

To: Electoral Area Services Committee

Date: 2018-07-10

From: Louise Hinton, Bylaw Compliance and Enforcement Officer File No: E06604. 250/3

Subject: Building Bylaw, and BC Building Code Contraventions at 4150 Slesse Road, Electoral Area E, 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

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 4150 Slesse Road Electoral Area E, Fraser Valley Regional District, British Columbia; 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.

STRATEGIC AREA(S) OF FOCUS

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

PRIORITIES

Priority #3 Flood Protection & Management

BACKGROUND

August 26, 2014 –Regional District Bylaw Enforcement staff received contact from FVRD Emergency Management Staff regarding an inquiry they received regarding 4150 Slesse Road. The inquiry states that a neighbour is concerned that some trees that were felled have been stacked on the property pose a hazard, are compromising the integrity of the slope, and that they are also unsightly.

Regional District Bylaw staff contacted the Property Owner of 4150 Slesse Road Mr. Anatoli Lazouski by telephone. Mr. Lazouski advised Bylaw Staff of the following:

That his neighbour, to the south at 50721 O'Byrne hired an excavation company to remove trees that fell from his property onto his neighbours property below. That same excavation company told the Mr. Lazouski that he should remove a few more trees from his property because they were dangerous and he would take care of it along with obtaining the FVRD removal Permit. In

Mr. Lazouski invited FVRD staff to come and do an inspection of the property, but said that it is probably easier to view the fallen trees from his neighbour's property at 50721 O'Byrne, and proceeded to give staff his neighbour's contact information. FVRD Bylaw Staff also were informed that the subject property has been listed for sale.

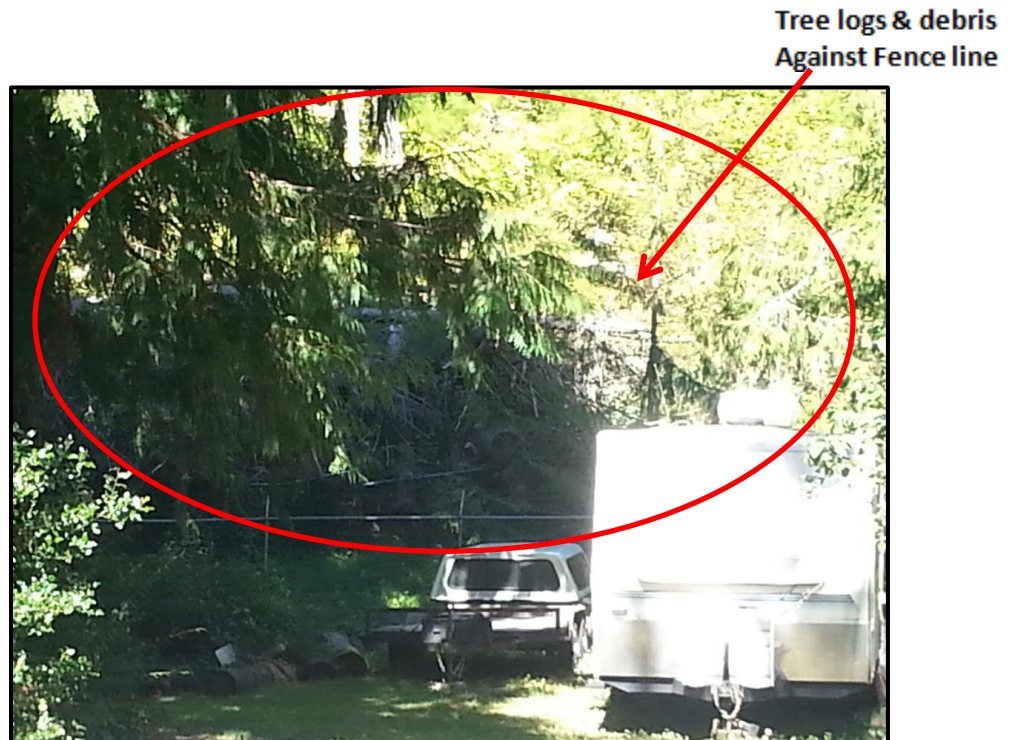


August 27, 2014 - Regional District Bylaw Staff spoke with the neighbour, who owns the property at 50721 O'Byrne. He stated the following:

The slope from 4150 Slesse moved a few feet last year which cause tree movement- two of the trees' that were previously on 4150 Slesse Road were now leaning against the his rear fence. The neighbour stated that Mr. Lazouski hired a an excavation company who said they should remove a bunch of trees (cedars) to get the weight off the hill. The neighbour did not know if Mr. Lazouski obtained permits, but was under the understanding that he did pay the company to fall the trees only, not for the removal of them. Now the trees are piled up on the hill pushing on his rear fence.

