

DATE: May 27, 2021**FILE:** 3800-40 / BC 1159, BC 1160, BC 1161**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 - 8811 Oyster River Way / 2180 Schulz Road
Puntledge – Black Creek (Electoral Area C)
Lot 2, Block 29, Comox District, Plan VIP57753, PID 018-529-527****Purpose**

To recommend registration of a notice against the property title for contravention of Comox Valley Regional District (CVRD) bylaws and failing to obtain the required permits and inspections for the construction activity on the property.

Recommendation from the Chief Administrative Officer:

THAT pursuant to Section 57 of the *Community Charter*, the Comox Valley Regional District Board approves filing a notice with the Land Title and Survey Authority of British Columbia against land legally described as Lot 2, Block 29, Comox District, Plan VIP57753, PID 018-526-527 (8811 Oyster River Way / 2180 Schulz Road) for failure to comply with Building Bylaw No. 142, being the “Comox Valley Regional District Building Bylaw No. 142, 2011”.

Executive Summary

- Sept 2009, permit issued to move a dwelling onto the property - final inspection incomplete
- Nov 2020, unauthorized suite confirmed in basement of 8811 Oyster River Way
- Nov 2020, unauthorized suite confirmed in basement of 2180 Schulz Road
- Nov 2020, construction began on accessory building – no permit
- Stop Work and Do Not Occupy orders have been posted
- The property remains non-compliant.
- The CVRD has initiated Provincial Court Action on this property

Prepared by:

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Dennis Mirabelli, RBO, CRBO
Manager of Building Services

Concurrence:

A. Mullaly

Alana Mullaly, RPP, MCIP
General Manager of Planning and
Development Services**Government Partners and Stakeholder Distribution (Upon Agenda Publication)**

Amandio Santos and Maria Augusto	✓
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Background/Current Situation

On November 20, 2020 a CVRD Building Official and Bylaw Compliance Officer attended the property along with two Island Health representatives, Amandio Santos the property owner was also present.

Attendance to the property was at the request of bylaw services to review the current condition of the dwellings and verify if any alterations had been made to the buildings.

The property is Zoned Country Residential One (CR-1) and allows for two dwellings.

The site visit confirmed four dwellings on the property, two single family dwellings both containing unauthorized secondary suites in there lower levels. In addition, an accessory building was under construction at the time of the visit (see attached)

A Stop Work order was posted on the building under construction and Do Not Occupy orders on the unauthorized dwellings.

On Nov 23, 2020 Mr. Santos attended the CVRD office to review our files, he was advised at the time of the outstanding issues with the buildings on the property. In Early December Mr. Santos was sent a letter requesting he have the unauthorized suites vacated and obtain permits to have the suites decommissioned.

To date the owner has taken no action.

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: Take no action

Building services staff recommends proceeding with Option 1. The CVRD will have taken appropriate action by fulfilling its duty to warn, in the form of a Notice on Title. Due to the fact that Provincial Court prosecutions have been initiated the CVRD also demonstrated it has taken appropriate steps in the interest of public safety.

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.

Section 57 of the *Community Charter* of the Province of British Columbia was provided to local governments as a tool to administer and enforce the BC Building Code and building bylaws. It enables the Regional District to register a Bylaw Contravention Notice, through the Land Titles Office registrar, on the title of a property where there is an infraction of the Building Code or CVRD Building Bylaw.

“After providing the Building Inspector and the owner an opportunity to be heard, the board 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 CVRD office.”

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.

Once the situation or condition on the property that gave rise to the filing of the notice on title has been corrected and has been given approval from the building inspector, the notice on title can be removed through a cancellation or discharge notice filed with the registrar of land titles.

Regional Growth Strategy Implications

None

Intergovernmental Factors

Island Health and The Royal Canadian Mounted Police have attended this property on multiple occasions to assist CVRD staff.

Interdepartmental Involvement

Staff from, bylaw services, building services and fire services (Oyster River Fire Rescue) have been involved with this property.

Citizen/Public Relations

A Notice on Title is an effective way of informing any interested party that there are outstanding issues with a particular property. It is also an effective tool that assists staff in gaining compliance with CVRD bylaws and the BC Building Code.

