

**DATE:** July 3, 2018**FILE:** 3800-40 / BC981**TO:** Chair and Directors  
Electoral Areas Services Committee**FROM:** Russell Dyson  
Chief Administrative OfficerSupported by Russell Dyson  
Chief Administrative Officer***R. Dyson*****RE: Request to Place Notice on Title, 6005 Aldergrove Drive (Gossen / Clarke)  
Lazo North (Electoral Area B)  
Lot 1, Block 29, Comox District, Plan 20712, PID 003-605-558**

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**Purpose**

To recommend registration of a Notice on Title against the property title for failing to obtain the required permits and inspections for the construction of a second dwelling.

**Recommendation from the Chief Administrative Officer:**

THAT pursuant to Section 57 of the *Community Charter*, the board approves filing a Notice on Title with the Land Title and Survey Authority of British Columbia against land legally described as Lot 1, Block 29, Comox District, Plan 20712, PID 003-605-558 (6005 Aldergrove Dr.), for failure to comply with Building Bylaw No. 142, being the “Comox Valley Regional District Building Bylaw No. 142, 2011”.

**Executive Summary**

- January 20, 1989 work began on the property without building permit.
- January 26, 1989 the owner was informed of the requirements for a building permit.
- Stop Work Notice posted, March 15, 1989 and April 13, 1989.
- Building permit issued April 20, 1989 for a garage /workshop.
- No inspections requested.
- Bylaw complaint file BC981 created July 26, 2013 confirmed an illegal suite.
- August 21, 2013 a Do Not Occupy Order was posted.
- December 12, 2013 the owner was notified to bring the property into compliance or building services will recommend that the Comox Valley Regional District (CVRD) Board proceed with a Notice on Title.
- May 17, 2018 a request for the owner to be available for a site inspection was unanswered.
- Photos from the real estate property listing confirm the suite in the building still remains.

Prepared by:

***D. Mirabelli***

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Dennis Mirabelli, RBO, CRBO  
Manager of Building Services

Concurrence:

***A. Mullaly***

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Alana Mullaly, M.Pl., MCIP, RPP  
Acting General Manager of Planning  
and Development Services Branch

**Stakeholder Distribution (Upon Agenda Publication)**

Owner	✓
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**Background/Current Situation**

On January 20, 1989 work was started on the property without a Building Permit. The CVRD Building Inspector informed the property owner on January 26, 1989 that a building permit was required. March 15, 1989 a Stop Work Notice was posted at the site.

On April 13, 1989 the CVRD Building Inspector returned to the property and hand delivered a second Stop Work Notice to the owner of the property. April 17, 1989 building permit 89-04-901 for a garage workshop was applied for and subsequently issued on April 20, 1989. There were no records of inspection requests noted in the file.

On July 26, 2013 bylaw complaint BC981 was created questioning a suite located in the above noted structure. A site visit confirmed an illegal suite and a Do Not Occupy Order was posted at the property. The property owner was notified that the next step would be to proceed with a Notice on the Title if the property was not brought into compliance.

On May 10, 2018 a Building Inspection Archives Research Request form was submitted to review files and drawings for the property. It was noted during the review that the incomplete permit and compliance file have not been cleared. A request to the owner for a site visit was unanswered, however photos from the realtors listing show the suite still remains. On June 8, 2018 the owner was extended an additional 15 days to bring the property into compliance, to date there has been no response.

**Policy Analysis**

Section 302 of Part 9 of the *Local Government Act* (RSBC, 2015, c. 1) authorizes a regional district, through Section 57 of Part 3 of the *Community Charter*, to file a notice with the Land Title and Survey Authority of British Columbia indicating that a building regulation has been contravened.

**Options**

Option 1: Proceed with placing a Notice on Title of the subject property.

Option 2: Proceed with placing a Notice on Title of the subject property and seek compliance through legal action

Option 3: Take no action.

Building services staff recommend proceeding with option 1 at this time. Due to the fact that the property is currently for sale, the Notice on Title may encourage correction of the issue in order to complete the sale.

The CVRD will have taken appropriate action by fulfilling its duty to warn, in the form of a notice on title.

**Financial Factors**

The CVRD will incur minimal fees associated with placing a notice on title. However, if there is a need for progressive legal action the cost can be expected to escalate.

**Legal Factors**

A local government that makes the choice to regulate building, and to provide inspection services, takes on the burden of a legal duty of care towards those who may suffer harm as a result of its negligence.

The CVRD needs to ensure it has acted appropriately by fulfilling its' duty to warn, and undertakes a policy decision on a case by case basis taking into consideration the social, political and financial factors.

Placing a notice on title through Section 57 of the *Community Charter* and seeking compliance through legal action would minimize the CVRD's exposure to risk by fulfilling our obligation of a duty to warn, and demonstrates it has taken appropriate steps with a policy decision.

**Regional Growth Strategy Implications**

None.

**Intergovernmental Factors**

None.

**Interdepartmental Involvement**

Staff from the building services department of the planning and development services branch are leading this matter.

**Citizen/Public Relations**

Potential future purchaser of the property would be notified of a bylaw infraction on the certificate of title.