

# Best Practice Review of Building Regulation Enforcement

2024 BOABC Education Conference

Ken Kunka, BCQ

River Rock Resort, Richmond

May 27, 2024





# Disclaimer

Information presented today does not directly represent the Building Officials Association of BC.

This presentation is conceptual and for informal educational and discussion purposes only. The presenter and association takes no responsibility for application of any concepts or interpretations in this presentation to specific projects.

Today's session must not be considered complete or exhaustive. Code provisions have been generally represented and may not reflect all conditions and regulations.



**2024**

**The Year of  
Change!**

# Session Focus



Today's session will focus on Building Regulation Compliance and lessons learned over my 30 years as a Building Official and Manager

To create a collaborative and open question and answer format. **I will be asking a lot of questions, and this is an initial run-through.**

Please raise your hand if you have a question or comment throughout the session. The session is not recorded.

Please follow up by email if you have specific question, require assistance or have examples to share with the BOABC (forum) or [ken.flywheel@gmail.com](mailto:ken.flywheel@gmail.com)



# Learning Objectives

Session Participants will come away with a better understanding on how:

- Enforcement – Our Authority & Responsibilities
- Compliance Begins with Education
- Updating/creating Bylaws and Policies reduces escalating enforcement and errors,
- Proper file management, communication and evidence collection is key to creating a successful case file,
- Fair Service is more beneficial than Customer Service

## Out of Scope

- Claims
- Risk Management
  - Tracey Lorenson
    - Civic Excellence
  - Monday – Fraser Rm
- Managing Geotechnical Risks
  - Peter Johnson – SMS
  - Tuesday – Fraser Rm
- Building Bylaws and Policy
  - David Tupper – MIABC
  - Wednesday – Fraser Rm



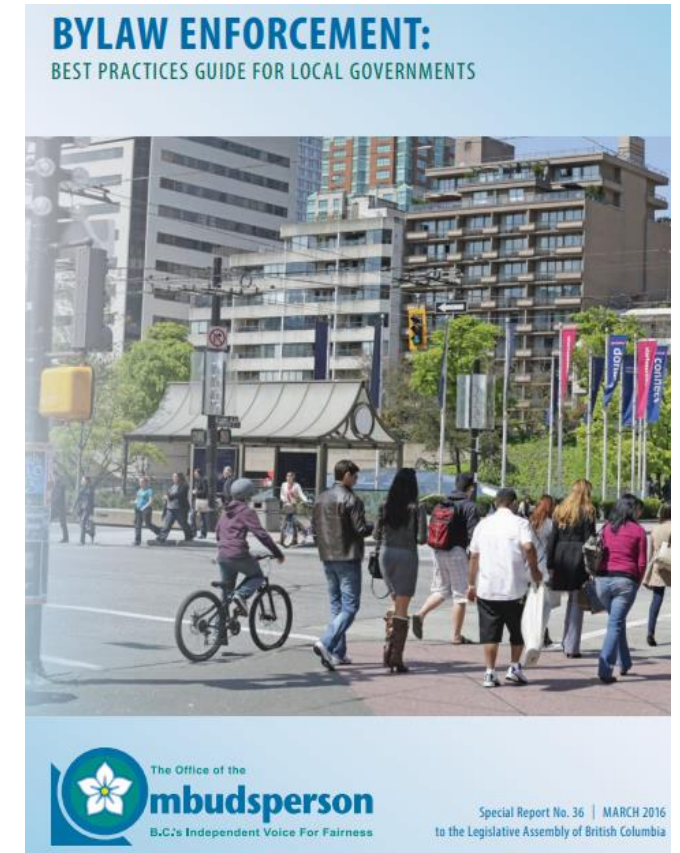
# The Lunch and Learn guy - Ken

- Honors graduate in Architectural Design Technology
- 30<sup>th</sup> year a Building Official – Level 03 - Building Code Qualified (BCQ)
- 13yrs & 2mnths as Building and Permitting Manager – City of Penticton
- Former VP of Education & Treasurer - Building Officials Association of BC (BOABC)
  - Education volunteer and consultant
- 5 Bldg Code cycles – Numerous Bylaws - Jurisdictions – Councils – City Managers
- Father, Husband, Designer, Consultant and Code Coach
- Learning Leader – failing forward - constant improvement and sharing of ideas
- Collaborator, Innovator and Networker



# Information Sources

- **Personal experience in the trenches**
  - Building Official 30 years – 13 Yrs Manager
    - Penticton (unique city)
  - Legal Consultants – Bylaws, Notice on Title, Remedial
  - COP Risk Management Policy & Committee
  - COP Building Compliancy Council Policy
- **BOABC –Introduction to the Building Regulatory System in British Columbia**
- **MIABC Guide to Building Inspections**
  - Municipal Liability for Negligent Building Inspections
- **Ombudsperson's Office – Bylaw Enforcement (2016)**
- **BC Provincial Website**
  - [Local government bylaw enforcement - Province of British Columbia](#)



# Me – March 2024

## Can we reduce Regulation Enforcement?



Blade Runner 1986 - Media Tumbler



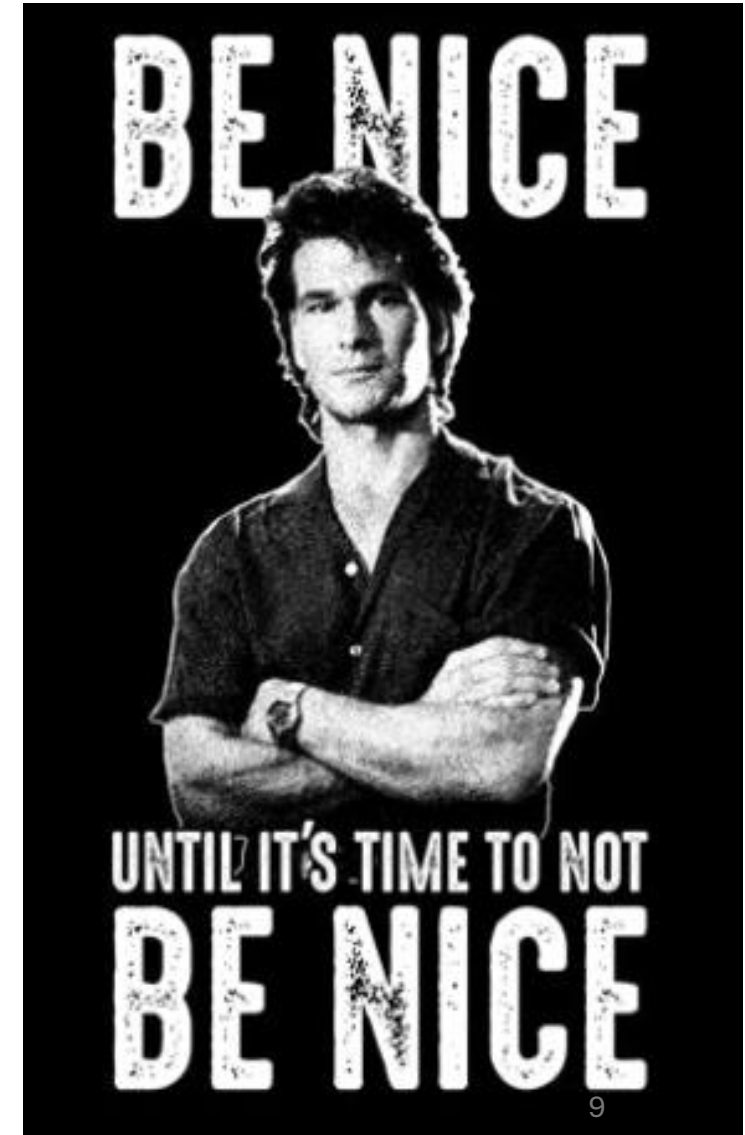
# Words to live by...mine anyway

The single biggest problem in communication is the illusion that it has taken place.

