

MEMORANDUM

TO: Charles Hamilton
Corporate Officer

FROM: Steve Walker
Building Official

SUBJECT: Community Charter Section 57; Note Against Land Title that Building Regulations Contravened 6593 Magna Vista Crescent, Magna Bay, Electoral Area F

File No: 3880 18 10
PR20180000010

Date: August 21, 2018

Lot A Section 13 Township 23 Range 10 West of the 6th Meridian Kamloops Division Yale District Plan 29439 Except Plans 29668 and 30666

Mr. and Mrs. Klaus Lange
Magnavista Land Owners Association
Barry Willems

RECOMMENDATION: Whereas, during the carrying out of my duties, it was noted, in accordance with Section 57 subsections (1) (b) (i) and (1) (b) (ii) of the *Community Charter*, that the property owner had commenced construction of a building without the necessary permits; I am recommending, in accordance with Section 57 (2) of the *Community Charter*, that the Corporate Officer give notice to the registered owner of Lot A Section 13 Township 23 Range 10 West of the 6th Meridian Kamloops Division Yale District Plan 29439 Except Plans 29668 and 30666, and further that the matter be placed on the September 20, 2018 CSR D Board Agenda for consideration by the CSR D Board of Directors.

SHORT SUMMARY: 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 the 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, a legal '*Demand for Compliance*' Letter through Lidstone and Company and the building is now occupied without an issued Building Permit, required inspections, septic and Occupancy approval. Placing a Section 57 Notice on Title will alert subsequent owners of the property of the outstanding Building Regulation non-compliance.

POLICY:**Building Regulation 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.

FINANCIAL:

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

KEY ISSUES/CONCEPTS:

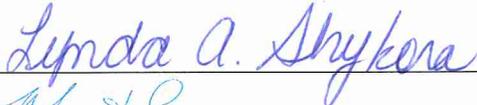
Staff have requested the owner(s) of the subject property, both in verbal and written communications, to provide the required information that will allow issuance of the necessary Building Permit. The owner has failed to provide the information or to advise the CSRD when the information will be submitted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

COMMUNICATIONS:

The Corporate Officer will give notice to the registered owner Lot A Section 13 Township 23 Range 10 West of the 6th Meridian Kamloops Division Yale District Plan 29439 Except Plans 29668 and 30666 in accordance with Section 57 (2)(a) of the *Community Charter*, and once notice has been given to the owner the matter will be placed on the September 20, 2018 CSRD Board Agenda for consideration by the CSRD Board of Directors in accordance with Section 57 (2)(b) of the *Community Charter*.

LIST NAME OF REPORT(S) / DOCUMENT(S):

Location Map	Attached to Memorandum: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
Section 57 of the <i>Community Charter</i>	Attached to Memorandum: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
Photographs of the site dated	Attached to Memorandum: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>

REVIEWED BY:	Date Signed Off (MO/DD/YR)	Approval Signature of Reviewing Manager or Team Leader
Corporate Administration Services	8/28/2018	
Deputy Manager of Corporate Administration	08 28 2018	
Team Leader, Building & Bylaw Services	08 21 2018	

Location Map

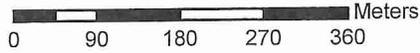
Aug 16, 2018



This map is for reference only. Not to be used for navigation. The data in this map is compiled from numerous sources and may not be complete or accurate. No warranty, expressed or implied, is made as to the accuracy of this information.

