



# BOARD REPORT

**TO:**

Chair and Directors

**File No:** 4070 00 81  
CE201600127

**SUBJECT:**

Electoral Area E: Community Charter Section 57 Notice

**DESCRIPTION:**

Report from Charles Hamilton, Chief Administrative Officer, dated September 11, 2018  
673 Swanbeach Road, Swansea Point

**RECOMMENDATION:**

THAT: the Board authorize the Corporate Officer to file a notice in the Land Title Office against the property legally described as Lot 1, Section 11, Township, 21, Range 8, W6M, KDYD, Plan 11368, 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, the registered owner of the subject property has 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.

**VOTING:**

Unweighted  
Corporate



LGA Part 14  
(Unweighted)



Weighted  
Corporate



Stakeholder  
(Weighted)

**BACKGROUND:**

This property is the subject of a bylaw enforcement file regarding non-compliance with CSR D Bylaws: Lakes Zoning Bylaw No. 900 and Rural Sicamous Land Use Bylaw No. 2000.

In 2016, the property owner installed a new fixed dock contrary to Lakes Zoning Bylaw No. 900. Further, it appears the dock may also be oversized and sited within the setback area adjacent to a CSRD park. Also in 2016, the property owner installed multiple additions to the lake side and the interior side of the single family dwelling, and extended the retaining walls at shoreline, without the required approvals. Further, house construction was finished within an area subject to flooding and the Riparian Area Regulation, all completed without the required approvals.

Staff sent letters dated July 8, 2016 and September 20, 2016 to the property owner identifying the bylaw infractions and requesting a survey to confirm the extent of new works and required applications. A Demand for Compliance legal letter from Lidstone and Company was also delivered to the property owner November 24, 2016.

In February 2017, the property owner submitted an incomplete rezoning application for the dock including an incomplete site plan for the dock.

The letters and correspondence with the property owner have not resulted in the property owner submitting the required survey or complete applications for the dock or upland works or additions to the dwelling. As a result, on December 1, 2017, the CSRD Board authorized CSRD Bylaw Enforcement staff to pursue all options to bring this property into compliance, including a court injunction, if necessary.

On June 15, 2018, during a site visit to the subject property, the CSRD Building Inspector identified BC Building Code contraventions that could make the structure unsafe or unusable for its intended purpose over its life expectancy.

A notice that this matter will be placed before the CSRD Board for its consideration on September 20, 2018 was sent to the property owner on August 29, 2018. The notice included a copy of the CSRD Building Inspector's report dated August 28, 2018. See attached "BI\_Memo\_2018-08-28\_NOT40700081.pdf".

## **POLICY:**

### **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:**

At present, staff time and legal consultation for this file exceeds \$10,000. If the Board declines to recommend that the notice be registered against the title of the subject property, the Board may wish to direct staff to pursue legal action with a court injunction, which can vary from an additional \$10,000 - \$30,000 depending upon the complexity of the file, and response received from the property owner.

If the property owner addressed the outstanding non-compliance issues 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 of the subject property, both in verbal and written communications, including two Demand for Compliance legal letters, to provide the required information that may allow issuance of the necessary approvals. 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 approvals, placing a notice on Title Section 57 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 LTO against the property legally described as Lot 1 Section 11 Township 21 Range 8 W6M Kamloops Division Yale District Plan 11368, as per Section 57(3) of the Community Charter, the notice will be sent to the registrar of land title for filing against the title of the subject property.

**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. December 1, 2017, CSRD In-Camera Certified Board Resolution; *To Pursue all Options for Compliance;*
2. November 15, 2017, CSRD In-Camera Board Report; *Board Direction Required,*
3. November 24, 2016, *Demand for Compliance* letter, Lidstone & Company;  
*Breach of CSRD Bylaws;*
4. September 20, 2016 CSRD letter; *Expansion of the Single Family Dwelling;*
5. July 4, 2016, CSRD letter; *Dock Expansion.*

**Report Approval Details**

Document Title:	2018-09-20-Board_CA_NOT40700081_Lux.docx
Attachments:	- BI_Memo_2018-08-28_NOT40700081.pdf - Map_NOT40700081.pdf
Final Approval Date:	Sep 13, 2018

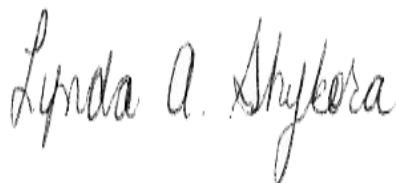
This report and all of its attachments were approved and signed as outlined below:



**Marty Herbert - Sep 12, 2018 - 3:06 PM**



**Gerald Christie - Sep 12, 2018 - 3:14 PM**



**Lynda Shykora - Sep 13, 2018 - 9:16 AM**

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

**Charles Hamilton - Sep 13, 2018 - 9:17 AM**