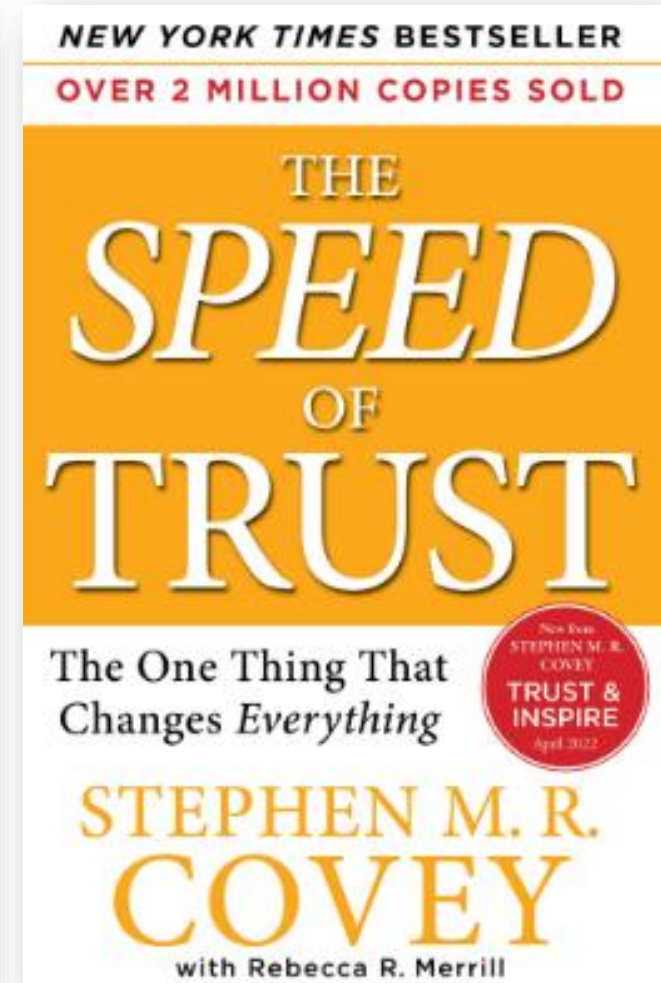
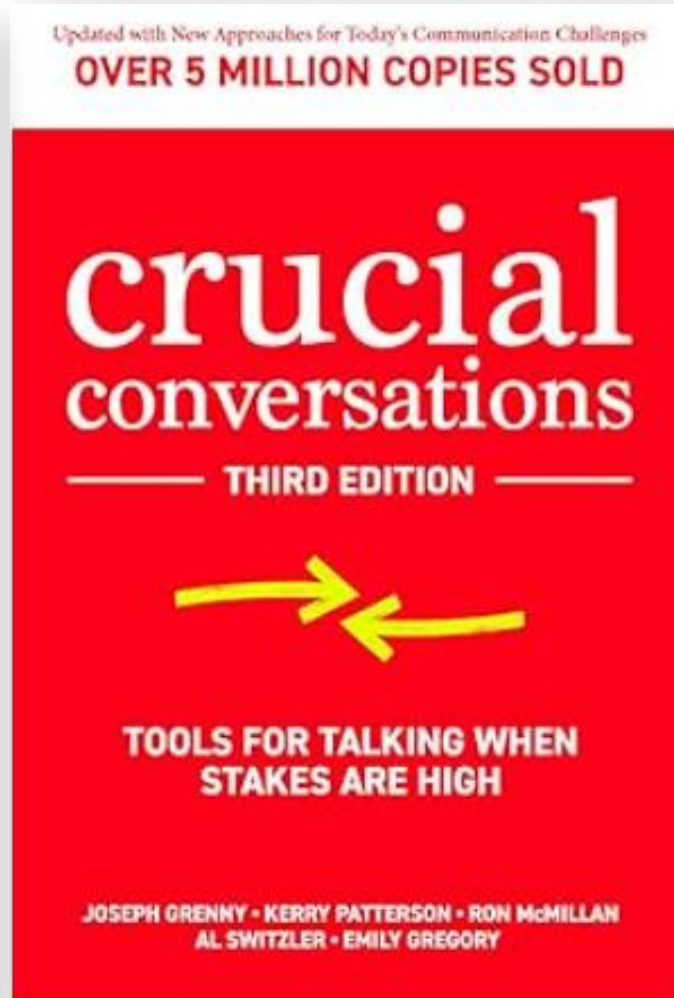
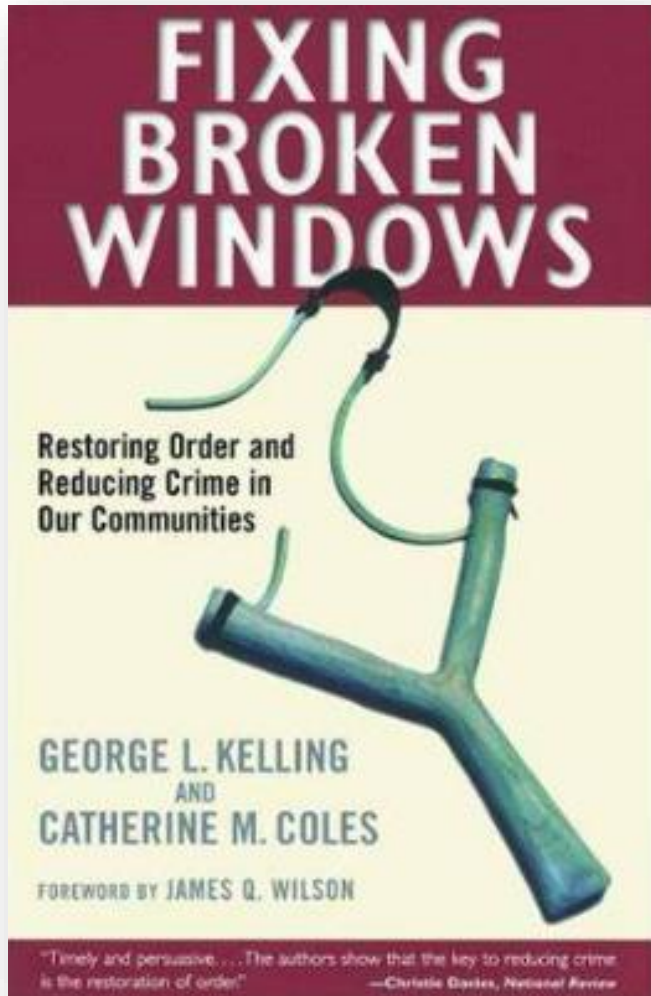
George Bernard Shaw

Anyone that you meet could be having a worse day than you !

Be Kind = Be Useful



# Good Reads

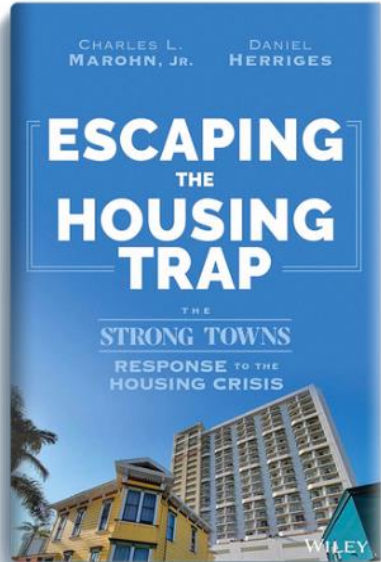


# Good Read



Something needs to change in the housing development industry.

**Housing is an investment. Investment prices must go up. Housing is shelter. When the price of shelter goes up, people experience distress.**



**In *Escaping the Housing Trap*, Charles Marohn and Daniel Herriges discuss the key insight that's been missing from the housing crisis conversation; that which can help cities fight back against the crisis from the bottom-up.**

- Discuss housing as an investment and how the country's neighborhoods are being transformed by the introduction of large amounts of investment.
- Explore housing as shelter, including discussions of zoning policy and NIMBYism.
- Learn the Strong Towns approach to solving the American housing crisis.

[LEARN MORE](#)

What do I believe is impossible to do in my field, but if it could be done would fundamentally change my business or the industry.

# Who's in the Room

- **Certification Level**

- Level 01, Level 02, Level 03
- BOIT?

- **Type of Jurisdiction**

- Rural – Regional District
- First Nations – UBC
- Small municipality (under 10,000)
- Medium ( 10 – 50,000)
- Large (+50,000)

- **Role**

- Plans Examiner
- Building/Plumbing Inspector (field)
- Combo
- Clerical
- Bylaw Officer
- Other

- **Supervisors - Leads**

- Non-Exempt – Chief B/O
- Exempt – Manager
- Other?

- **In your LG - Who is mostly responsible for construction related enforcement?**

- Building Official
- Supervisor/Manager –Exempt
- Bylaw Enforcement
  - Property Use – Licensing Inspector
    - Do they give Code advice?

# Have you ever (Levels of Enforcement)



- Refused to accept a permit application
- Not issued a Building Permit
- Failed an inspection
- Stop Worked - active project
- Stop Worked - unpermitted works
- Posted a No Occupancy
- Issued a Ticket – Bylaw Offence Notice or MTI
- Issued a Demand Letter
- Engaged a Cease-and-Desist (Injunction) order – works continuing after Stop Work or prior to issuance of a permit
- Placed a Notice on Tax Certificate
- Recommended a Section 57
- Recommended Remedial Action – Nuisance or Hazardous condition
- Had a building/structure removed
- Supreme Court of BC

Do Building Officials have the authority to evict occupants for potentially unsafe condition – non permit related – like a run-down rental?

