



# BOARD REPORT

**TO:** Chair and Directors

**File No:** 3880 18 10  
PR20180010

**SUBJECT:** Electoral Area F: Community Charter Section 57 Notice

**DESCRIPTION:** Report from Charles Hamilton, Chief Administrative Officer, dated September 12, 2018.  
6471 Lindsay Road (6593 Magna Vista Crescent), Magna Bay

**RECOMMENDATION:** THAT: the Board authorize the Corporate Officer to file a notice in the Land Title Office against the property legally described as Lot A, Section 13, Township 23, Range 10, W6M, KDYD, Plan 29439, Except Plans 29668, and 30666, in accordance with Section 57(3) of the Community Charter, this 20<sup>th</sup> day of September, 2018;  
  
AND THAT: further information in respect of the notice is available for inspection at the office of the Columbia Shuswap Regional District (CSR D).

## SHORT SUMMARY:

The CSR D Building Inspector has provided a recommendation pursuant to Section 57(2) of the Community Charter (CC). Pursuant to Section 57(2) of the CC, and the registered owner of the subject share on the subject property and two Directors of Magna Vista Land Owners Association have been notified that this matter will be placed before the Board of Directors at its regular Board meeting to be held on September 20, 2018 at 9:30 AM in the Boardroom of the CSR D, 555 Harbourfront Drive NE, Salmon Arm, BC.

In accordance with Section 57(3) of the CC, the CSR D Building Inspector and the owner of the subject property must be given an opportunity to speak to the Board in respect of the matter. The Board may then 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 resolution in regard to the subject property has been made in accordance with Section 57 of the CC, and that additional information in respect of the notice will be available for inspection at the office of the CSR D.

Placing a Section 57 Notice on title will alert subsequent owners of the property of the outstanding building regulation non-compliance.

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## VOTING:

Unweighted  
Corporate



LGA Part 14  
(Unweighted)



Weighted  
Corporate



Stakeholder  
(Weighted)



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## BACKGROUND:

The Shared Interest property is in contravention of the Columbia Shuswap Regional District Building Bylaw No. 660. On December 14, 2017, staff became aware that the owner of a share on the subject property had commenced construction in the absence of the necessary Building Permit. Despite correspondence and meetings with staff, the owners have failed to apply and obtain the Building Permit required in order to comply with Bylaw No. 660. In addition, work has progressed through a posted

Stop Work Order and a legal Demand for Compliance Letter through Lidstone and Company. The building is now occupied without an issued Building Permit (including required inspections), septic system approval, or Occupancy approval.

The Building Inspector has advised of the following sequence of events:

- |                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| December 14, 2017 | Staff first made contact on-site with one of the share owners, Klara Lange, and her contractor Bryan Wager, where staff determined that a building was being constructed and septic system was being installed. Both the building and septic system required permits and necessary approvals. Mrs. Lange was informed at the site by staff about requirements for the project to continue.                                                                                                                                            |
| December 18, 2017 | Staff posted a <i>Stop Work Notice</i> on-site as required. Staff again discussed requirements with Mrs. Lange. Building permit and Plumbing permit applications along with Building Information Sheets were also provided directly to Mrs. Lange.                                                                                                                                                                                                                                                                                    |
| December 27, 2017 | Staff visited the site again to pick up the Building Permit package from Mrs. Lange and her hired contractor Mr. Wagar. At this time, both parties were very aggressive and quarrelsome toward staff. Mrs. Lange stated that her husband has Dementia and would not supply or sign any Building Permit documents. At this point, Mrs. Lange demanded that the staff member leave her property and vehemently stated that "we will not be providing any Building Application documents!".                                              |
| January 25, 2018  | One of the Shared Interest property owners contacted staff to discuss the Lange property. Staff were informed that work was proceeding past the <i>Stop Work Order</i> and that there was concern that this action could affect the other Shared Interest property owners. Staff were told that the property owner communicated the same concern to the Shared Interest president and further stated to staff that Mrs. Lange stated that "it was her property and she'll do whatever she wants and does not need a building permit." |
| June 5, 2018      | Staff observed that building had proceeded past the <i>Stop Work Order</i> and was now substantially completed. The dwelling was occupied without an issued Building Permit and approval for Occupancy.                                                                                                                                                                                                                                                                                                                               |
| June 15, 2018     | Staff received legal advice that determined a legal <i>Demand for Compliance</i> letter be addressed to Mr. and Mrs. Lange, the Magna Vista Land Owners Association, and the local Director of the Magna Vista Land Owners Association and Registered Owner; Barry Willems.                                                                                                                                                                                                                                                           |
| June 19, 2018     | Staff phoned the Langes and Mr. Willems to let them know that staff would be on site to personally serve the "Demand" letter to each of them. Staff met and hand delivered the first letter to Mr. Willems. Staff was aware that the Langes had a dog, and arranged to meet Mrs. Lange out at the end of her driveway. Staff explained to Mrs. Lange that the letter's only demand was to fully complete a Building Permit application. Mrs. Lange refused to accept the                                                              |