September 5, 2014 –

Regional District Bylaw Staff attended the property at 50721 O'Byrne Road in an attempt to inspect the fallen trees from 4150 Slesse Road leaning on the fence line. Regional District Bylaw Staff noted that nobody was home at the time of the inspection and access to the rear yard was not available due to fencing and a gate; and that it was difficult to see the logged trees, however brush material was evident on the slope at the rear of the yard. One inspection photo was taken.



September 16, 2014 – Regional District Bylaw Staff attended the subject property at 4150 Slesse Road for a follow-up site inspection. The Property Owner Mr. Anatoli Lazouski was on site during the inspection when staff walked to the bottom of the property line with him to view the extent of the tree cutting. The following was documented and photographed:

- Extensive sloughing of the land.
- A number of trees appear upon visual inspection to be unstable or at risk of falling.
- There is a large amount of debris from tree cutting along bottom property line and materials are slipping against fencing that is in place, causing the fence to bend. The fence seems to be holding debris in place for the time being.
- Appears that approximately ten trees have been cut down on the property.

While on site the Property Owner Mr. Anatoli Lazouski mentioned that there was retaining wall works done on the property. He stated that he completed the retaining wall works himself and did not get the necessary permits. FVRD Bylaw Staff relayed to Mr. Lazouski that the retaining wall

would have needed to get both a Building Permit and a Development Permit and that the tree removal works would have also required a Development Permit.

Site Inspection photos dated September 16, 2014



September 17, 2014 – Regional District Bylaw staff received contact from the Property Owner Mr. Lazouski by email. The correspondence provided the history of slide activity on the subject property at 4150 Slesse Road and a diagram of the retaining wall construction as well as pre-retaining wall / post-slide photos of the slope. Mr. Lazouski recalled that he believed that a slide occurred on his property in the winter of 2008/2009. He stated that he applied for emergency funding from the Province, but was declined. He outlined that he built the retaining wall by hand with no heavy duty equipment about a year after the slide with terraces all in 3.5 - 4 foot sections.

September 23, 2014 – Regional District Bylaw Staff spoke with the excavation contractor who performed the tree removal on the subject property at 4150 Slesse Road. He provided the following information regarding his work:

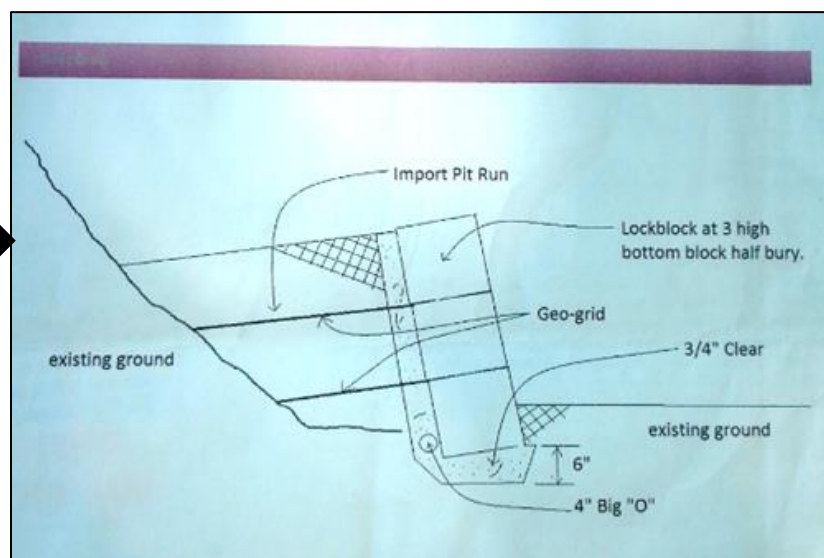
- He does a lot of work for BC Hydro, but they did not contract him for these works; there is a BC Hydro line through this property.
- Approximately two years ago, he removed debris material (tree clumps) from the fence line of the property.
- On his second visit he stated that he felled three trees that he believed were dangerous, but did not remove them from the property as the Property Owner Mr. Lazouski stated he could do the removal himself or find someone else cheaper to do it.
- He was unaware that he needed a Development Permit for the work or of the existence of a tree cutting bylaw that applied to the area.
- He explained that this was private sole proprietor job that he took and he did on his own time separate for the company and that he did not take out any permits for.
- The job required him to "slingshot" the trees as they were dead and dangerous to the property below.

