

To: Electoral Area Services Committee

Date: 2018-07-10

From: Louise Hinton, Bylaw Compliance and Enforcement Officer

File No: E01271.221/2

Subject: Section 57 Show Cause Hearing – Building Contraventions at 48977 Riverbend Drive; Lot 7 District Lot 500 Group 2 New Westminster District Plan LMP18665 and PID 018-925-332

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 48977 Riverbend Drive Electoral Area E, Fraser Valley Regional District, British Columbia (legally described as; Lot 7 District Lot 500 Group 2 New Westminster District Plan LMP18665; and Parcel Identifier 018-925-332)

STRATEGIC AREA(S) OF FOCUS

Support Environmental Stewardship

Provide Responsive & Effective Public Services

BACKGROUND

November 1, 2011 – Regional District Bylaw Staff received correspondence from the Royal Canadian Mounted Police (RCMP) by email regarding the subject property at 48977 Riverbend Drive. The RCMP removed a medicinal Marijuana Grow Operation from the Single Family Dwelling at 48977 Riverbend Drive on October 28, 2011.



November 2, 2011 – One of the Property Owners of 48977 Riverbend Drive Mr. Serge Lavoie and his son, Andre Lavoie, came to the front counter at the Chilliwack Regional District Office and spoke with FVRD Bylaw Staff. Mr. Lavoie stated that he had a Marijuana Grow on this property, but his Federal Health Canada Licence had expired two weeks ago. Mr. Lavoie stated that the RCMP recently removed the Marijuana Grow Operation from his property and he wanted to find out what he needed to do to re-start his grow operations again. Mr. Lavoie told FVRD Staff that he had done construction works to both the Single Family Dwelling and the workshop to accommodate the Marijuana Grow Operations in both structures. FVRD Bylaw Staff explained to Mr. Lavoie that he would need to apply for a Building Permit to decommission the Marijuana Grow Operation from the Single Family Dwelling to return it to a residential use; and that the workshop would also require a Building Permit (for the change of use from a workshop to a Marijuana Grow Operation). Regional District Bylaw Staff provided Mr. Lavoie contact information for the BC Safety Authority, and Building Permit applications for the works done without Building Permits. Mr. Lavoie stated that he would not apply today, but would be in touch and he provided contact information to staff.

November 18, 2011 - RCMP contacted Regional District Bylaw Staff by telephone and provided photographs and the RCMP File (No. 2011-33718) for the grow operation that they removed at 48977 Riverbend Drive on October 28, 2011.

November 24, 2011 – Regional District Bylaw Staff created a bylaw enforcement file for the subject property at 48977 Riverbend Drive. FVRD Bylaw Staff conducted background file research and found partial construction drawings for the workshop in the Original Building Permit file for the workshop, (BP97085), completed in 1998. The construction drawings illustrate the workshop had an open plan concept. Staff compared the original construction drawings of the workshop to the RCMP inspection photographs and it appears that there have been significant alternations made to the workshop.

June 7, 2012 16:20hrs – Regional District Bylaw staff attempted to contact the Property Owner Mr. Serge Lavoie by telephone, however there was no answer, so FVRD Staff left a voicemail message for Mr. Lavoie requesting a return call back.

June 8, 2012 15:52hrs - Regional District Bylaw staff attempted to contact the Property Owner Mr. Serge Lavoie by telephone, however there was no answer, so FVRD Staff left a voicemail message for Mr. Lavoie requesting a return call back.

June 29, 2012 –Regional District Bylaw Staff attempted to contact the RCMP regarding the subject property however there was no answer, so FVRD staff left a voicemail message requesting that RCMP Staff attend the subject property with Regional District Staff on their upcoming site inspection to keep the peace.

July 13, 2012 16:00hrs - Regional District Bylaw staff attempted to contact the Property Owner Mr. Serge Lavoie by telephone, however there was no answer, so FVRD Staff left a voicemail message was for Mr. Lavoie requesting a return call back.

July 18, 2012 – Regional District Bylaw and Building Inspection Staff attended the subject property at 48977 Riverbend drive for a site inspection. The Property Owner Mr. Serge Lavoie and his son

Andre Lavoie were on site, and RCMP Staff were in attendance to keep the peace. FVRD Staff conducted a full site inspection of both the Single Family Dwelling and the detached workshop. FVRD Staff discovered extensive construction alterations had been done to both structures without Building Permits to house Marijuana Grow Operations. FVRD Building Inspection Staff posted Stop Work and No Occupancy Notices on both the Single Family Dwelling and the detached workshop. Inspection photographs were taken.

Inspection Photos dated **July 18, 2012** of Single Family Dwelling :



Inspection Photos dated **July 18, 2012** of Accessory Workshop:



August 22, 2012 - Regional District Bylaw Staff met with one of the Property Owners, Ms. Christin Marcotte, at the FVRD Chilliwack Office. Ms. Marcotte applied for two Building Permits (BPO12809) for remediation and change of use for the Single Family Dwelling; and (BPO12810) for the change of use from a detached workshop to a medical Marijuana Grow facility.