- What Authority?

# Questions?



# Tips for a Successful Enforcement Program



1. Why are you doing this?
2. Who is the customer and what type of service should be offered?
3. Do you have support (really)– Why not?
4. Up to date Bylaws and Companion (Council/Board) Policies
5. Training & Support for Staff (and your supervisor)
6. Good Records Management, Systems and Evidence Collection
7. Education – Public, Building Industry, Internal stakeholders

Case File review



# 1. Why are you doing this?

Why do I do this?

Ideas

\*

Design

\*

Physical product

**How can I(we) help make it better!**



Simon Sinek – Start with Why

[Simon Sinek: Starting with WHY \(youtube.com\)](https://www.youtube.com/watch?v=KJf58101888)

# Why is this important?

## 2 girls die in Long Beach garage fire

*By From staff reports*

POSTED: 12/14/07, 12:01 AM PST

0 COMMENTS

Two little girls were killed and another was critically injured Friday morning when flames engulfed a Long Beach garage converted into a family apartment.

# To Serve and Protect

## \$1.5M in fines given to illegal short-term rentals in Quebec



“Regulators all across the country are looking at what’s happening in Quebec,” said executive director of Fairbnb Canada Network Thorben Wieditz about the illegal short-term rental crackdown in the province. Brittany Henriques reports.



## 2. Who is the Customer & Service Expectations

### Who is a customer in our profession?

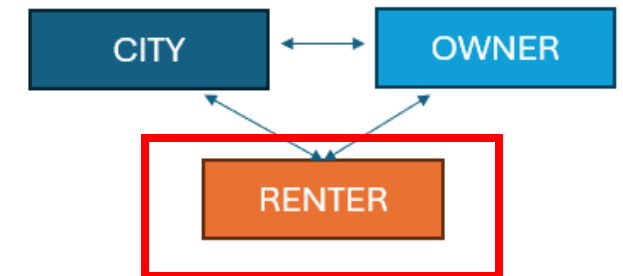
Every person (occupant) who lives, visits or does business in a building – including emergency responders – for the life of that building/structure.

### Who are the most vulnerable – exposed to Risks?

Example – illegal commercial alteration or illegal Suite/ADU – owner not on site.

- The person living or working in that building.

### Is the customer always, right?



Who's is most unaware and exposed to the most Risk?

# Customer Service?

The primary customer is the general public and all those who may be injured as a result of a deficiency in construction. Ensuring safety of the public is paramount to the expedient interests of the contractors and project owners.

## MIABC Guide to Building Inspection Liability in BC

A developer or a builder is a transitory owner in the property or building. In most cases the property is sold prior to final occupancy – so should we provide **customer service or fair service?**



We don't sell permits.

# FAIR SERVICE

Fairness in public service delivery has several key features. It includes allowing people to be heard in processes that affect them, ensuring decisions are made without bias, and following the rules that apply.

Fairness is also about providing clear and meaningful reasons for decisions so the person affected can understand what process your organization followed and how it came to the decision it did.

Fairness can also be provided by having update bylaws, systems & procedures to offer consistency and transparency.

[OMB-FairnessInPractice-ForWEB-Feb18-5.pdf \(bcombudsperson.ca\)](#)



# FAIR PROCESS

## Fair Process: How was the decision made?

A fair process, also known as procedural fairness, refers to the process that public bodies follow to make decisions that affect a person, group of people or organization. It includes the steps a public sector employee takes before, during and after making a decision.

### A fair process requires:

**An impartial decision maker**

**Reasonable notice that a decision is going to be made**

**Clear information about the decision-making criteria**

**An opportunity for the person affected to be heard and have their views considered**

**A timely decision**

**Clear and meaningful reasons for decisions**

**Information about any available review or appeal processes**

# Compliance Path

The Initial Enforcement Letter

Different approaches?

- Homeowner
- Builder, trades, property owner

Compliance Letter – 3 parts

- The issue
- The solution – compliance path
- The consequence



# Letters and Reports

## Enforcement Letters

- Can be templated by the type of Offence.
- Homeowner - 3 step process of escalating tone, with the third issuing a ticket or moving to report.
- Builder/Trades – likely jump to ticket being issued.

## Reports

- Should be templated and outline the issue, background (the story).

### Homeowner Letter sequence

- **Illegal Construction**
  - **Expired Permits**
1. Issue, Compliance options, Consequence.
    - Don't get to technical
    - Set a time limit
    - Follow up by staff
  2. Reminder – No action to date
    - Site review
    - Stronger language/tone
    - Compliance path reminder
    - May include a ticket or stronger warning of escalating enf.
  3. Consequence Letter – failure to meet time limits.
    - Ticket issued and why
    - Moving to higher enforcementThere should be no doubt of issues and final consequence.



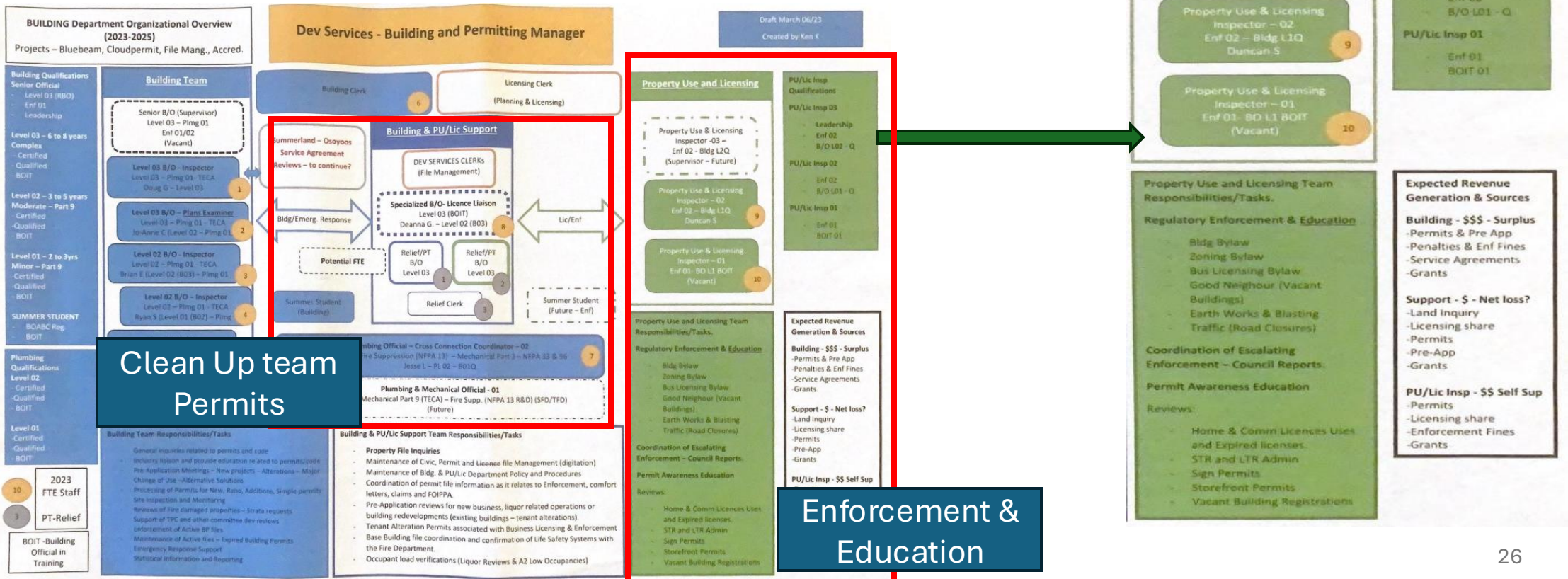
# Compliance Letter - Owner

**The initial engagement with and owner(s)** should be kept on a professional level and not get too technical. In most cases they may have inherited an issue (expired permit or illegal suite) – providing solutions options is helpful but always be wary of being “too helpful” – as this will drag the file out and may put you in the position as consultant rather than regulator.