The contractor also relayed to Regional District staff that the Property Owner Mr. Anatoli Lazouski left a voicemail message for him last week asking him to provide a quote on cleanup of the remaining trees and debris along the fence, but he has not had time to return the phone call.

23 September, 2014 – Regional District Bylaw Staff presented file information (including file history with point form timeline, current activity and complaints, and recent developments) to the Emergency, Engineering and Development Services Management Staff. It was agreed that the FVRD should try to see if it's able to get its own geotechnical assessment of the property.

September 25, 2014 – Regional District Bylaw and Management Staff attended the subject property at 4150 Slesse Road for a joint site inspection with hired Geotechnical Engineer Mr. Ross Wong of Golder Engineering. Regional District staff accompanied Mr. Wong around the subject property and down the hill to the toe of the slope. Mr. Wong will prepare a report regarding his findings, but he did mention on site that the threat to surrounding properties and homes is not imminent and is unlikely. He stated that slope failure resulting from the inadequate retaining wall would likely only affect the subject property at 4150 Slesse Road.

October 8, 2014 – Regional District Bylaw Staff received drawings of retaining wall from Property Owner Mr. Anatoli Lazouski.



October 8, 2014 – The Regional District Engineering Department received the geotechnical report from Mr. Russ Wong of Golder Associates Ltd., dated October 8, 2014 outlining their geotechnical assessment of the slope and retaining wall at 4150 Slesse Road following the September 25, 2014 site inspection.

October 30, 2014 - Regional District Bylaw Staff met with the Property Owner Mr. Lazouski at the Chilliwack Regional District Office. During this meeting FVRD Bylaw Staff provided Mr. Lazouski with a draft letter dated October 22, 2014 along with a copy of the slope & retaining wall geotechnical report recently completed by Golder Engineering. FVRD Bylaw Staff discussed the need to obtain both Building Permit and Development Permit for the works that were done on his property at 4150 Slesse Road. Bylaw Staff also explained to Mr. Lazouski that if he was not able to achieve completion on the applicable permits to remediate the subject property then staff had the intent to proceed to recommend the Regional District Board place a section 57 Notice on the Title of his property. Staff explained the Section 57 process and provided Mr. Lazouski with a Section 57 and 58 Notice on Title Information Package.

November 6, 2014 – Regional District Bylaw staff sent a letter to the property owners Mr. Anatoli Lazouski and Ms. Ala Lazouskaya by regular mail regarding the outstanding bylaw concerns, the potential hazards and the Building and Development Permit requirements for their property at 4150 Slesse Road. A Copy of the recently received slope and retaining wall geotechnical report (2014) and the Slesse Park geotechnical report from 2007 were both attached to the letter. The deadline for compliance was December 5, 2014.

November 27, 2014 – Property owner, Mr. Anatoli Lazouski came into the Regional District Building Office and applied for a Building Permit (BP013282) for the remediation of the retaining wall.

December 15, 2014 - A letter is sent by regular mail to the property owners Mr. Anatoli Lazouski and Ms. Ala Lazouskaya listing the required outstanding items to complete their Building Permit (BP013282) for the remediation of the retaining wall.

December 15, 2014 – A letter is sent by regular mail to the property owners Mr. Anatoli Lazouski and Ms. Ala Lazouskaya advising them of the geotechnical hazards associated with the proposed works to remediate the retaining wall. 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. Lazouski and Ms. Lazouskaya that their professional should contact the Regional District's Planning Department for assistance before beginning any work.

June 18, 2015 – Regional District Bylaw Staff received contact from a real estate agent by telephone regarding his client's interest in purchasing the subject property at 4150 Slesse Road. FVRD Staff briefly explained the basis for the Bylaw concerns on the subject property and advised him that a Section 57 *Community Charter* notice on title was being considered for this property due to outstanding issues.

