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**REPORT TO ELECTORAL AREAS COMMITTEE  
MEETING OF WEDNESDAY, DECEMBER 11, 2024**

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**SUBJECT**     **File Notice on the Land Title of 1002 Fulford-Ganges Road, Lot A, Section 86, South Salt Spring Island, Cowichan District Plan 32206 Except Plan EPP70937, PID 001-082-604, File VF000748**

**ISSUE SUMMARY**

The purpose of this staff report is to recommend that a notice be placed on the land title of the property described above as a result of continued non-compliance with Capital Regional District (CRD) Building Regulation Bylaw and other regulations with respect to the construction of a residence without a building permit or required approvals.

**BACKGROUND**

Since November 7, 2023, CRD Building Inspection has attempted to persuade the current owner to comply with Bylaw No. 3741, "Building Regulation Bylaw No. 5, 2010".

The Building Inspector became aware of the construction of a residence at the property and on November 7, 2023, a Stop Work Order was posted. Letters and emails were sent to the owner, during which time the Building Inspector provided clear directions for permit requirement and BC Building Code compliance. Further site visits took place by CRD Bylaw Enforcement and CRD Building Inspection, with support from the RCMP at times. The owner has resisted CRD presence each time and has refused to cease construction on the residence. The owner has also ignored the written directions in a demand letter to stop work from CRD external legal counsel, dated December 08, 2023. The property currently has a Notice on Title filed on March 25, 2002 regarding the conversion of a barn to a dwelling unit without necessary approvals, including a building permit.

To date the owner has not ceased construction on the building, nor applied for a building permit for the dwelling unit above the barn. The owner has also been directed to address the illegal use of the existing barn as a dwelling unit.

The owner has been advised of the outstanding issues and requirements for compliance to the BC Building Code. CRD Building Inspection believes the owner of the property violated the following sections of the Bylaw:

**2.1.2 Permits Required**

Every person shall apply for and obtain a building permit before commencing construction, repairing or altering a building or structure.

**3.1.1 Work Without Permits**

No person shall commence or continue any construction, alteration, reconstruction, demolition, removal or relocation of any building or structure or other work related to construction, for which a Permit is required under this Bylaw unless a building official has issued a valid and subsisting Permit for the work.

**3.1.4. Tampering with Notices**

No person shall, unless authorized in writing by a building official, reverse, alter, deface, cover, remove or in any way tamper with any notice, Permit or certificate posted upon or affixed to a building or structure pursuant to this Bylaw.

**3.1.6 Obstruction to Entry**

No person shall obstruct the entry of a building official or other authorized official of the Capital Regional District on a property in the administration of this Bylaw.

**3.1.7 Cessation of Work**

No person shall continue to do any work upon a building or structure or any portion of it after the building official has ordered cessation or suspension of work on it.

**3.1.8 Work Contrary to Requirements**

No person shall do any work or carry out any construction contrary to a provision or requirement of the Bylaw, the *Building Code* or any other applicable enactment.

**4.1.1 Stop Work Notice**

A building official may order the cessation of any work that is proceeding in contravention of the *Building Code* or this Bylaw by posting a Stop Work Notice.

- (1) The owner of a property on which a Stop Work Notice has been posted, and every other person, shall cease all construction work immediately and shall not do any work until all applicable provisions of this Bylaw have been substantially complied with and the Stop Work Notice has been rescinded in writing by a building official.
- (2) Every person who commences work requiring a Permit without first obtaining such a Permit shall, if a Stop Work Notice is issued, pay an additional charge equal to 100% of the required Permit fee prior to obtaining the required building permit.

**ALTERNATIVES**

*Alternative 1*

That the Corporate Officer file a notice in the Victoria Land Title office stating that a Resolution has been made under Section 57 of the *Community Charter* relating to land legally described as: Lot A, Section 86, South Salt Spring Island, Cowichan District Plan 32206 Except Plan EPP70937, PID 001-082-604 or any subdivision of said lands as may be affected by the contravention(s).