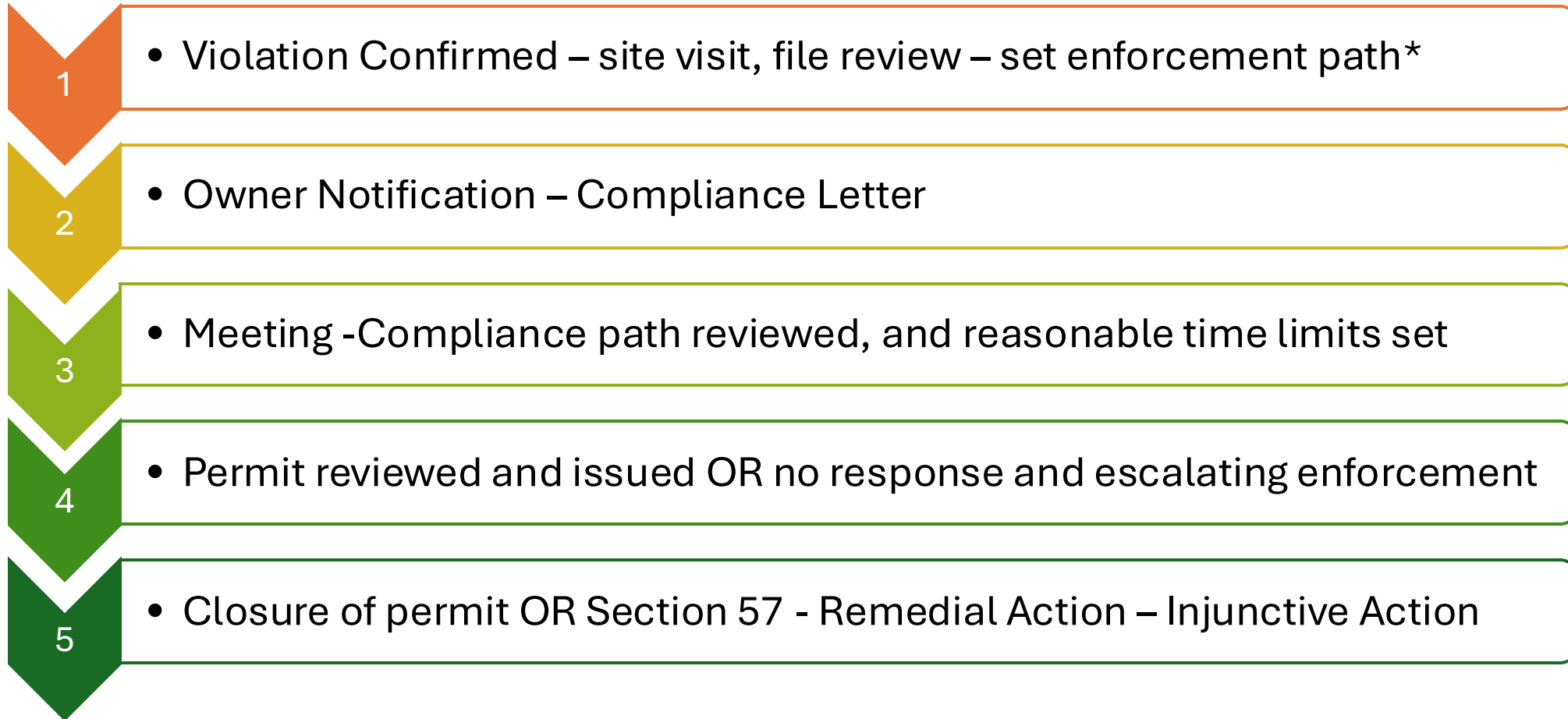
- Main point of the initial letter to address the issue and establish a next step and compliance path.
- Avoid issuing a ticket right away unless there is some history
- I recommend not to tell an owner (illegal works) to come in for permit and then provide then application information.
- Setting an initial compliance meeting –in person or zoom, will help get everyone on the same page, particularly if handing the file to another member of the team – Bylaw Enf to Plan examiners or inspector

# Building Team Structure

- Do Building Officials have time to enforce?
- Handing the file over for consistency
- Specialized Team



# Five Steps towards Compliance



# \*Compliance involving life safety

Illegal suites and ADU's pose an issue when occupied.

In most cases the renter is stuck in the middle and no where to go, which is a hot topic.

Can some time be permitted to confirm a final compliance path decommission suite/ADU with permit or legalize. Fair Approach

Allowance for an interim life safety stage (14-30 days)

- Egress, smoke alarms, guards/handrails, etc
- Elect, plumbing, gas
- Some communities that have Elec/Gas services can lock out unsafe situations

If your community discovers an illegal suite – is a Notice on Title pursued?

Even if decommissioned, works have taken place without permits to renovate that space.

Did you know that a landlord has no responsibility to find/pay for accommodation of a renter if a no occupancy is issued.

# FAIR DECISION

## Fair Decision: What was decided?

A fair decision, which is also known as substantive fairness, refers to the decision itself and includes following the relevant rules to reach a fair outcome for the person affected.

### Fair decisions are:

Made with appropriate legal authority

Made in accordance with applicable rules, laws and policies

Based on relevant information


Considerate of the individual needs and circumstances of the person affected

Based on rules that are fair (not unjust, improperly discriminatory or unreasonably burdensome)

# FAIR DECISION

## ADJUDICATION

- Provides accountability to staff to follow process.
  - Screening Officer
- Removes third party interference
  - Disputes reviewed by Screening Officer and Adjudicator.
- Allows some flexibility for Compliance.
  - Compliance Agreement when multiple BONs (tickets) are issued.



penticton.ca

**The Corporation of the City of Penticton**

**Bylaw Notice Enforcement Bylaw**

**No. 2012-5037**

Consolidated for convenience only

<b>Amended by:</b>	<b>On:</b>		
Bylaw No. 2013-5037.01	March 2013	Bylaw No. 2018-73	October 30, 2018
Bylaw No. 2013-31	September 2013	Bylaw No. 2019-18	June 4, 2019
Bylaw No. 2013-41	November 2013	Bylaw No. 2019-21	June 4, 2019
Bylaw No. 2014-05	February 3, 2014	Bylaw No. 2020-24	June 2, 2020
Bylaw No. 2014-18	May 5, 2014	Bylaw No. 2020-30	September 1, 2020
Bylaw No. 2015-29	June 15, 2015	Bylaw No. 2020-39	October 6, 2020
Bylaw No. 2016-08	March 21, 2016	Bylaw No. 2021-22	June 15, 2021
Bylaw No. 2016-40	August 2, 2016	Bylaw No. 2022-02	February 1, 2022
Bylaw No. 2017-17	April 4, 2017	Bylaw No. 2022-16	November 15, 2022
Bylaw No. 2017-28	May 2, 2017	Bylaw No. 2023-45	December 14, 2023
Bylaw No. 2018-33	June 19, 2018		
Bylaw No. 2018-43	June 19, 2018		
Bylaw No. 2018-52	August 7, 2018		

*This is a consolidated bylaw prepared by the Corporation of the City of Penticton for convenience only. The city does not warrant that the information contained in this consolidation is current. It is the responsibility of the person using this consolidation to ensure that it accurately reflects current bylaw provisions.*

# FAIR DECISION

## Bylaw Offence Notices

- Must related to the appropriate Building Bylaw section.

A BON can be issued every day there is an offence – but likely best to issue once a week for non-action

There is a limit on the Fine of \$500 including late penalty

An MTI may be a more appropriate – wake up tool for more serious offences that will escalate and more life safety centric – illegal suites

### APPENDIX 1

#### BUILDING BYLAW NO. 2021-21

Description of Offence	Bylaw Section	Column A1 Fine	Column A2 Early Payment Penalty	Column A3 Late Payment Penalty	Column A4 Compliance Agreement Available
No permit	7.1	\$450	\$400	\$500	No
Occupy without approval	7.2	\$450	\$400	\$500	No
Provide false information	7.3	\$450	\$400	\$500	No
Modify document	7.4	\$450	\$400	\$500	No
Interfere with notice	7.5	\$450	\$400	\$500	No
Work at variance to plan	7.6	\$250	\$200	\$300	No
Obstruct official	7.7	\$450	\$400	\$500	No
Address not posted	7.8	\$250	\$200	\$300	No
Contravene building official	7.9	\$450	\$400	\$500	No
Change of use	7.10	\$450	\$400	\$500	No
Must not conceal	7.11	\$450	\$400	\$500	No
Stop work order	7.12	\$450	\$400	\$500	No
Do not occupy notice	7.13	\$450	\$400	\$500	No

# FAIR SERVICE

## Fair Service: How was I treated?

Fair service, also called relational fairness, refers to how a person is treated in their interaction with a public body. If a person feels that they were treated disrespectfully, or that a public sector employee was not honest and forthright with the information they provided, even if the decision was procedurally and substantively fair, the person might still raise a concern about the service they received.