June 19, 2015 – Regional District Bylaw staff contacted the same real estate agent by email and provided further detailed information regarding the bylaw enforcement file including what permits are required to resolve the matter.

June 22, 2015 – Regional District Bylaw staff responded to an inquiry at the Chilliwack Building Office front counter from a representative from an appraisal Company. The appraiser has been contracted to provide an appraisal for the subject property at 4150 Slesse Road that is currently listed for sale. Bylaw Staff provided a copy of the bylaw file information that was previously provided to the real estate agent that outlined the details of the bylaw file and what permits are required to resolve the matter.

June 23, 2015 – July 8, 2015 -- Regional District Bylaw staff received contact from several potential purchasers of the subject property at 4150 Slesse Road. FVRD staff went over the bylaw file history outlining the construction of a retaining wall and alteration of land without the required permits. Staff also relayed to the potential purchasers what permits would be required to resolve the file. Regional District Bylaw staff also outlined that the property files was being recommended for a Section 57 notice to be placed on the title of the property.

July 8, 2015 -- Regional District then received further contact from the potential purchaser by email that provided FVRD with a copy of the most recent geotechnical Report from Golder & Associates Engineering dated June 10, 2015 regarding the retaining wall and adjacent slope.

October 26, 2015 – Regional District Bylaw staff spoke with potential purchaser Mr. Karl Herrington and his real estate agent. The following was discussed:

- Mr. Herrington told staff that the neighbour located at 50721 O'Byrne stated to him that Mr. Lazouski had made a promise to install a concrete retaining wall at this location due to the fact that the land/materials have damaged the fence within the last two months. Mr. Herrington wanted more information about the concrete wall. Bylaw staff explained to Mr. Herrington that this was the first they had heard about the concrete wall, but told him that a Building Permit and Development Permit would be required. Staff explained to Mr. Herrington that debris and material that was going onto 50721 O'Byrne from 4150 Slesse would be a civil issue.
- FVRD Staff provided Mr. Herrington with the following documents and information:
 - a. Some of the inspection photographs taken in September 2014 with regards to trees at the bottom of the slope, so that Mr. Herrington could compare them with his more recent photographs.
 - b. The Golder geotechnical report dated October 8, 2014.
 - c. A copy of the incomplete letter dated December 15, 2014 for the Building Permit Application (BP013282) to remediate the retaining wall (closer to the top of the slope).

Mr. Herrington directly asked Regional District Bylaw Staff if we could tell him if the property was going to slide. Staff clearly explained that they were not an engineer or a registered professional and could not provide that kind of information. FVRD Bylaw staff explained that we could provide him with copies of the geo-technical reports and in addition recommended he speak to both an Engineer and the Planning department about the geotechnical concerns and issues on the property. Mr. Herrington explained that he had spoken to Russ Wong from the geo-technical firm Golder and Associates himself and was satisfied, but was still unsure at this time.

November 2015 – February 2018 - There was no further action by FVRD Bylaw Enforcement Staff during this time period due to reduced Regional District Bylaw Department staffing levels.

March 16, 2018 - Regional District Bylaw staff pulled a title search of the subject property at 4150 Slesse Road and the search verified that the property ownership has changed and now ownership records indicate that Mr. Karl Herrington and Mrs. Wendy Herrington have owned the property since November 25, 2015.

March 16, 2018 – Regional District Bylaw staff sent a letter to the new Property Owners Mr. Karl Herrington and Mrs. Wendy Herrington by registered mail. The letter advised the property owners of staff's recommendation to proceed with the process of registering a *Section 57 Community Charter* Notice on the title of their property at 4150 Slesse Road. This letter provided a copy of the geotechnical review dated June 10, 2015 and gave the owners a final opportunity to achieve voluntary compliance by the deadline of April 16, 2018.

March 19, 2018 – A letter was sent by regular mail to the Building Permit Applicants, and previous Property Owners Mr. Anatoli Lazouski and Ms. Ala Lazouskaya to notify them that their Building Permit Application (BP013282) has now been closed due to inactivity. The letter advised the property owners that their file has now been referred back to the Bylaw Enforcement Department for follow-up.

May 28, 2018 – Regional District Bylaw staff checked the Canada Post online tracking system and it states that the registered mail, the final notice letter dated March 16, 2018, was picked up at the Vedder Crossing Post Office on March 20, 2018 at 18:02hrs by last name Herrington.