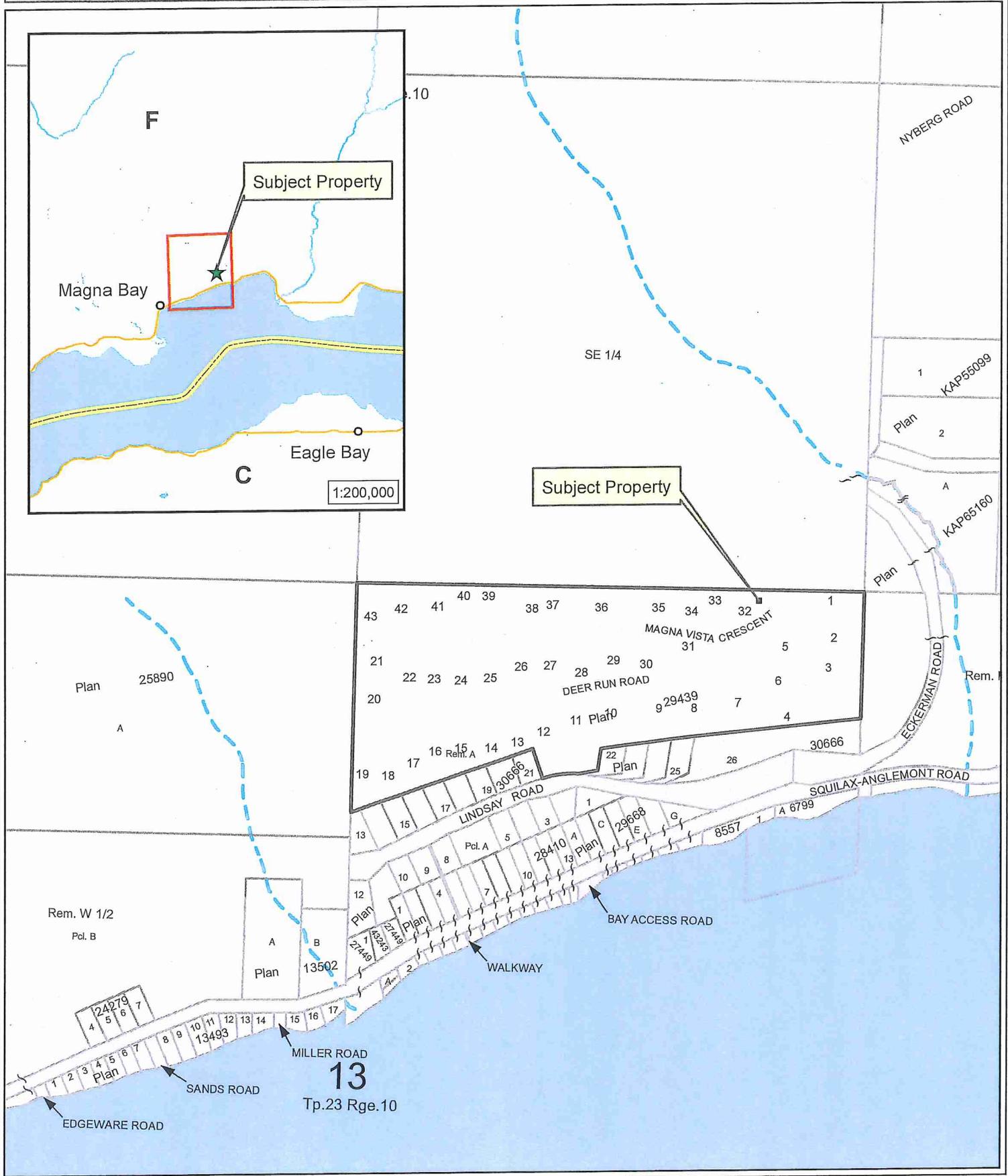
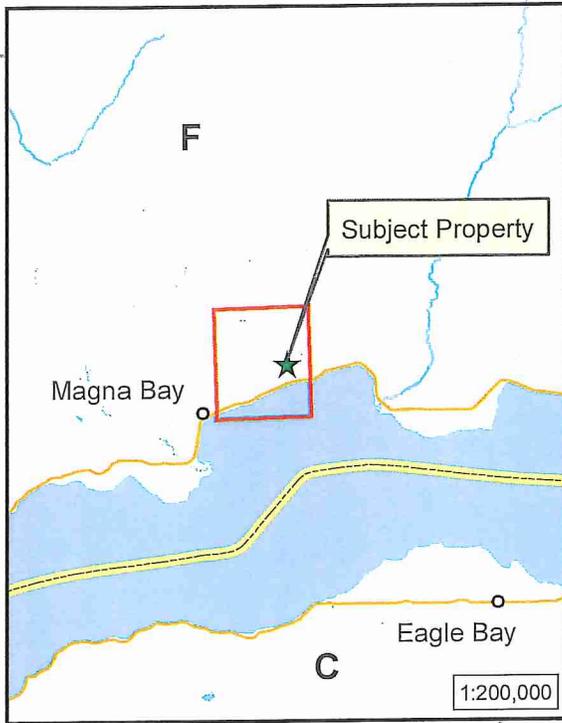


Scale: 1:8,000



Map Notes

Klaus Lange
6593 Magna Vista Cres
Magna Bay





(4) A building inspector may issue a building permit in accordance with subsection (5) if a qualified professional certifies that the land may be used safely for the use intended if the land is used in accordance with the conditions specified in the professional's report.