### Fair service includes:

Active listening

Making information clear and easily accessible

Being honest and forthright

Offering respectful and courteous treatment

Being transparent about what you can and cannot do

Respecting confidentiality

Being accountable and apologizing if you or your organization makes a mistake

Being trauma-informed

Demonstrating cultural humility



# Questions - Suggestions?



# 3. Do you have support?

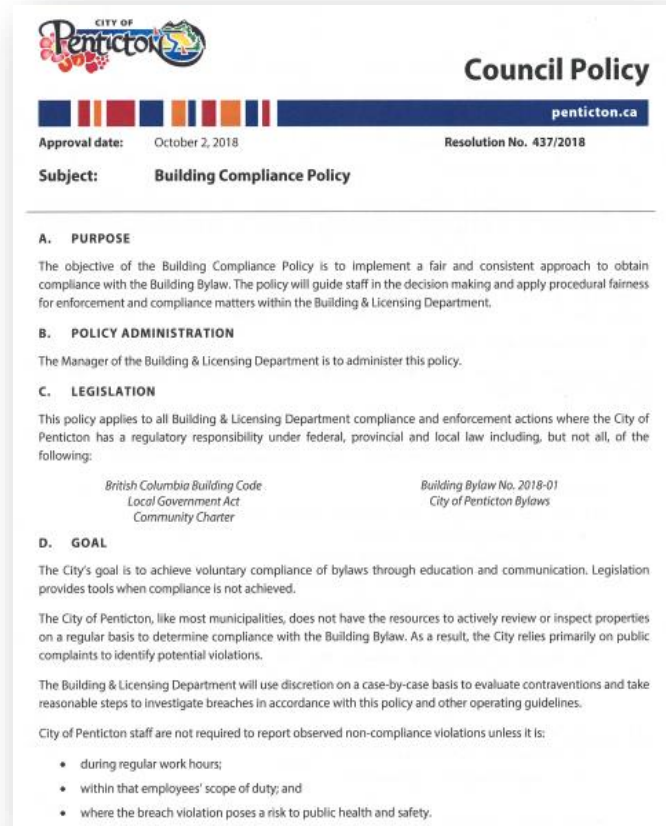
It is important to establish if enforcement of Building regulations will be supported by senior management and your elected officials - when the you know what hits the fan.

Establishing Council or Board Policies gives you the ability to outline the necessity of construction regulations and their enforcement & get their support to engage enforcement (established playing field and trust).

Ensure all reports related to enforcement reference the policy(s).

At the City of Penticton there were three policies developed.

- Bylaw Enforcement Officer Procedures Policy
- Building Compliance Policy
- Risk Management Bylaw




# Building Compliance Matrix

The policy outlines

- Purpose & Authority
- Priorities & Investigations
- Building issues triggering enforcement
- Escalating Enforcement
  - When does it move to needing Council support
  - Everything should be handled by staff and every measure is taken to not have it go to Council.
  - There should be little doubt that the matter is serious enough to need support.... This has been a sticky road lately.

Building Bylaw Compliance Matrix

Escalation of Enforcement Action 

COMPLAINT Forwarded to Property Use & Licence Inspector	Review	First Contact	Second Contact	Third Contact	Fine(s)	Notice on Tax	Further Escalation
	<i>i.e. Verify information, create file</i>	<i>i.e. Phone, email, letter, site visit</i>	<i>i.e. Site visit, verify breach, collect evidence, post notices</i>	<i>i.e. Phone, email, letter, site</i>	<i>i.e. Bylaw Offence Notice, Municipal Ticket</i>	<i>Collections Services Department</i>	<i>i.e. Recommend Notice on Title, Remedial Action, Court Action</i>
Low Priority	✓	✓	✓	✓	⚠	✗	✗
Medium Priority	✓	✓	✓	✓	✓	⚠	✗
High Priority	✓	✓	✓	✓	✓	✓	⚠

✓ = Proceed      ⚠ = Continue if warranted      ✗ = Stop/Do not proceed without direction from Supervisor

# Risk Matrix

Based on the City's Risk Management Policy, a Building Enforcement Risk matrix can be set up. This allows for consistency for managing risk across your local government.

Established levels based on risk to occupants, frequency, effect to neighbouring properties and liability to the City (claim and value).

- Low – garage unfinished?
- Medium – residential reno?
- High – Section 57-Remedial – multi unit
- Really Bad! No Occupancy, Injunctive

- EXAMPLE -  
**RISK MATRIX DEFINITION**

		Consequences				
Risk Matrix	AS4360 >>	Insignificant	Minor	Moderate	Major	Catastrophic
AS/NZS 4360		1	2	3	4	5
Description	Likelihood	Insignificant	Minor	Moderate	Major	Catastrophic
Almost certain	5	5	10	15	20	25
Likely	4	4	8	12	16	20
Possible	3	3	6	9	12	15
Unlikely	2	2	4	6	8	10
Rare	1	1	2	3	4	5
RMS descriptions	AS/NZS levels	Levels start at				
Extreme	E	15				
High	H	10				
Moderate	M	5				
Low	L	3				
Insignificant	L	1				

QUALITATIVE MEASURES OF CONSEQUENCE OR IMPACT

Level	Descriptor	Example detail description
5-Extreme	Catastrophic	Loss of system, death, or hospitalization, Extensive injuries, loss of production capability Toxic release off-site with detrimental effects, major financial loss
4-Major	High	Partial isolation of system, epidemic Medical treatment required, on-site release contained with outside assistance, high financial loss
3-Serious	Moderate	Notification and action required by management/authorities; notifying public
1/2-Minor	Insignificant / Low	Investigation No injuries, low financial loss First aid treatment, on-site release immediately contained, medium financial loss

QUALITATIVE MEASURES OF LIKELIHOOD

Level	Descriptor	Example detail description
5-High	Almost Certain	▪ Is expected to occur in most circumstances. Every Year
4-Moderate	Likely	▪ Will probably occur in most circumstances. Every 1 in 5 Years
3-Low	Possible	▪ Could occur at some time. Every 1 in 20 Years
1/2-Rare	Unlikely / Rare	▪ Occur only in exceptional circumstances. Every 1 in 100 Years

ADEQUACY OF EXISTING CONTROLS

Level	Descriptor	Example detail description
G	Good	▪ Above average controls in place
M	Medium	▪ Average controls in place
P	Poor	▪ Little or no controls in place

# Enforce or not to Enforce

## Can a local government choose to not enforce a Bylaw?

- **Yes** – but a policy should be established.

“....if they contemplate [bylaw] enforcement in good faith, regardless whether action is ultimately taken.”

[BCSC Affirms: Good Faith Local Government Decisions to Not Enforce Bylaws Are Immune From Negligence Claims - Stewart McDannold Stuart - Barristers & Solicitors \(sms.bc.ca\)](#)

### BCSC Affirms: Good Faith Local Government Decisions to Not Enforce Bylaws Are Immune From Negligence Claims

Stewart McDannold Stuart

Josh Krusell

March 6, 2024 Legal Updates

In *Fahr v Schnitzer Steel Canada Ltd.*, 2024 BCSC 296, the BC Supreme Court affirms that municipalities are not required to enforce bylaws so long as their decision to not undertake enforcement is done in good faith. This decision follows the Court’s prior decisions in *Suncourt Homes* (2019 BCSC 2258) and *Lebourdais* (2022 BCSC 281). Specifically, the Court endorsed the statement that “[m]unicipalities will be immune from liability if they contemplate [bylaw] enforcement in good faith, regardless whether action is ultimately taken.” (more..)

# Potential Problems-not enforcing



What are the complications for a community that avoids enforcing regulations?

- Safety risks and construction liability
- Lower staff engagement/moral
- Reputation – why follow the rules
  - Punish rule followers
- Unfair playing field - business
- Reduce Vitality and sustainable community – neighbourhood nuisances
- Others?

