



# BOARD REPORT

**TO:****Chair and Directors**

<b>File No:</b>	3880 12 69 PR20160000008
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**SUBJECT:**

Electoral Area F: Section 57 Notice on Title (Jeremy Wagar)

**DESCRIPTION:**

Report from Charles Hamilton, Chief Administrative Officer, dated July 31, 2017  
2943 Vickers Trail, Anglemont

**RECOMMENDATION:**

THAT: the Board authorize the Corporate Officer to file a Notice in the Land Title Office against the property legally described as Lot 30 Section 22 Township 23 Range 9 West of the 6<sup>th</sup> Meridian Kamloops Division Yale District Plan 20232, in accordance with Section 57(3) of the Community Charter;

AND THAT: further information in respect of the Notice is available for inspections at the office of the Columbia Shuswap Regional District.

**SHORT SUMMARY:**

The subject property is in contravention of the Columbia Shuswap Regional District Building Regulation Bylaw No. 630 (Bylaw No. 630), as amended. The property owner has failed to obtain the reports and permits required in order to comply with Bylaw No. 630, and Electoral Area 'F' Official Community Plan Bylaw No. 830 (Bylaw No. 830). Placing a Section 57 Notice on Title will alert subsequent owners of the property of the outstanding building regulation and OCP non-compliance.

<b>VOTING:</b>	Unweighted Corporate	<input checked="" type="checkbox"/>	LGA Part 14 (Unweighted)	<input type="checkbox"/>	Weighted Corporate	<input type="checkbox"/>	Stakeholder (Weighted)	<input type="checkbox"/>
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**BACKGROUND:**

On October 15, 2015, the Building Inspector became aware that the owner of the property had commenced construction, in the absence of the necessary permits. Despite correspondence and meetings with staff of the CSRD including the Building Inspector, the owner has failed to obtain the reports and permits required in order to comply with Bylaw No. 630, and Electoral Area F Official Community Plan Bylaw No. 830 (Bylaw No. 830). Therefore the Building Inspector has recommended to me that a Section 57 Notice on Title be authorized to be filed on the subject property.

The following is a chronology of events related to the subject property prepared by the Building Inspector:

August 1, 2013	Mr. Wagar purchased the property in a somewhat developed state consisting of an existing 16x20 structure and a driveway.
August 6, 2015	There had been some landscaping and maintenance to the property. I took pictures of the site.
October 15, 2015	I noticed more activity and a second floor was being added to the structure. There was not a building permit or development permit application submitted for this property. I made more attempts to make

	contact with the owner but the property was vacant each time.
January 26, 2016	When my schedule permitted, I posted a notice at the property for the owner/occupant to contact me.
February 3, 2016	A letter was sent to Mr. Wagar by mail. I Received a phone call from Mr. Wagar about the same time in response to the posted notice. We made arrangements for a site inspection.
February 11 , 2016	I met Mr. Wagar on site, reviewed what work he had completed and what the Building Bylaw permitted. I reminded Mr. Wagar of CSRD Building Bylaw No. 630, CSRD Anglemont Zoning Bylaw No. 650 and CSRD Area F Official Community Plan requirements. I took more pictures of the site. Mr. Wagar completed a Building Permit Application at this site meeting.
February 19, 2016	I sent Mr. Wagar an email explaining what was required for the Building Permit and made him aware of the fact that the size of his current structure was too small and did not comply with the Anglemont Zoning Bylaw 650.
March 1, 2016	I met Mr. Wagar on site and hand delivered a Stop Work Notice. I took more photos of the new metal roof installed since the last site inspection.
March 3, 2016	Mr. Wagar responded to my email of February 19, 2016 explaining the reasons he had moved forward with the structure installing the metal roof.
July 15, 2016	<p>Mr. Wagar, Kelly (Co-habitant), CSRD Planning Assistant and myself met at the CSRD office. It was explained to them what was required to bring the work that had been done into compliance in accordance with CSRD Building Bylaw No. 630, CSRD Anglemont Zoning Bylaw No. 650 and CSRD Area F Official Community Plan.</p> <p>In addition to the outstanding Building Bylaw issues, the size and siting of the structures were in question. As well, the issuance of a Steep Slopes Development Permit would be required.</p> <p>Around this time Mr. Wagar no longer had email so contact was by phone or text.</p>
July 17, 2016	<p>Mr. Wagar texted me that he wanted to try for a variance to address the non-compliant size of the structure. I informed him that he was to contact the Planning Assistant who would guide him through the process.</p> <p>There was no contact made.</p>
March 7, 2017	On a drive by, I noticed a new structure on the property that would also require a Building Permit.
March 8, 2017	<p>I called Mr. Wagar to inform him that I was starting the process of having a notice put on the title because of no Building Permit.</p> <p>A number of texts back and forth after this.</p>

**POLICY:****Building Regulation Bylaw No. 630:**

Section 2 Definitions, of the CSRD Building Regulation Bylaw No. 630 contains the following definition:

"Construct" includes to add, alter, demolish, enlarge, erect, excavate, install, move, reconstruct, relocate, remove, or repair.