May 30, 2018 - Regional District Bylaw staff did a file review of the property in preparation for the section 57 notice on title process and noted that the FVRD have not received a response or any Building Permit or Development Permit Applications or any contact from the Property Owners Mr. Karl Herrington or Mrs. Wendy Herrington 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 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 *Regional District's Bylaw 1188* provides that construction of a retaining wall at a height greater than 1.2 meters (47 inches) above finished grade height requires a Building Permit.

In 2014 the Regional District confirmed that there had been tree removal, soil disturbance and the construction of a retaining wall, approximately ten feet in height completed on the subject property at 4150 Slesse Road without a required Building Permit after a slight land slip sometime between 2008 - 2010.

A Building Permit Application was made for the remediation work on the retaining wall in November of 2014; however the Building Permit Application lapsed and was closed due to inactivity.

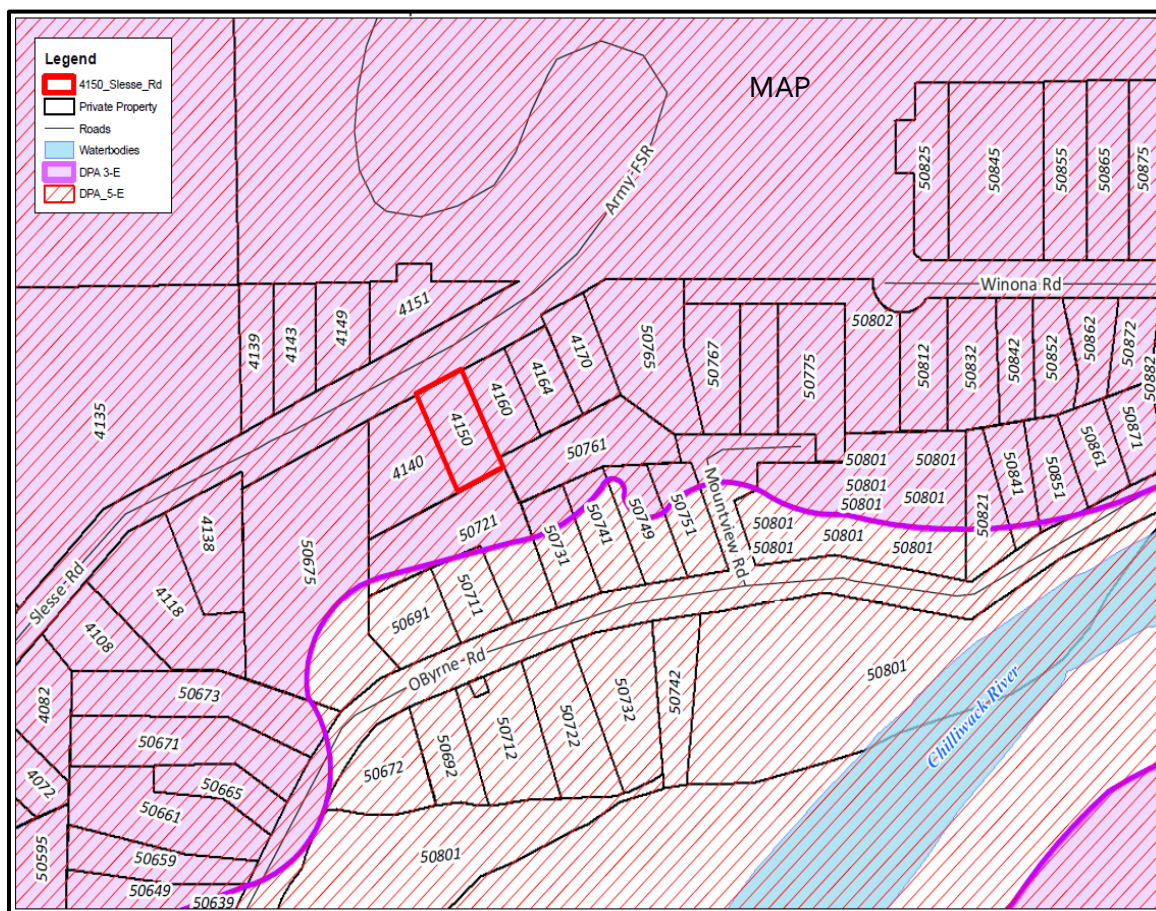
A Building Permit is required for the works undertaken by the property owner.

