

**DATE:** May 27, 2021**FILE:** 3800-40 / BC 1115**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 - 60 Salsbury Road  
Puntledge – Black Creek (Electoral Area C)  
Lot 43, District Lot 160, Comox District, Plan 30194, PID 000-548-154****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 43, District Lot 160, Comox District, Plan 30194, PID 000-548-154 (60 Salsbury Road) for failure to comply with Building Bylaw No. 142, being the “Comox Valley Regional District Building Bylaw No. 142, 2011”.

**Executive Summary**

- June 21, 2019 CVRD staff attended the property to provide an assessment of the structures.
- A records review confirmed that work has been done on the property without the required building permits, inspections or approvals.
- To maintain the structures the property owner was required to obtain a Development Variance Permit (DVP) followed by a Building Permit.
- The DVP 7C 19 was issued Oct 29, 2019.
- A Building Permit has not been issued, application remains incomplete.
- Property is currently listed for sale.

Prepared by:

Concurrence:

***D. Mirabelli******A. Mullaly***

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Dennis Mirabelli, RBO, CRBO  
Manager of Building Services

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

John and Janel Debalinhard	✓
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**Background/Current Situation**

On June 21, 2019 a site inspection was carried out to review the buildings and structures located on the property. The request for review came from the property owners as they were attempting to sell the property and potential purchasers were requesting confirmation of approvals.

The inspection along with a review of the property files confirmed construction had taken place on three separate structures without benefit of building permits or inspections. Construction included a large exterior deck and a carport addition to the main house as well as the basement renovation. Additionally two buildings have been constructed in the rear of the property, one small accessory building and a larger two storey carriage house (see attached). Although the property owners have obtained a Development Variance Permit to address the locations of the structures the Building Permit applications remain incomplete.

The property is again listed for sale indicating the owners may have chosen not to continue with obtaining a building permit. Staff have been receiving inquiries from realtors representing interested parties, therefore staff have elected to take further enforcement action to ensure the CVRD has fulfilled its obligation of duty to warn.

**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 the property is currently for sale, the Notice on Title may encourage correction of the issue in order to complete the sale.

**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 filling 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**

None.

### **Interdepartmental Involvement**

Staff from building services in Planning and Development Services are leading this matter.

### **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. Potential future purchaser of the property would be notified of a bylaw infraction on the certificate of title. It is also an effective tool that assists staff in gaining compliance with CVRD bylaws and the BC Building Code.



Two Storey Carriage House