(5) A building permit under subsection (4) may only be issued on the following conditions:

- (a) the owner of the land covenants with the municipality to use the land only in the manner certified by the qualified professional as enabling the safe use of the land for the use intended;
- (b) the covenant contains conditions respecting reimbursement by the owner for any expenses that may be incurred by the municipality as a result of a breach of a covenant under paragraph (a);
- (c) the covenant is registered under section 219 of the *Land Title Act*.

(6) If a building inspector is authorized to issue a building permit under subsection (4) but refuses to do so, the council may, on application of the owner, direct the building inspector to issue the building permit subject to the requirements of subsection (5).

2003-26-56; 2003-52-537

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

that relates to the construction or safety of buildings or other structures, and

(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) (i), 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 the 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 relating to that land has been made under this section, and
- (b) further information about it may be inspected at the municipal hall.

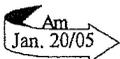
(4) The corporate officer must ensure that all records are available for the purpose of subsection (3) (b).

(5) If the registrar of land titles receives a notice under subsection (3) and payment of the prescribed fee, the registrar must make a note of the filing against the title to the land that is affected by the notice.

(6) The note of a filing of a notice under this section is extinguished when a new title to the land is issued as a result of the deposit of a plan of subdivision or a strata plan.

(7) In the event of any omission, mistake or misfeasance by the registrar or an employee of the registrar in relation to the making of a note of the filing under subsection (5), or a cancellation under section 58, after the notice is received by the land title office,

- (a) the registrar is not liable and neither the Provincial government nor the Land Title and Survey Authority of British Columbia is liable vicariously,



Add
Jan. 20/05

Am
Jan. 20/05

- (a.1) the assurance fund or the Land Title and Survey Authority of British Columbia as a nominal defendant is not liable under Part 19.1 of the *Land Title Act*, and
- (b) the assurance fund or the minister charged with the administration of the *Land Title Act* as a nominal defendant is not liable under Part 20 of the *Land Title Act*.

(8) Neither the building inspector nor the municipality is liable for damage of any kind for the doing of anything, or the failure to do anything, under this section or section 58 that would have, but for this subsection, constituted a breach of duty to any person.

(9) The authority under this section is in addition to any other action that a building inspector is authorized to take in respect of a matter referred to in subsection (1).

2003-26-57, 2004-66-49

Cancellation of note against land title

58. (1) On receiving a report from a building inspector that the condition that gave rise to the filing of the notice under section 57 (3) has been rectified, the corporate officer must file a cancellation notice and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.

(2) An owner of land with respect to which a notice has been filed under section 57 (3), may apply to the council for a resolution that the note be cancelled.

(3) After hearing an applicant under subsection (2), the council may pass a resolution directing the corporate officer to file a cancellation notice.

(4) If a resolution has been passed under subsection (3), the corporate officer must file a cancellation notice in the land title office and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.

(5) If the council does not pass a resolution under subsection (3), the owner may apply to the Supreme Court and notify the municipality to attend before the court to show cause why the note should not be cancelled.

(6) On an application under subsection (5), after reviewing any evidence that the owner and the municipality may adduce, the court may make an order directing the registrar to cancel the note made under section 57 (5) and, on receiving the order, the registrar of land titles must cancel the note accordingly.

2003-26-58

Division 9 – Business Regulation

Powers to require and prohibit

59. (1) A council may, by bylaw, do one or more of the following:

- (a) require operators of premises in which rooms or suites are let for living purposes to maintain, in accordance with the bylaw, a register of persons living there;
 - (b) in relation to persons engaged in the business activity of purchasing, taking in barter or receiving used or second hand goods,
 - (i) require such persons, after purchasing, taking in or receiving used or second hand goods, to notify the chief constable who has jurisdiction in the municipality within the time period established by the bylaw, and
 - (ii) prohibit such persons from altering the form of, selling, exchanging or otherwise disposing of those goods during the time period established by the bylaw;
 - (c) require manufacturers and processors to dispose of the waste from their plants in the manner directed by the bylaw;
 - (d) prohibit the operation of a public show, exhibition, carnival or performance of any kind or in any particular location;
 - (e) prohibit the operation of places of amusement to which the public has access, including halls and other buildings where public events are held;
 - (f) prohibit professional boxing, professional wrestling and other professional athletic contests.
- (2) Before adopting a bylaw under subsection (1) or section 8 (6) [*business regulation*], a council must
- (a) give notice of its intention in accordance with subsection (3), and
 - (b) provide an opportunity for persons who consider they are affected by the bylaw to make representations to council.