*Alternative 2*

That a notice not be filed and staff be directed to take no further action.

**IMPLICATIONS**

*Financial*

The cost of the process to file notice on land title is included in the annual Building Inspection budget. In the event that the notice can be removed, there will be a \$500 removal fee charged to the owner.

*Legal*

If a notice is not filed on the land title, the liability of the CRD is potentially increased and possible future owners may not be advised of a building inspection deficiency and may be exposed to potential loss. Staff will be recommending further legal action to achieve compliance in a separate staff report to the Board.

**CONCLUSION**

The Chief Building Inspector recommends placing a notice on title to notify potential buyers of building deficiencies, the concerns of the CRD Building Inspector, and to reduce the liability of the CRD. Due to work carried out prior to inspection, it may be necessary to have the notice remain on title in perpetuity, as complete inspection of the work may not be possible.

**RECOMMENDATION**

That the Corporate Officer file a notice in the Victoria Land Title office stating that a Resolution has been made under Section 57 of the *Community Charter* relating to land legally described as: Lot A, Section 86, South Salt Spring Island, Cowichan District Plan 32206 Except Plan EPP70937, PID 001-082-604 or any subdivision of said lands as may be affected by the contravention(s).

Submitted by:	Mike Taylor, RBO, Manager and Chief Building Inspector, Building Inspection
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services

**ATTACHMENTS**

- Appendix A: History
- Appendix B: Photos

**Appendix A**

**History:**

- Nov 07, 2023 Stop Work Order for construction of house without permits. Photos taken.
- Nov 10, 2023 Stop Work Letter sent to owner.
- Nov 18, 2023 Site visit by CRD Bylaw Enforcement Officer. It was observed that the Stop Work Order had been removed.
- Nov 25, 2023 CRD Bylaw Enforcement Officer, accompanied by RCMP, issued two Municipal Ticket Information (MTI) tickets to owner. Bylaw Officer recommended that RCMP attend all future site visits as the owner was clearly confrontational. Staff and management met and agreed that the enforcement level needs to be raised.
- Nov 27, 2023 Email received from owner, with photo of Do Not Trespass sign.  
Multiple contacts with all involved. Several phone calls from Building Inspection Division seeking owner's cooperation with a follow-up site inspection to check progress. Not granted.
- Nov 29, 2023 Islands Trust Bylaw Enforcement Manager advised that this property has several outstanding issues.
- Dec 08, 2023 Demand letter prepared by Stewart McDannold Stuart (SMS) sent to owner, with a deadline of December 29, 2023.
- Dec 08, 2023 Demand letter prepared by SMS sent to owner, with a deadline of December 29, 2023 or will seek authorization from CRD Board to commence legal proceedings.
- Dec 16, 2023 CRD Bylaw Enforcement Officer attended site to re-issue MTI tickets. Owner refused to identify himself, was uncooperative and was temporarily arrested by RCMP. Two MTI tickets were issued.
- Dec 21, 2023 CRD Bylaw Enforcement Officer met with owner at driveway and again re-issued MTI tickets, correcting the owner's name.
- Feb 08, 2024 SMS lawyer agreed that the next step should be to prepare for a court injunction and recommended another site visit for up-to-date information.
- Feb 29, 2024 Email from Building Inspection staff to owner as well as a phone message advising Building Inspectors would be attending his property the next day to review the status of the building from the exterior.
- Mar 01, 2024 Site visit with Building Inspector, Chief Building Inspector and two attending RCMP Constables. Photos taken. No attempt to gain access within the building.  
Email received from owner advised he would no longer discuss matters with Chief Building Inspector and threatened legal action against the Chief Building Inspector and the CRD.
- Mar – Nov, 2024 Inspectors have observed continued construction although they have not entered the property. The owner has not made contact with the Building Inspection office.
- Nov 05, 2024 The Chief Building Inspector attempted to contact the owner by phone, a voice message was left.

Appendix B

Photos:

November 7, 2023



March 1, 2024

