

ADMINISTRATIVE REPORT

TO: Board of Directors

FROM: J. Zaffino, Chief Administrative Officer

DATE: January 9, 2025

RE: Building Bylaw Infraction - 2844 Gammon Road (Electoral Area "E")

Administrative Recommendation:

THAT a Notice on Title, pursuant to Section 302 of the *Local Government Act* and Section 57 of the of the *Community Charter*, (made applicable to Regional Districts by Section 302 of the LGA), be filed against the title of lands described as Lot 2, Plan 44573, District Lot 207, SDYD due to certain works having been undertaken on the lands contrary to the Regional District Okanagan-Similkameen Building Bylaw No. 2805, 2018; and

THAT injunctive action be commenced against the property owners if, after Jan 23, 2025, the property is not in compliance with the Regional District of Okanagan-Similkameen Building Bylaw No. 2805, 2018.

Civic: 2844 Gannon Road Legal: Lot 2 Plan 44576 District Lot 207 Folio: E02087.121
PID: 017-076-293 OCP: Resource Area (RS3) Zone: Resource Area (RS3)

Purpose:

The purpose of this report is to seek direction from the Regional District Board regarding enforcement against the property owner(s) of 2844 Gannon Road legally described as Lot 2 Plan 44573 District Lot 207 in relation to:

1. Secondary Suite and additional kitchen in Single Family Dwelling without building permit

Statutory Requirements:

Under Section 57 of the *Community Charter*, a building inspector may recommend to a Council that it consider a resolution 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*

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- 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.*

Prior to the building inspector making such a recommendation to a Council, the Corporate Officer must give notice to the registered owner of the land to which the recommendation relates.

The Council may, after providing the building inspector and the owner an opportunity to be heard, confirm the recommendations of the building inspector and pass a resolution directing the Corporate Officer to file a notice in the land title office.

Under Section 302 of the *Local Government Act*, Section 57 of the *Community Charter* apply to a regional district and empowers the Board to take the same actions as a municipal council.

Regulatory Provisions:

Regional District of Okanagan-Similkameen Building Bylaw No. 2805, 2018 (“Building Bylaw”). The property is zoned RG3 under RDOS Zoning Bylaw 2800.

Background:

The Contravention of Building Regulations Report dated August 2, 2024 from the Building Official indicates that on November 9, 2022 he observed construction of a secondary suite with kitchen. A Stop Work Order letter was mailed to the property owners and construction was ordered to be stopped.

The following contact has been made with the property owner in an attempt to resolve this matter:

December 16, 2022 - Stop Work Letter #2 was sent to the property owners.

May 1, 2024 - a final letter was sent to the property owners.

June 17, 2024 - Additional letter was sent to outline the requirements required.

June 24, 2024 - Owners in office met with building inspector and building manager, and were instructed to apply for a decommission permit for the downstairs suite.

August 26, 2024 - Owners in office and submitted a Building Permit application to decommission the kitchen. However, it stopped at the Planning review stage because there are issues with the plans submitted and the Planning Department has not been able to contact the owners to rectify the application to move to permit stage.

October 4, 2024 – Planning department emailed owners requesting updated plans for upstairs kitchen space.

October 17, 2024 – Planning department phoned and left a message and emailed owners advising new application required to decommission kitchen.

October 24, 2024 – Planning department spoke with owners about options and then emailed owners breakdown options to formalize the secondary suite.

October 31, 2024 – Building Official emailed owners advising they need to a new application submission for adding a secondary suite.

To date, no permit has been issued.

The deficiencies are health & safety related as the home has not been inspected and a Building Permit must be issued for the work. The Building Bylaw infraction is considered to be Category 3.

Analysis:

Reasonable efforts have been made to achieve voluntary compliance with the property owner.

In July 2009 the Board adopted a Policy (Resolution B354/09) to provide for a consistent and cost effective approach to the enforcement of Building Bylaw violations. This policy provides the Board with three categories of infractions and the recommended action for each.

Category 1 (Minor Deficiencies) – Place notice of deficiencies on folio file.

Category 2 (Major Deficiencies) – Place Section 302 Notice on the property title.

Category 3 (Health & Safety Deficiencies/Building without Permit) – Place Section 302 Notice on title and seek compliance through injunctive action.

Category 3

As there are potential construction and health and safety deficiencies on this property, a Section 302 Notice on Title and injunctive action are recommended by staff. The Notice on Title advises the current and future owners of the deficiency and injunctive action will require that the deficiencies be remedied and the property be brought into compliance with RDOS bylaws.

Section 6.6 of the Board’s “Bylaw Enforcement Procedures” Policy sets out that where unlawful activity has not ceased or where compliance is not being actively pursued within the time period provided for voluntary compliance, that legal proceedings or direct enforcement action should be initiated. This step towards legal action is always at the discretion of the Board.

Injunctive action will require an application be submitted to the British Columbia Supreme Court. Seeking a court injunction has a legal cost (approximately \$10,000) which, if successful, can only partially be recovered from the property owners.

Financial Implications:

Placement of a Notice on the property title is a routine staff function.

Injunctive action will require an application be submitted to the British Columbia Supreme Court. Seeking a court injunction has a legal cost (approximately \$10,000) which, if successful, can only partially be recovered from the property owners.

Alternatives:

1. Place a Section 302 Notice on property title (Category 2)
2. Place a notice of deficiencies on the folio file (Category 1) and abandon further enforcement action
3. Do not proceed any with enforcement action.

Respectfully submitted:



Mark Petry, Manager of Building and Enforcement Services

Attachments: Parcel Map/photos [Click or tap here to enter text.](#)

2844 Gammon Road as of October 17, 2024