*“Why do we have Bylaws if we are not going to enforce them!” – councilor Kimberly, Penticton*



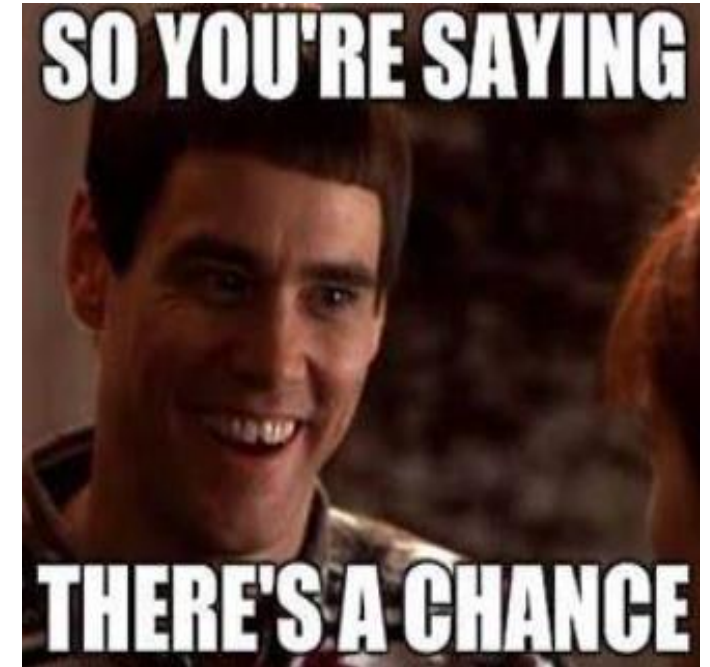
# What's the Big Deal?

Building Codes have developed from significant failures (leaky condo crisis), sickness and deaths.

Many have argued that in most cases nothing really ever happens so why worry so much, as it adds costs and stress (enforcement).

Argument - The 1 in 100 example – flooding – once in every 100 yr cycle?

- **1% chance every year for 100years – there is always a chance**



# What does it mean to be Building Official?



## BOABC - Code of Ethics

- The purpose of the Code of Ethics is to give general statements of the principles of ethical conduct in order that Members may fulfill their duty to the public, the profession and the members of the Association. **All Members shall act at all times with fairness, courtesy, loyalty and good faith to their associates, employers and the public. They shall uphold the values of truth, honesty and trustworthiness and shall strive to safeguard human life and welfare and the environment in the performance of their professional duties.** In keeping with these basic principles, Members shall:
- **Hold paramount the safety, health and welfare of the public, protection of the environment and promotion of health and safety.**
- Uphold and advance the integrity, honour and dignity of the Association.
- Strive to increase the public awareness regarding the Association.
- **Endeavour to extend public knowledge and appreciation of the relevance and importance of building regulations.**
- **Enhance the reputation of the Association by meeting high standards of public service.**
- **Provide impartial, courteous, fair, efficient and effective service to the public.**
- Keep themselves informed and up-to-date on current practices in order to maintain their level of competence, strive to advance the body of knowledge under which they practice and provide and take opportunities for the professional development of themselves and their associates.
- **Conduct themselves in a manner which promote the dignity and integrity of the Association.**
- **Maintain devotion to high ideals of personal honour and professional integrity.**





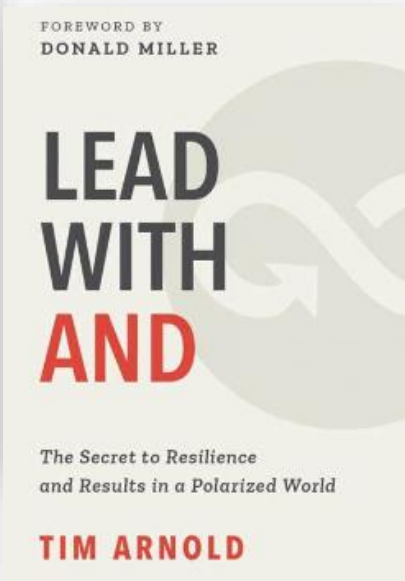
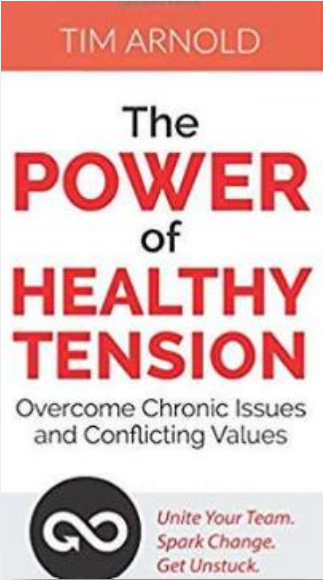
# Ethics vs Service

As a civic employee you are increasingly asked to improve “customer service”, turn around permits quicker, take on more duties and provide more code education and act like a consultant with solutions.

At times if may feel that you are in a constant tension to provide customer service ,yet you operate under specific regulations and standards.

At times you may even feel compromised ethically in your request to not enforce your local government regulations/Codes vs the Code of Ethics being a Building Official.

Where is our Duty of Care in enforcing regulations?



Balancing Risk  
Tracey Lorenson  
Civic Excellence  
Monday 3:15 – Fraser Rm

# Building Officials responsibility



## Tension of being a Building Official and a local government employee.

True or false: A building official may work on behalf of the local authority, but it is not their job to act in the best interests of that local authority at all costs.

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True

Don't compromise your responsibility as a certified Building Official!



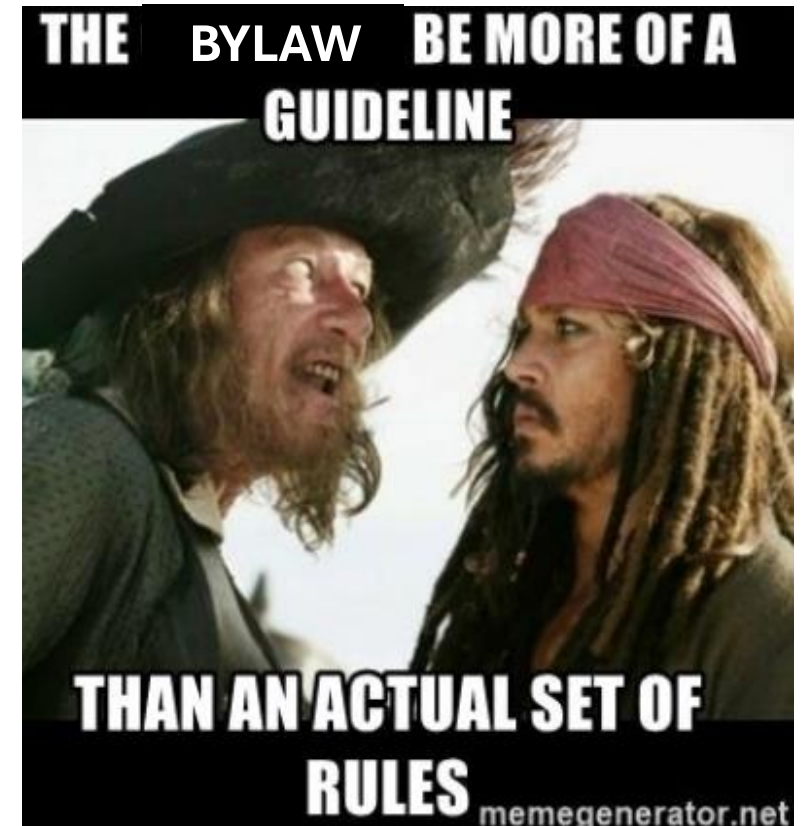
False

## 4. Up to date Bylaws & Authority

1. Ensure your Bylaws are up to date – when was the last time yours was updated?
  - Why has it not been updated?
2. Ensure your team knows there is a Building Bylaw(its your operational manual) and when it gets updated.
3. Ensure the building industry knows there is a Building Bylaw
4. The MIABC model core bylaw is a great template for updates
  - Regional, Small and Large Municipalities
5. A good bylaw reduces the need to have supplementary policies
6. Ensure your processes and education material match the bylaw
  - Will the provincial online permitting system need you to update your bylaw?
7. Ensure supporting Bylaws are also update
  - Bylaw Enforcement Notice Bylaw
  - MTI
  - Good Neighbour – Noise, Etc

# What is a Bylaw?

**Municipal councils and regional district boards may only make decisions by bylaw or resolution.** Bylaws are laws that formalize rules made by a council or board. Local governments may use bylaws for various purposes, especially to regulate, prohibit or impose requirements. In order to exercise one of the powers in either the Local Government Act and Community Charter, a municipal authority must first pass a bylaw. This will define the scope of the local authority's powers in that area. **Without a bylaw in place, the local authority will not be able to exercise those powers.**



# What Governs

Local Governments can choose to control construction through a **Building Bylaw (COP 1910)**. Building Bylaw outlines types of works requiring permits, authority, responsibilities, & penalties.

