

May 20, 2021

NOTICE ON TITLE INFORMATION SHEET

WHAT IS A NOTICE ON TITLE?

A Notice on Title (NOT), note against land title, or Section 57 of the Community Charter, was provided to local governments by the Province of British Columbia as a tool to administer and enforce the BC Building Code and local building bylaws. It involves the registration of a Notice on a property title at the Land Title Office, which, once in place, is documented on the title search under the “Legal Notations” section as a Bylaw Contravention.

A Notice on Title serves as notification to anyone searching a property title that the property may be in breach of bylaws or regulations. The Notice itself does not disclose details of the breach but specifies that further information may be obtained from the local government office.

WHAT IS THE PURPOSE OF A NOTICE ON TITLE?

The purpose of a Notice on Title is to provide information to potential owners and stakeholders of a breach of bylaws or regulations. It also encourages voluntary compliance to reduce risk to the local government.

The filing of a Notice with no further enforcement action is not intended to be a punitive action; rather, it is a method to protect future owners and others with an interest in the property.

WHEN CAN A NOTICE ON TITLE BE FILED?

A Notice on Title may be filed by a local government where there is a breach of bylaws or regulations in respect to a property. Specifically, a Notice on Title may be filed where a Building Inspector is made aware of any of the following:

- a) construction has occurred without a valid building permit;
- b) construction deficiencies noted have not been corrected;
- c) covering construction without required inspections;
- d) a permit has expired and the owner refuses to reapply for a new permit;
- e) construction that is in contravention of the BC Building Code or Building Bylaw; or
- f) any such circumstances where the Building Inspector may deem a Notice on Title necessary.

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HOW IS A NOTICE ON TITLE FILED?

Step 1: When the Building Inspector is made aware of a breach, a letter is mailed to the registered owner of the property advising of the breach and the required remedial action.

- a) In the event a Stop Work Notice has been posted, the owner is provided approximately fourteen (14) days to contact staff and take the necessary steps to resolve the breach.
- b) In the event of an expired permit, the owner is provided thirty (30) days to either call for a final inspection if appropriate, or renew the building permit.

Step 2:

- a) In the event of a Stop Work Notice, if no action is taken to contact staff and resolve the issue, a second NOT Warning letter is mailed to the owner advising of the breach and the required remedial action. The owner is provided approximately thirty (30) days to contact staff and take the necessary steps to resolve the breach. This timeframe may be reduced where there appears to be a serious safety concern.
- b) In the event of an expired permit, if no action is taken to contact staff and resolve the issue, the file is assigned to the Bylaw Enforcement Officer for further action. The owner is provided ninety (90) days to contact staff and call for a final inspection if appropriate, or renew the building permit.

Step 3: If no action is taken to contact staff and resolve the issue, a third NOT recommendation letter is mailed to the owner advising them that the file will go to the Board of Directors (BOD) for recommendation of a NOT.

Step 4: On the day of the BOD meeting, the agenda item summary pertaining to the NOT will be announced. The owner of the property, or their agent, will be asked if they would like to make representation to the Board. The Board shall listen objectively to the owner as well as the Building Inspector. Attendance is not required if the owner does not wish to challenge the recommendation.

Step 5: After hearing from the registered owner of the property and Building Inspector, the BOD will then resolve to:

- a) direct the staff to file a Notice with no further enforcement action in the Land Title Office;
- b) direct the staff to file a Notice with further enforcement action in the Land Title Office;
- c) direct staff not to file a Notice in the Land Title Office; or
- d) defer filing a Notice to allow the registered owner more time to comply.

HOW IS A NOTICE ON TITLE CANCELLED?

Once a Notice on Title is filed, it may be cancelled from the title of a property by way of:

- a) registering a cancellation of the charge with the Land Titles Office, after a Building Inspector has provided a report confirming that the condition which caused the Notice to be filed has been rectified, the owner has provided a written request to have the NOT removed and has paid the \$350.00 fee; or
- b) an Order obtained by the registered owner from the British Columbia Supreme Court.

WHAT IS THE COST OF PLACING OR CANCELLING THE NOTICE ON TITLE?

The Cariboo Regional District does not charge the registered owner of the property when a Notice on Title is filed at the Land Title Office. However, there is a \$350 administrative fee payable to the Cariboo Regional District by the property owner when the Notice is removed from the Title. The property owner will also be responsible for their legal costs to have a Notice removed at the Land Title Office by way of an Order from the British Columbia Supreme Court.

Properties with a Notice on Title may be sold at any time; however, the presence of the Notice may negatively affect a property's potential sale, perceived property value, access to a mortgage, and/or (re)financing. If a Notice is registered or is recommended to be registered upon the title of a property, the owner should be advised to undertake inquiries with their lenders, insurance companies, and any other relevant parties to determine the impacts.

WHAT BUILDING CODE IS IN EFFECT FOR PROJECTS AFFECTED BY NOTs

All construction is to be compliant with the version or edition of the Building Code that was in effect at the time of original permit issuance.

If you have any questions or concerns as to the nature and effect of Notices on Title, please refer to the actual text of Sections 57 and 58 of the *Community Charter* and seek your own independent legal advice.

EXCERPTS FROM 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

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- (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 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,
 - (a1) 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).

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.