November 21, 2012 – Two separate letters are sent by regular mail to the Property Owners Ms. Christin Marcotte, and Mr. Serge Lavoie listing the required outstanding items to complete their two Building Permits (B012809) for the remediation and change of use for the Single Family Dwelling; and (BPO12810) for the change of use from a detached workshop to a medical Marijuana Grow facility.

March 27, 2013 – A second set of two separate letters are sent by regular mail to the Property Owners Ms. Christin Marcotte, and Mr. Serge Lavoie listing the required outstanding items to complete their two Building Permits (B012809) for the remediation and change of use for the Single Family Dwelling; and (BPO12810) for the change of use from a detached workshop to a medical Marijuana Grow facility.

October 20, 2014 – A third set of two separate letters are sent by regular mail to the Property Owners Ms. Christin Marcotte, and Mr. Serge Lavoie listing the required outstanding items to complete their two Building Permits (B012809) for the remediation and change of use for the Single Family Dwelling; and (BPO12810) for the change of use from a detached workshop to a medical Marijuana Grow facility.

February 11, 2015 - A fourth set of two separate letters was sent by regular mail to the Property Owners Ms. Christin Marcotte, and Mr. Serge Lavoie to notify them that both of their two Building Permit Applications (B012809), (B012810) have now been closed due to inactivity. The letters each also advise the Property Owners that their files have now been referred back to the Regional District Bylaw Enforcement Department for follow-up.

March 17, 2015 – A letter is sent to the Property Owners Ms. Christin Marcotte and Mr. Serge Lavoie by regular mail advising them that their file was referred back to the Bylaw Enforcement Department for follow-up. This letter requests compliance or contact with the Regional District Bylaw or Building Department prior to April 17, 2015.

April 1, 2015 – Regional District Bylaw Staff received a telephone from a complainant regarding the subject property at 48977 Riverbend Drive alleging that the property is unsightly with garbage bags laying around in the front yard.

September 24, 2015 – Regional District Bylaw and Management Staff attended the subject property at 49877 Riverbend Drive for a scheduled follow-up site inspection. The Property Owners Mr. Serge Lavoie and Ms. Christin Marcotte were both on site and RCMP Staff were in attendance to keep the peace. FVRD Staff conducted a full site inspection of the property, including the Single Family Dwelling and the detached workshop. The property is not in contravention of the Unsightly and Unwholesome Bylaw at this time. The Single Family Dwelling no longer contains a Marijuana Grow Operation and is currently once again being used for residential purposes. The detached workshop continues to contain an active Marijuana Grow Operation. Regional District Bylaw Staff spoke with the Property Owners regarding their closed Building Permits, and the bylaw enforcement history on their property before providing them with a package that included copies of the correspondence from both the Bylaw Enforcement and the Building Department files and a section 57 Notice on Title information sheet. The Property Owners said they would contact FVRD

Bylaw Staff once they had reviewed the package, but stated that were unable to complete the Building Permit due to the associated costs.

January 18, 2016 – Regional District Bylaw Staff contacted the Property Owner Ms. Christin Marcotte by telephone. FVRD staff asked Ms. Marcotte if she had a chance to review the package provided to her at the last inspection four months ago. FVRD Bylaw Staff asked Ms. Marcotte if she had any questions or concerns with the Regional District moving forward to start a process of registering a section 57 notice on the title of her property. Ms. Marcotte informed FVRD Bylaw Staff that she had not reviewed the package, so FVRD Staff requested she review the package and then contact Regional District Bylaw Staff within ten days to discuss it.

January 20, 2016 - Regional District Bylaw Staff contacted the property the Property Owner Ms. Christin Marcotte by telephone. Ms. Marcotte stated that she has reviewed the information package, but has misplaced it and would like it if FVRD Staff could forward the information to her again by email. Regional District Bylaw Staff sent the information package to the Property Owner Ms. Christin Marcotte by email as she requested.

February 3, 2016 – Property Owner Ms. Christin Marcotte contacted Regional District Bylaw Staff by email with an attached letter that appeared to be in some kind of draft addressed to Director of Planning and Development from Mr. Pederson. Regional District Bylaw Staff consulted with the Director and there was no knowledge of this draft letter. Regional District Bylaw Staff replied to Ms. Marcotte stating that Regional District Bylaw Staff did not receive any alleged correspondence.

February 10, 2016 – Mr. Dale R. Pedersen, counsel for the Property Owners Ms. Christin Marcotte, and Mr. Serge Lavoie contacted the Director of Planning and Development for the Fraser Valley Regional District by email stating that he will be the contact for the bylaw file for 48977 Riverbend Drive moving forward. Mr. Pederson stated that the Property Owners are requesting a meeting with the FVRD to discuss their property as they have concerns regarding the impact a Section 57 notice would have on them and their property value. Mr. Pederson outlined that Ms. Marcotte and Mr. Lavoie are very stressed; they have privacy concerns over inspections with marked police vehicles, and therefore requested a delay in taking any steps toward filing a notice on the title of the property.

