelling Structure on its lower level and the rear deck above were being removed and demolished without a required Building Permit . In 2011 and again in 2015 it was discovered that construction had continued on the removal and replacement project despite the Stop Work and No Occupancy

orders that were posted on the structure. A Building Permit Application was in late 2011; however the permit lapsed due to inactivity.

There are concerns with regard to the structural integrity of the construction completed without a Building Permit, and the slope of the ground near the construction that has continued to erode.

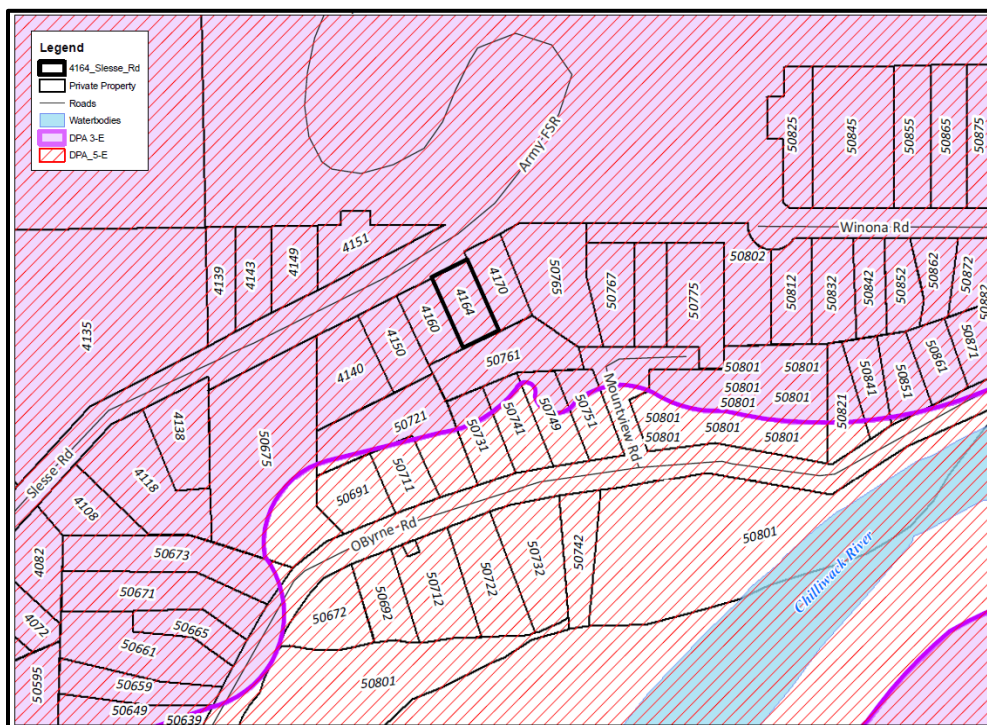
**A Building Permit is required for the works undertaken by the Property Owner.**

#### Official Community Plan

1. The subject property is within *Chilliwack River Valley Slope Hazard Development Permit Area 3-E* (DPA 3-E) under the *Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011* (Bylaw 1115). This Development Permit area is designated for the protection of development from *hazardous conditions* (slope). A Development Permit must be obtained prior to alteration of land or construction of, addition to, or alteration of a building or structure.
2. The subject property is also within the *Riparian Areas Development Permit Area 5-E* (DPA 5-E) under the *Fraser Valley Regional District Official Community Plan for Electoral Area E Bylaw No. 1115, 2011* (Bylaw 1115). This Development Permit area 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.

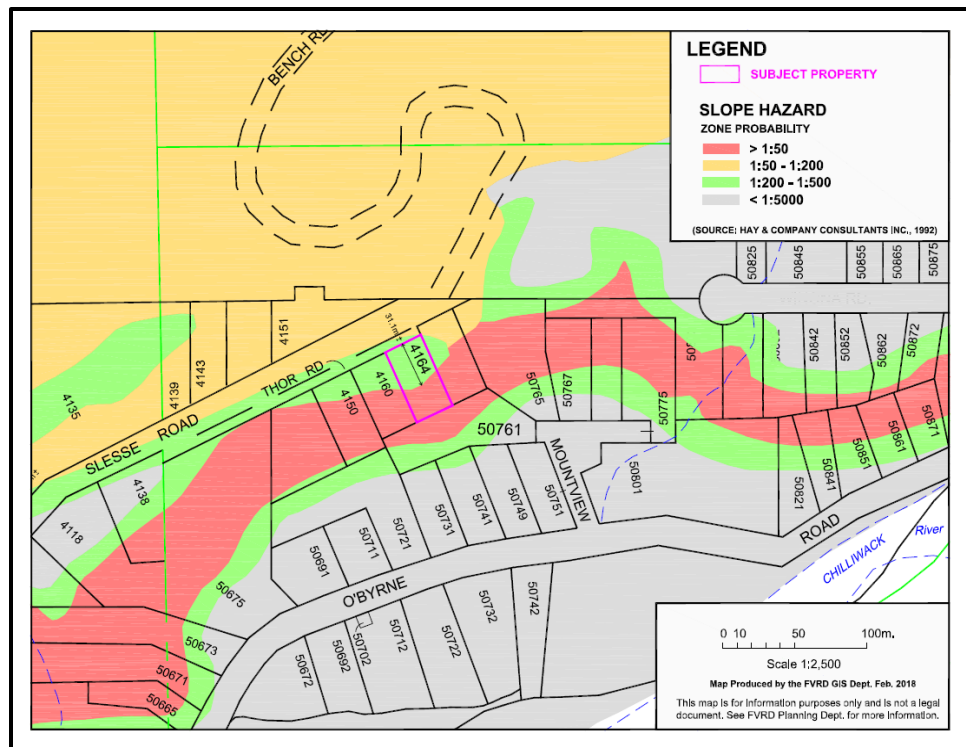
A Development Permit must be obtained prior to the alteration of land the disturbance of soil or vegetation; or construction of or addition to a building or structure within a riparian assessment area. To date there has been no application for a Development Permit for any of the construction works that have occurred on the subject property.

**A Development Permit is required for the construction that has taken place on the property.**





## Slope Hazard MAP



## 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 unauthorized construction of the removal and repair of rear deck and enclosed wall below the deck is either:

1. Demolished with a Building Permit issued by the FVRD, with successful final inspection; or
2. A completed Building Permit for the construction works of the removal and repair of rear deck and enclosed wall below deck is issued by the FVRD and receives a successful final inspection. Prior to Building Permit issuance, application and issuance of a Development Permit for the construction is also required.

## CONCLUSION

It is the opinion of the Bylaw Compliance and Enforcement Officer/Appointed Building Inspector that the construction works on the removal and repair of rear deck and wall below deck and 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 the removal and repair of rear deck and wall below deck or a Building Permit for the demolition of the rear deck and enclosed wall below the deck

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:**

<b>Margaret Thornton, Director of Planning &amp; Development</b>	Reviewed and Supported.
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<b>Mike Veenbaas, Director of Financial Services</b>	No further financial comment.
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<b>Paul Gipps, Chief Administrative Officer</b>	Reviewed and supported
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