**Building Bylaw governs – Not the BC Code.**

- **Bylaw allows you to administer the Code**

**Note – a policy is not enforceable, only a bylaw gives staff authority to regulate.**

**Policies are internal.**

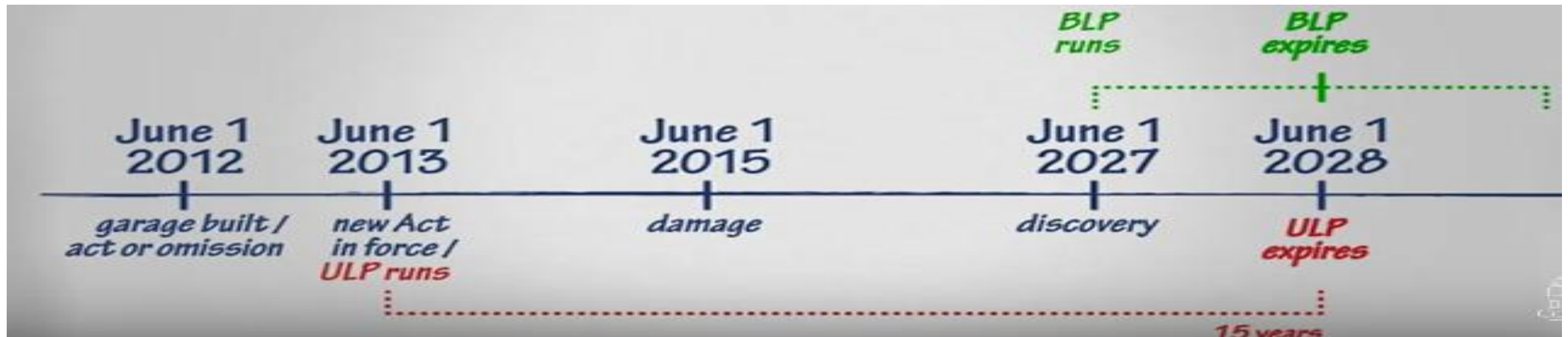
# Bylaws factor in Liability Risk

## Joint & Several - Limitations Act - June 1, 2013,

- Basic Limitations Period (BLP) = 2 Years (from 2, 6 or 10yr)
- **Ultimate Limitations Period (ULP) = 15 Years (from 30+yrs)**

Future – Proportionate Liability?

**Would that loosen regulations?**





# What Authority do we operate under and what do we Enforce?

Where's does your Authority come from?

## Provincial Laws

- Building Act
- Community Charter
- Local Government Act
- Safety Standards Act

**Note:** There are certain pieces of legislation covered in the following sections that don't apply to the City of Vancouver.



# What is an Authority Having Jurisdiction

The term Authority Having Jurisdiction (AHJ) is only found in the BC Building Code(s) – not in Community Charter or Local Government Act

Does your community have a swearing in (not at) process for Building Officials?

Are you Building Officials also designated as Peace Officers? Additional protection.

How can building codes be enforced by?  
Select all of the correct answers.

- Having the person designated by the AHJ check the building plans before construction is started.
- Having the person designated by the AHJ check construction as it progresses.
- Having the person designated by the AHJ check the building before it is occupied.



# Building Act

## The Building Act:

- Gives the Minister the power to make building codes, by regulation.
- Gives the Minister the power to make regulations about the enforcement of building codes.
- Creates the Building Code Appeal Board.
- Gives the Minister the power to decide, by regulation, what local authorities may and may not make rules about through their building bylaws.

# Building Act - Excerpts

"local authority" means a local government (which is a municipality or a regional district). It also means the Nisga'a Lisims Government, a treaty first nation and the board of governors of the University of British Columbia.

**"qualified building official"** means a person who is qualified as a building official under section 11 [*qualification as building official*]

## Part 2 – Building Regulations

### Enforcement of building regulations by local authorities

(4) A building regulation has the same force and effect as the following:

(a) a bylaw, rule, law or prescribed instrument that is validly enacted by a local authority;

(b) a bylaw that is validly enacted under the [University Endowment Land Act](#).



# Building Act - Excerpts

**Restrictions on local authority jurisdiction - Consistency in Bylaws – nothing above or below Code without reason and review.**

**5 (1)**In this section, "**local building requirement**" means a requirement in respect of building activities that is enacted by a **local authority** other than a treaty first nation, the Nisga'a Nation or a Nisga'a Village.

**(3)**Subject to subsection **(4)**, a local building requirement, other than a local building requirement contemplated under section **3 (2) (j)**, has no effect to the extent that it relates to a matter that is

**(a)**subject to a requirement, in respect of building activities, of a building regulation, or

**(b)**prescribed by regulation as a restricted matter.

**(4)**Subsection **(3)** does not apply in relation to a matter that is prescribed by regulation as an unrestricted matter.

**This also applies to other Bylaws that may impact construction – example Fire Protection and Fire Dept Access –Part 9 Fire Suppression, Fire Flows, etc**

# Community Charter



The Community Charter provides the legal framework for the establishment of all municipalities in British Columbia, except for the City of Vancouver. It defines what powers, authorities, and accountability measures the municipal governments must have in order to represent the interests and respond to the needs of their communities.

It should be noted that some aspects of governance for municipalities are found in the **Local Government Act**, the reason being that before the Community Charter existed, municipalities received their authority through the Local Government Act. If you are going to work for a municipality, therefore, you cannot discount the Local Government Act as having some applicability to your employer.

# Community Charter

## Community Charter

**"building inspector"** means an individual designated by the council as a building inspector for the municipality;

### **Municipal purposes**

7 The purposes of a municipality include

- (a) providing for good government of its community,
- (b) providing for services, laws and other matters for community benefit,
- (c) providing for stewardship of the public assets of its community, and
- (d) fostering the economic, social and environmental well-being of its community.



# Community Charter

## Fundamental powers

**8** (1)A municipality has the capacity, rights, powers and privileges of a natural person of full capacity.

(2)A municipality may provide any service that the council considers necessary or desirable, and may do this directly or through another public authority or another person or organization.

**(3)A council may, by bylaw, regulate, prohibit and impose requirements in relation to the following:**

**(l)buildings and other structures;**

**(m)the removal of soil and the deposit of soil or other material.**

**8 (8)As examples, the powers to regulate, prohibit and impose requirements under this section include the following powers:**

(a)to provide that persons may engage in a regulated activity only in accordance with the rules established by bylaw;

**(b)to prohibit persons from doing things with their property;**

(c)to require persons to do things with their property, to do things at their expense and to provide security for fulfilling a requirement.



# Community Charter

## **Authority to enter on or into property**

16 (1) This section applies in relation to an authority under this or another Act for a municipality to enter on property.

**(6) Without limiting the matters to which this section applies, a municipality may enter on property for any of the following purposes:**

**(a) to inspect and determine whether all regulations, prohibitions and requirements are being met in relation to any matter for which the council, a municipal officer or employee or a person authorized by the council has exercised authority under this or another Act to regulate, prohibit and impose requirements;**

More powers than police.

# Community Charter

## Division 8 — Building Regulation

- **53 - General authority in relation to buildings and other structures**
- **54 - Building permits and occupancy permits**
- **55 - Requirement for professional certification**
- **56 - Requirement for geotechnical report**
- **57 – Note against land title that building regulations contravened**
- **58 - Cancellation of note against land title**





# Community Charter

## Division 8 — Building Regulation

**All modern Bylaws start with this outlined**

### General authority in relation to buildings and other structures

**53** (1) In this section, "greenhouse gas" has the same meaning as in the [Climate Change Accountability Act](#).

(2) A council may only exercise its authority under section 8 (3) (1) [*spheres of authority — buildings and other structures*] or this Division for the following:

- (a) the provision of access to a building or other structure, or to part of a building or other structure, for a person with disabilities;
- (b) the conservation of energy or water;
- (c) the reduction of greenhouse gas emissions;
- (d) the health, safety or protection of persons or property.

# Community Charter

## Division 10 — Other Spheres

### 63 Protection of persons and property

The authority of a council under section 8 (3) (g) [*spheres of authority — protection of persons and property*] may be exercised in relation to the following:

- (a) emergency exits in places to which the public is invited;
- (b) smoke alarms;
- (c) any matter within the scope of the [\*Fire Services Act\*](#);
- (d) the enclosure of swimming pools and other pools;
- (e) trailer courts, manufactured home parks and camping grounds;
- (f) rental units and residential property, as those are defined in the [\*Residential Tenancy Act\*](#), that are subject to a tenancy agreement, as defined in that Act.

### 64 Nuisances, disturbances and other objectionable situations

# Community Charter

## Division 12 — Remedial Action Requirements

### 72 Council may impose remedial action requirements

- (1) A council may impose remedial action requirements in relation to
- (a) matters or things referred to in section 73 [*hazardous conditions*],
  - (b) matters or things referred to in section 74 [*declared nuisances*], or
  - (c) circumstances referred to in section 75 [*harm to drainage or dike*].

