



**REPORT TO ELECTORAL AREA SERVICES COMMITTEE
MEETING OF WEDNESDAY, SEPTEMBER 20, 2017**

CLOSED

SUBJECT **Request for Approval to Commence Remedial Action at 1178 Aspen Road, PID 000-256-382, Lot 2, District Lots 45 and 136, Malahat District, Plan 33710, File VF000205**

ISSUE

To request that the Capital Regional District (CRD) Board authorize remedial action proceedings against the owner for hazardous conditions on the above property (see Appendix A – History), specifically to remove hazardous structure and debris.

BACKGROUND

The Building Inspection Division received complaints regarding the nature of the hazardous condition nuisance of a structure moved on to the property without the benefit of any land use approval or building permits. The building is shown in Appendix B – Photos. The hazardous condition contravenes:

1. the Provincial Building Regulation and Bylaw under Division 2 of Part 21 of the *Local Government Act*;
2. Capital Regional District Regulation Bylaw No. 5, 2010 (Building Bylaw 3741), pursuant to Section 698 of the *Local Government Act*; and
3. Division 12 of Part 3, Section 73 and 74 of the *Community Charter* (see attached).

The original moved-in structure was stop worked on March 3, 2017. The old mobile home was to be used as an accessory building. The owner was notified that the structure was unsafe and could not be permitted under a building permit. He was notified that if he wanted to use the building, he would be required to provide a Professional Engineer's report. The report would have to indicate that the structure was safe for the use intended. The owner had a structural Engineer look at the mobile home and instead of providing a report, the Engineer went to argue that the structure was outside the CRD's jurisdiction and the Building Code and that the CRD had no business enforcing its regulation on subject structure. A second stop work order has been placed on the subject structure. The structure has been declared a nuisance under Section 74 (1) and may impose a remedial action in relation to the declared nuisance of the *Community Charter*. The existing structure has had some work carried out. The work does not meet the requirements of the BC Building Code. The building is a derelict structure. We have concerns with the age of the structure as it may have asbestos tile and vinyl flooring. We have no records of a hazmat assessment carried out.

The owner has not agreed to remove the building. The Manager of Building Inspection Services advises that he is of the opinion that the building is creating a hazard and can be declared a nuisance - a threat to health and safety of the occupants of the structure. He is recommending that the building be demolished and removed from the property and the site made safe.

ALTERNATIVES

That the Electoral Area Services Committee recommends to the Capital Regional District (CRD) Board:

1. That an Order to demolish the structure and remove all debris from the property at 1178 Aspen Road on lands legally described as Lot 2, District Lots 45 and 136, Malahat District Plan 33710, PID 000-256-382 to address the hazardous condition and nuisance structure to bring the property into compliance with the Provincial Building Regulation and Bylaw under Division 2 of Part 21 of the *Local Government Act* and CRD Regulation Bylaw No. 5, 2010 (Bylaw 3741) be imposed.
2. That an Order not be imposed to proceed with consideration of remedial action allowing the owner to continue to violate the Provincial Building Regulation and Bylaw under Division 2 of Part 21 of the *Local Government Act* and CRD Regulation Bylaw No. 5, 2010 (Bylaw 3741).

FINANCIAL IMPLICATIONS

The costs associated with carrying out remedial action, if in default by the owner/occupier/tenant, and if unpaid on December 31 of the year the demolition is carried out, shall form part of the taxes payable in respect of the real property in question as taxes in arrears or be collected as a debt. CRD Building Inspection staff time cannot be recovered through taxes. Staff time for preparing the contract, selecting the contractor and site inspections is estimated at approximately 210 hours at \$92/hour (\$19,320). There is sufficient funds in the building permit reserve fund to cover staff time associated with this work. The reserve fund was established in 2004 to offset future liability costs associated with old files.

LEGAL IMPLICATIONS

If remedial action is not approved for the hazardous conditions and declared a nuisance structure relating to the structure moved-in contrary to the Provincial Building Regulation and CRD Regulation Bylaw No. 5, 2010 (Bylaw 3741), the CRD may be liable for issues that arise from such hazardous conditions being allowed to remain as the authority having jurisdiction over such matters.

CONCLUSION

As this matter has not been resolved, staff recommends that the CRD Board impose remedial action against the owner of the property legally described as Lot 2, District Lots 45 and 136, Malahat District Plan 33710, PID 000-256-382 to demolish the structure and remove all debris from the property with notice to the lessees of 30 days to remedy the situation or, if in default, that this remedial action will be done by the CRD or by its authorized agents at the expense of the person(s) defaulting.

RECOMMENDATION

That the Electoral Area Services Committee recommends to the Capital Regional District Board:

That an Order to demolish the structure and remove all debris from the property at 1178 Aspen Road on lands legally described as Lot 2, District Lots 45 and 136, Malahat District Plan 33710, PID 000-256-382 to address the hazardous condition and nuisance structure to bring the property into compliance with the Provincial Building Regulation and Bylaw under Division 2 of Part 21 of the *Local Government Act* and CRD Regulation Bylaw No. 5, 2010 (Bylaw 3741) be imposed.

Submitted by:	Robert Gutierrez, RBO, Manager Building Inspection
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager Planning and Protective Services
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

RG/jv

Attachments: Appendix A - History
Appendix B – Photos
Appendix C – Division 12 of Part 3, Section 73 and 74 of the *Community Charter*