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.

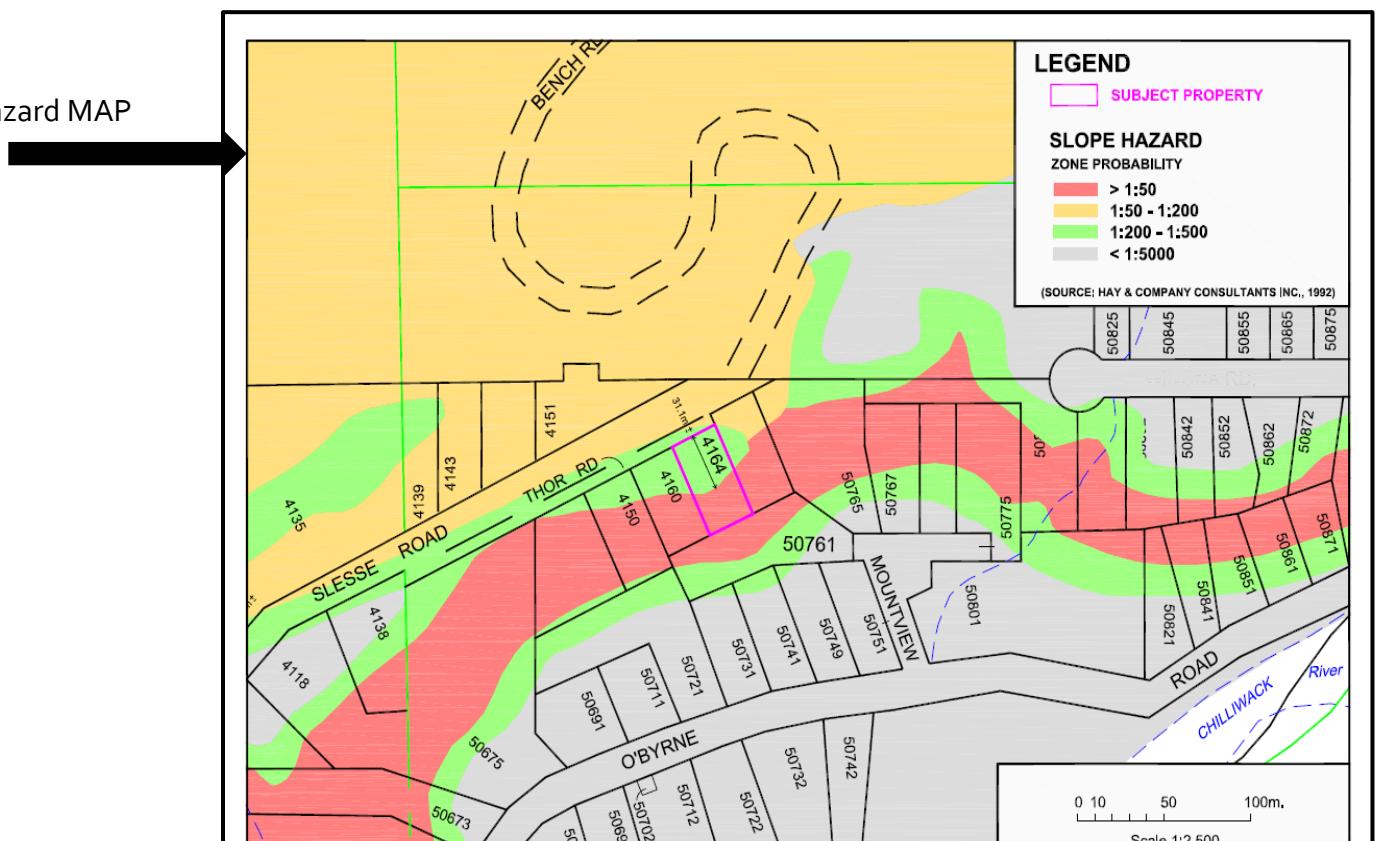
A Development Permit is required for the construction that has taken place on the property.



(DPA 3-E) & (DPA 5-E)



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 retaining wall 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 retaining wall 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 retaining wall 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 construction of the retaining wall or a Building Permit for the demolition retaining wall.

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 and Development 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 comment.

Paul Gipps, Chief Administrative Officer

Reviewed and supported