8811 Oyster River Way – Upper Floor



Kitchen – Upper Floor



Bedroom – Upper Floor

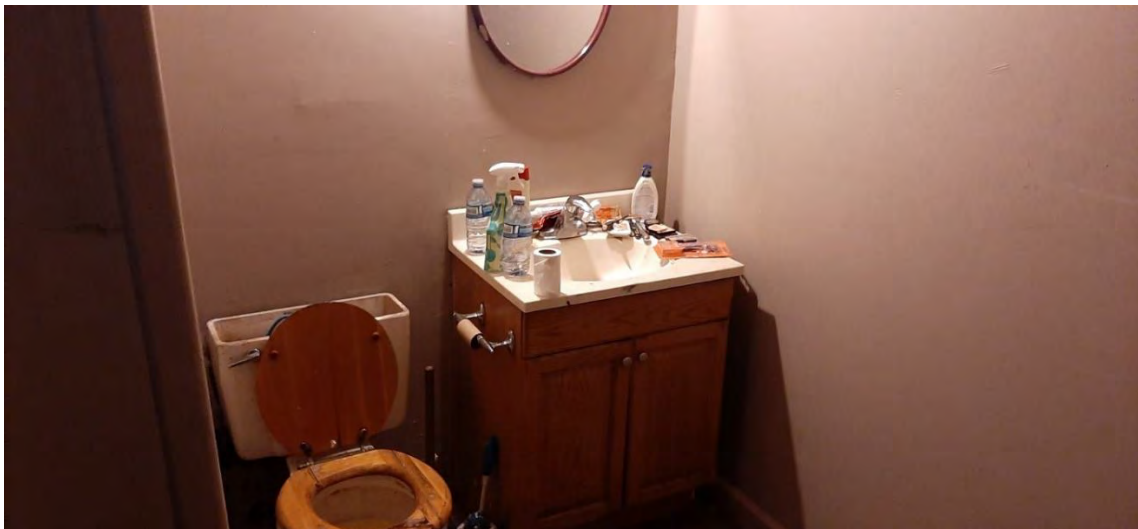


Bathroom – Upper Floor

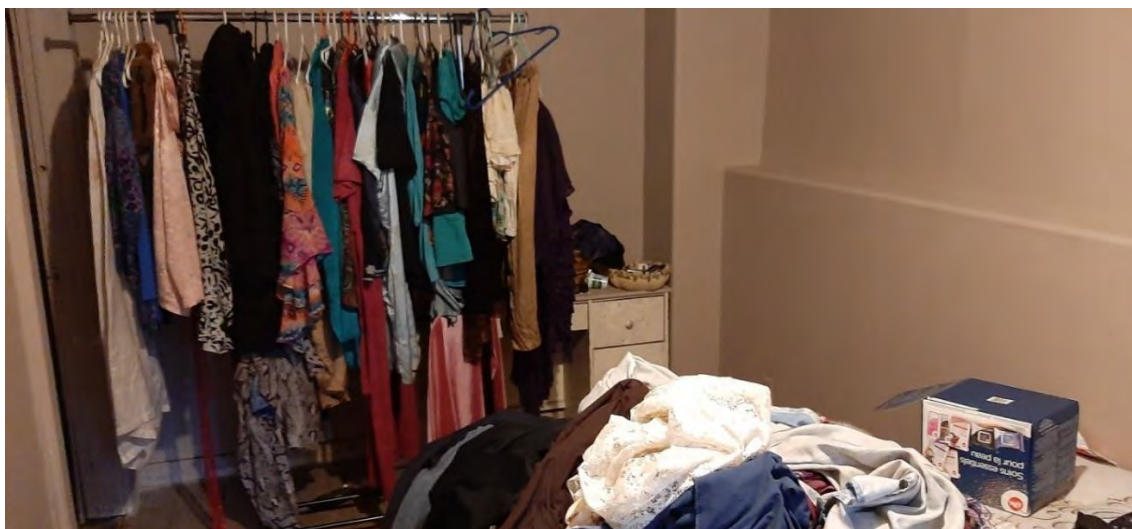
8811 Oyster River Way – Lower Floor



Kitchen – Lower Floor



Bathroom – Lower Floor



Bedroom – Lower Floor

2180 Schulz Road



Bathroom – Lower Floor



Bedroom – Lower Floor