*Demand for Compliance* letter and added that "she would not take out a Building Permit on her home because if she did, the CSRD would throw her out of her house" because "everyone told her so and that she knew it to be true because she knew that her own building did not meet code." During the conversation, Mrs. Lange was very emotional and described a long explanation of her plights.

June 24, 2018 Mrs. Lange emailed staff asking what the procedure is for a Building Official coming in to conduct inspections and what occurs if they do not pass the home upon the final inspection. She also noted that they feel they are not responsible as the contractor should have been knowledgeable and that they should not be held accountable for his 'ignorant mistakes'.

June 26-July 11, 2018 Staff have had numerous further communications and direct personal assistance with Mrs. Lange outlining what is required to submit for the building permit application. Via email, staff sent Mrs. Lange a copy of the *Demand for Compliance*. Staff further confirmed to Mrs. Lange that the next steps for enforcement would be the CSRD Building Department requesting from the Board of Directors that a Section 57 Notice on Title be placed on the Lange's property.

August 20, 2018 Currently the CSRD is still awaiting a completed building permit application. The dwelling has progressed through a posted *STOP WORK ORDER*, and has been completed without inspections or septic approval. The building is currently occupied by the owner without an approved Building Permit or an issued Occupancy Permit.

August 28, 2018 A notice that this matter will be placed before the CSRD Board for its consideration on September 20, 2018 was sent to the share property owner, Magnavista Land Owners Association, and Barry Willems. The notice included a copy of the CSRD Building Inspector's report dated August 21, 2018. See attached "BI\_Memo\_2018-08-21\_38801810.pdf".

## **POLICY:**

### **CSRD Building Bylaw No. 660:**

#### **Part 4: Prohibitions**

- 4.1 A person must not commence or continue any *construction, alteration, excavation, re-construction, demolition, removal, relocation* or change the use or *occupancy* of any *building* or *structure*, including other work related to construction:
- (a) except in conformity with the requirements of the *building code* and this bylaw; and
  - (b) unless a *building official* has issued a valid and subsisting *permit* for the work under this bylaw.
- 4.2 A person must not *occupy* or *permit* the *occupancy* of any *building* or *structure* or part of any *building* or *structure*:
- (a) unless a subsisting final inspection notice has been issued by a *building official* for the *building* or *structure* or the part of the *building* or *structure*; or

(b) contrary to the terms of any *permit* issued or any notice given by a *building official*.

4.9 A person must not contravene a notice of a *building official* issued under section 6.6.

### **Part 6 Powers of a Building Official**

- 6.6 Subject to applicable enactments, a *building official* may by notice in writing require
- (a) a person who contravenes any provision of this bylaw to comply with that provision within the time ordered;
  - (b) an *owner* to stop work on a *building* or *structure*, or any part of a *building* or *structure*, if the work is proceeding in contravention of this bylaw, the *building code*, or any other enactment of the Regional District or other applicable enactments, or if there is deemed to be an *unsafe condition*, and may enter on property to affix or post a stop work order in the form prescribed by the *building official*;
  - (e) an *owner* to have work inspected by a *building official* prior to covering;
  - (f) an *owner* to uncover any work that has been covered without inspection contrary to this bylaw or an order issued by a *building official*;
  - (g) a person to cease any *occupancy* in contravention of a provision of this bylaw;
  - (h) a person to cease any *occupancy* if any *unsafe condition* exists because of work being undertaken but not complete and where the *building official* has not issued a final inspection notice for the work;
  - (i) an *owner* to correct any *unsafe condition*; and
  - (j) an *owner* to correct any work that contravenes this bylaw, the *building code*, or any other enactment.