February 18, 2016 – Regional District Bylaw Staff received a new complaint by email that alleges that the subject property at 48977 Riverbend Drive is in an unsightly and untidy condition, and causing a nuisance to neighbours because of the smell from the Marijuana Grow Operation.

February 23, 2016 - Regional District Bylaw Staff received an email from the Property Owners legal counsel Mr. Dale Pederson who requested that the FVRD contact him by telephone directly. FVRD Bylaw Staff attempted to contact Mr. Pederson directly by telephone however Mr. Pederson was not available. FVRD Bylaw Staff left a message with Mr. Pederson's Assistant who assured Regional District Staff that he would return the call.

February 25, 2016 - Regional District Bylaw Staff spoke with Mr. Dale Pedersen, counsel for the Property Owners Ms. Marcotte and Mr. Lavoie. Mr. Pederson requested a summary of bylaw enforcement file events to date which was subsequently provided to him by FVRD Bylaw Staff. Mr.

Pedersen informed Regional District Bylaw Staff that he was going on vacation, but upon his return he would speak to Property Owners and follow-up with the Regional District.

March 15, 2018 - Regional District Bylaw Staff sent a letter to both the Property Owners Ms. Christin Marcotte and Mr. Serge Lavoie and their counsel Mr. Dale Pederson by email and regular mail advising them of staff's recommendation to proceed with the process of registering a Section 57 *Community Charter* notice on the title of their property at 48977 Riverbend Drive. This letter gave the owners a final opportunity to achieve voluntary compliance by the deadline of April 6, 2018. FVRD Staff has not received a response or any Building Permit Applications from the Property Owners Ms. Christin Marcotte and Mr. Serge Lavoie or their counsel Mr. Dale Pederson to date.

March 29, 2018 – Regional District Bylaw and Building Inspection Staff spoke with a Real Estate Agent who was considering listing the subject property at 48977 Riverbend Drive for sale.

April 26, 2018 – Regional District Bylaw and Management Staff received a letter by facsimile from Mr. Dale Pederson, legal counsel for the Property Owners Mr. Serge Lavoie and Ms. Christin Marcotte that Mr. Serge Lavoie was recently deceased, and requested that the FVRD re-schedule the Show Cause Hearing until June 2018.

April 27, 2018 – Regional District Staff sent a letter by both email and regular mail to Mr. Dale Pederson and the Property Owner Ms. Christin Marcotte offering condolences and providing legal notification that the show cause hearing would be re-scheduled to the next EASC meeting on June 12, 2018 at 1:30pm.

June 12, 2018 – Regional District Management Staff met Property Owner Ms. Christin Marcotte at the Chilliwack Regional District Office before and unrelated to the scheduled Show of Cause Hearing. Ms. Marcotte requested another adjournment to re-schedule the date of the show cause hearing on compassionate grounds.

June 14, 2018 - Regional District Staff sent a letter by both email and regular mail to Mr. Dale Pederson and the Property Owner Ms. Christin Marcotte. The letter offered condolences and provided legal notification that the show cause hearing would be re-scheduled to the next EASC meeting on July 10, 2018 at 1:30pm.

June 14, 2018 – Regional District Bylaw Staff received contact from the Property Owner's legal counsel, Mr. Dale Pederson's Office by telephone. A voicemail was left for staff providing information that the Property Owner Ms. Christin Marcotte was no longer a client of Mr. Pederson's Office.

June 2018 - The property is currently listed for sale (MLS #R2275681) by Nick Van, HomeLife Glenayre Realty Chilliwack Ltd.

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 requests that the Electoral Services Committee 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, and the accessory workshop were all constructed without required Building Permits.

In November of 2011 it was discovered that the Single Family Dwelling was 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 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. The initial use of the accessory workshop was for storage use, so a permit is required for the change of use to a Marijuana Grow Operation.

Multiple Building Permits are required for the works undertaken by the Property Owner; or a demolition Building Permit is required to remove all construction completed without permits.

Zoning Bylaw

This property is in Electoral Area E, and is zoned *Multi-Use Residential* (RS-2) under the *Zoning Bylaw No. 66, 1979 of the Regional District of Fraser-Cheam* (Bylaw 66). The primary purpose of this zone is to provide opportunity for the establishment of mobile homes, as well as convention homes, on individually owned lots.

The Single Family Dwelling and the accessory workshop both had construction works to operate Marijuana Grow Operations. A Marijuana Grow Operation Use is not listed as a permitted use in the RS-2 zone.

A successful re-zoning 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 construction works on Single Family Dwelling, and the accessory workshop are either:

1. Demolished with Building Permits issued by the FVRD with a successful final inspections; or
2. Two fully completed Building Permits for the construction works to the Single Family Dwelling, and the accessory workshop are issued by the FVRD and both receive successful final inspections. The applications require the 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 in the single family home and the accessory workshop that were done without Building Permits 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 two fully completed Building Permits for the construction works to the Single Family Dwelling, and the workshop.

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 comment.

Paul Gipps, Chief Administrative Officer

Reviewed and supported