Section 6.2 of Bylaw No. 630 states that Building and Plumbing Permits are required to be obtained for all construction relating to any demolition, excavation, construction, alterations, repair or changes in the use of occupancy of a building or part thereof, plumbing installations or alterations affecting the venting or sewerage system, installation of any solid fueled appliance or chimney, the relocation of any building, the installation of any factory built or manufactured building, and any other building regulated under this Bylaw.

Additionally, Section 6.5 of Bylaw No. 630, Withholding Permits, states:

- .1 The Building Inspector will withhold a Permit where:
  - (a) The proposed work as set out in the application does not comply with the Building Code, this Bylaw and any other bylaws or enactments;
  - (b) In the opinion of the Building Inspector, the application is incomplete or lacks sufficient detail to determine compliance with the Building Code, this Bylaw or any other bylaws or enactments;
  - (c) The required Professional Certification has not been provided.

### **Electoral Area 'F' Official Community Plan Bylaw No. 830**

Electoral Area 'F' Official Community Plan Bylaw No. 830 establishes Development Permit Areas, and sets out guidelines for issuance of such permits. Section 13.1.2 of Bylaw No. 830 requires that prior to the placement or construction of any structure on the property a Steep Slope DP be issued by the CSRD. Section 13.1.2 (a) of Bylaw No. 830 states:

"Note: The CSRD requires a slope assessment of slope conditions as a condition of DP issuance."

The CSRD Development Approval Information Bylaw No. 644 states:

"8. To the extent that the proposed activity or development can reasonably be expected to have an appreciable impact on any of the following matters, the Manager may require information specific to:

- (c) The natural environment of the area affected such as adjacent aquatic areas, vegetation, soils and erosion, geotechnical characteristics and stability, topographic features, ecosystems and biological diversity, fish and wildlife, fish and wildlife habitat, areas of environmental sensitivity, and any rare or endangered plant or animal species."

The Steep Slope DP is to protect against the injury or the loss of life and to minimize property damage associated with ground instability and/or slope failure, CSRD staff require additional information, specifically a detailed site assessment by a BC Professional Engineer with experience in geotechnical engineering. After phone calls, site inspections and a meeting at the CSRD offices, the owner has failed to move forward with the requirements of the Building Permit or the Steep Slope DP.

### **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:**

The recommendation to place a Section 57 notice on title of the subject property is the result of a Stop Work Order. Costs incurred to date include visits to the site to monitor any construction activity. Additional costs include registration of the notice on title. If the property owner addressed the outstanding Building Bylaw issues and the Building Inspector confirms that the Section 57 notice can be removed from title, the property owner will need to pay a \$650 fee to discharge the notice as per CSRD Development Services Application Fees Bylaw 4000 as amended.

If the Board declines to authorize the Notice to be registered against the title of the subject property, the Board may wish to direct staff to pursue legal action through prosecution under the Offence Act or by seeking a court injunction to compel the property owner to comply with CSRD bylaws.

**KEY ISSUES/CONCEPTS:**

CSRD staff have advised the owner of the subject property, via both verbal and written communication, to provide the required information that will allow issuance of the necessary Development Permit and subsequently the 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 discussions with legal counsel regarding options related to the development of a property in the absence of the required permits, staff were advised that placing a Section 57 Notice on title is a priority.

**SUMMARY:**

Based upon the information provided by the Building Inspector and his recommendation to file a Section 57 Notice on Title of the subject property, 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 30 Section 22 Township 23 Range 9 West of the 6<sup>th</sup> Meridian KDYD Plan 20232, 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.

**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.*

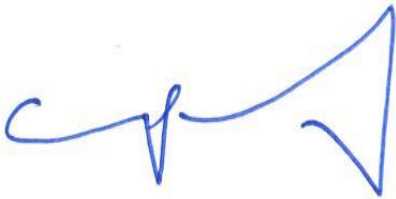
**LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:**

1. CSRD Building Regulation Bylaw No. 630
2. CSRD Electoral Area F Official Community Plan Bylaw No. 830

**Report Approval Details**

Document Title:	2017-07-20_Board_DS_s57 Wagar.docx
Attachments:	- Maps_3880 12 69.pdf - Photos_3880 12 69.pdf
Final Approval Date:	Jul 26, 2017

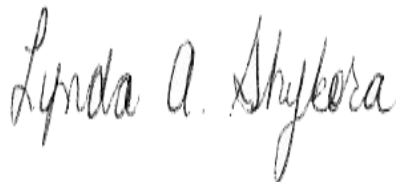
This report and all of its attachments were approved and signed as outlined below:



**Corey Paiement - Jul 26, 2017 - 11:35 AM**



**Gerald Christie - Jul 26, 2017 - 11:57 AM**



**Lynda Shykora - Jul 26, 2017 - 3:16 PM**



**Charles Hamilton - Jul 26, 2017 - 4:23 PM**