### **Section 57 of the *Community Charter***

#### **Note against land title that building regulations contravened**

57. (1) A building inspector may recommend to the council that it consider a resolution under subsection (3) if, during the course of carrying out duties, the building inspector
- (a) observes a condition, with respect to land or a building or other structure, that the inspector considers
    - (i) results from the contravention of, or is in contravention of,
      - (A) a municipal bylaw,
      - (B) a Provincial building regulation, or
      - (C) any other enactment
    - (ii) that, as a result of the condition, a building or other structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or
  - (b) discovers that
    - (i) something was done with respect to a building or other structure, or the construction of a building or other structure, that required a permit or an inspection under a bylaw, regulation or enactment referred to in paragraph (a) (1) and
    - (ii) the permit was not obtained or the inspection not satisfactorily completed.
- (2) A recommendation under subsection (1) must be given in writing to the corporate officer, who must

- (a) give notice to the registered owner of the land to which the recommendation relates, and
  - (b) after notice under paragraph (a), place the matter before council.
- (3) After providing the building inspector and the owner an opportunity to be heard, the council 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 relation to that land has been made under this section, and
  - (b) further information about it may be inspected at the municipal hall.

**FINANCIAL:**

Additional costs may include a legal review for options regarding further enforcement and compliance.

If the property owner addressed the bylaw contraventions and the Building Inspector confirms that the Section 57 Notice can be removed from title, prior to the Corporate Officer filing the cancellation notice, the property owner must pay a \$650 notice discharge fee, as per CSRD Development Services Application Fees Bylaw 4000 as amended.

**KEY ISSUES/CONCEPTS:**

Staff have requested the owner(s) of the subject property, both in verbal and written communications, to provide the required information that will allow issuance of the necessary Building Permit. The owner has failed to provide the information or to advise the CSRD when the information will be submitted to this office. In the absence of the required permits, placing a Section 57, Notice on Title is a priority.

**SUMMARY:**

Based upon the information provided by the Building Inspector and his recommendation, it is my recommendation to the Board that a Section 57 Notice be authorized to be filed on the title of the subject property.

**IMPLEMENTATION:**

If the Board authorizes the Corporate Officer to file a Notice in the Land Title Office against the property legally described as Lot A Section 13 Township 23 Range 10 W6M, Kamloops Division Yale District Plan 29439 Except Plans 29668 and 30666 in accordance with Section 57 (3) of the Community Charter, the Notice will be sent to the registrar of land titles for filing against the title of the subject property.

Should the Board authorize this notice for a Section 57, this notice will be applied against the entire lands and will show on all title reports (all joint owners). Clarity for which owners are affected is within the notice itself and gets attached to the Land Title Form and in Part 3 of the Land Title Office form.

**COMMUNICATIONS:**

If the Board authorizes the Corporate Officer to file a notice in the Land Title Office against the subject property, in accordance with Section 57(3) of the Community Charter, the notice will be sent to the registrar of Land Title Office for filing against the title of the subject property. The owner of the subject property will be advised in writing of the Board's decision.

**DESIRED OUTCOMES:**

That the Board endorse staff recommendation.

**BOARD'S OPTIONS:**

1. *Endorse the Recommendation.*
2. *Deny the Recommendation.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

**LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:**

1. Posted Stop Work Order
2. June 18, 2018 Demand for Compliance letter from Lidstone and Company.

**Report Approval Details**

Document Title:	2018-09-20_Board_CA_NOT38801810_Lange.docx
Attachments:	- BI_Memo_2018-08-21_38801810.pdf - Map_NOT38801810.pdf
Final Approval Date:	Sep 13, 2018

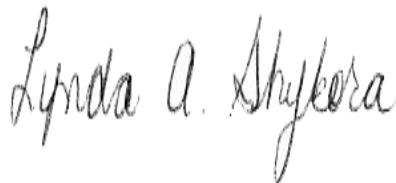
This report and all of its attachments were approved and signed as outlined below:



**Marty Herbert - Sep 12, 2018 - 3:23 PM**



**Gerald Christie - Sep 12, 2018 - 4:33 PM**



**Lynda Shykora - Sep 13, 2018 - 8:57 AM**

**No Signature - Task assigned to Charles Hamilton was completed by assistant Lynda Shykora**

**Charles Hamilton - Sep 13, 2018 - 8:58 AM**