### 73 – Hazardous Conditions

### 74 – Declared Nuisance

### 75 – Harm to drainage ditch or dike

### 76 – Time limit to compliance

### 77 – Notice to affected persons

### 78 – Persons affected may request reconsideration by council

### 79 – Shorter time limits in urgent circumstances

### 80- Recovery of municipal costs through sale on property

# Community Charter

## Part 8 — Bylaw Enforcement and Related Matters

### Division 1 — Bylaw Enforcement

#### Enforcement powers

**260** (1)A council may make bylaws for the purposes of enforcing the bylaws of the municipality.

### Division 3 — Ticketing for Bylaw Offences

#### Ticket offences

**264** (1)A council may, by bylaw,

(a)designate a bylaw for the purpose of this section, other than a bylaw in relation to a matter prescribed by regulation,

(b)designate as a bylaw enforcement officer a person who comes within a class of persons prescribed by regulation, and

(c)authorize the use of any word or expression on a ticket issued under subsection (2) to designate an offence against a bylaw.

# Local Government Act

The Local Government Act is the primary legislation for regional districts, setting out the framework for their structure and operations, as well as main powers and responsibilities. The Local Government Act also covers important authorities for both municipalities and regional districts, such as planning and use powers and legal requirements for administering elections.

**It should be noted that some sections of the Community Charter will apply to regional districts, but the indication will be found in the Local Government Act – for example, section 414:**

**414 (1) Division 3 [Ticketing for Bylaw Offences] of Part 8 of the Community Charter applies to regional districts.**

# Safety Standards Act



The Safety Standards Act gives the Minister the power to make regulations in relation to specific types of technical equipment and systems found in buildings and the persons doing work on them.

The Safety Standards Act applies across the Province and is administered by Technical Safety BC, an independent, not-for-profit corporation established by the Safety Authority Act.

**There are currently ten communities in BC who have limited delegated authority for the oversight of electrical and/or gas safety within their municipal boundaries. In those communities, the local government can issue permits and conduct inspections of regulated work.**

**What is your relationship with Technical Safety BC like? They can be a enforcement partner as well as WorkSafe BC.**

# Questions - Suggestions?



# 5. Training and Support for staff

## Begin on the right foot - Onboarding

- CULTURE – Vision/Mission
- Bylaws, Policy and Procedures (systems)
- Safety & conflict resolution
- Ombudspersons – Fairness 101
- BOABC –Introduction to the Building Regulatory System in British Columbia
- Importance of Records Management

**What does your community do?**





# Training & Support for staff

## Annual Reminders

- Early spring – annual updates for safety, confidentiality,
- Updates for policy and bulletins
- Training opportunities – Budget
- Performance reviews

## **Mental health and team check-ins – team health assessments**

### **Keeping policies and processes current – difficult to do at times**

- Is there someone on your team or City that can be assigned to the creation and updates of policy?

# BOIT – Enforcement matters

The five broad areas of building official competency are:

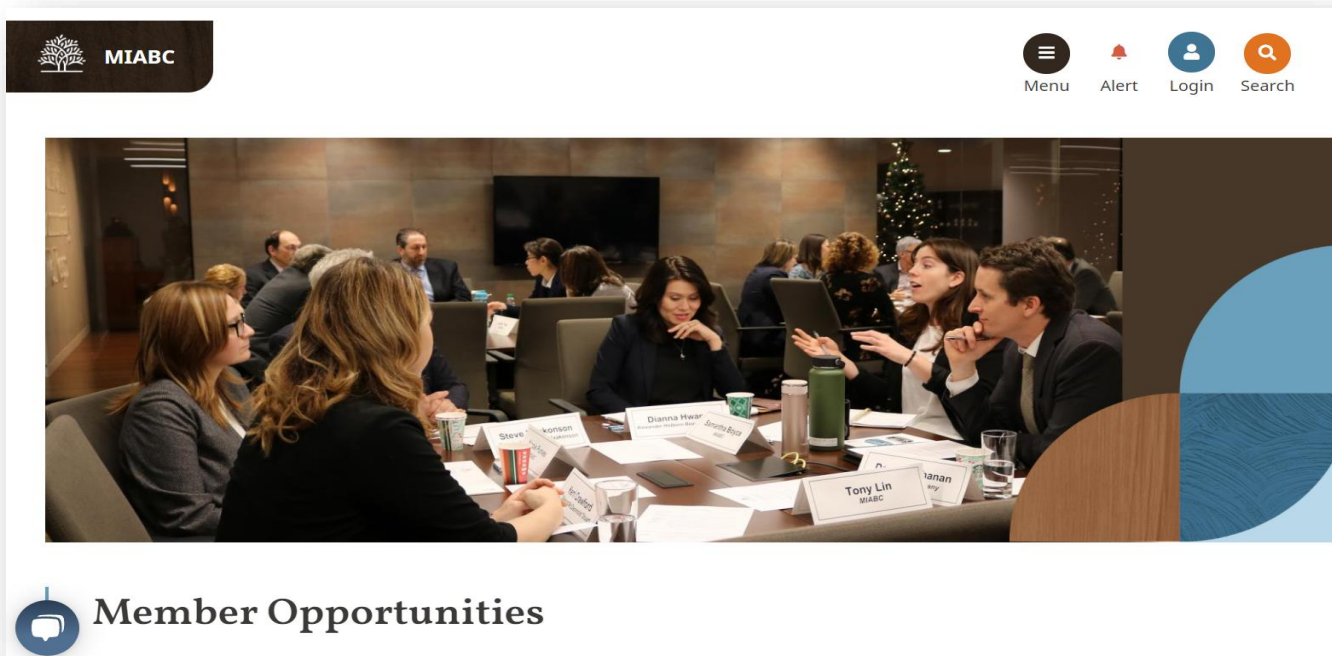
- Communication (e.g. written, verbal)
- Conduct Review to Determine Compliance (e.g. plan reviews, alternative solutions)
- Investigations and Inspections (e.g. site inspections and investigations)
- Legislation (e.g. provincial legislation, technical codes, municipal bylaw)
- Personal and Professional Attributes (e.g. integrity, client service orientation)

# Training

## Conflict Resolution



## Risk Management



## LGMA - FOI, Privacy, and Records and Information Management On-Demand Training



# Legal Updates and Training

## LIDSTONE & COMPANY LAW LETTER

In This Issue				
OIPC/UNDRIP Decision	Purchasing Technology	Latecomer Agreements	Trailer Parks	O.K. Industries Ltd. v District of Highlands
Will Pollitt	Rahul Ranade	Lindsay Parcells	Anthony Price	Sara Dubinsky
Page 3	Page 5	Page 7	Page 9	Page 11

### Greenhouse Gas Pricing

The Supreme Court of Canada has released its decision regarding the federal *Greenhouse Gas and Pollution Pricing Act*. Vancouver, Victoria, Richmond, Squamish, Nelson, and Rossland intervened in the appeal to uphold the carbon pricing regime. Their joint submission was embraced by Canada as part of the submission in favour of the federal scheme. The case included three appeals, one each from the Ontario, Saskatchewan, and Alberta Courts of Appeal.

Upholding the federal scheme means it will continue to apply in provinces which do not have a substantially equivalent system. In British Columbia, the carbon tax which has been in place for 13 years has already been held to be equivalent.

The BC carbon tax is revenue neutral. It applies to the purchase of fossil fuels and proceeds are spent on climate action measures which for local governments include industry competitiveness, new green initiatives, and low-carbon innovation and emission reduction projects.

There are other key benefits of the court decision for British Columbia municipalities. In the context of the discussion of “taxes” versus “regulatory charges”, the court noted that a charge or fee can have the purpose of altering behaviour. In this regard, section 194(1) of the *Community Charter* provides that a council may impose a fee in respect of the exercise of the authority to regulate, prohibit or impose requirements (in addition to the authority to impose a fee for a service/work/facility or use of municipal property). The Supreme Court of Canada decision opens the door for carefully designed fee structures to help alter behaviour in the context of climate change action and resilience, if combined with valid and reasonable regulatory bylaws.

Two of the provincial appeal courts had said climate change, and governments’ willingness to mitigate and adapt, is the most pressing issue of our time. The key issue in this case is the extent the federal government can require minimum emissions pricing in all provinces.

## YA YOUNG ANDERSON BARRISTERS & SOLICITORS

SEPTEMBER 2021, VOLUME 32, NUMBER 3

### NEWSLETTER UBCM CONFERENCE ISSUE

## Conflict of Interest or Community of Interest? Court Interprets the “Electors Generally” Exception

*The recent decision of the BC Supreme Court in Redmond v. Wiebe, 2021 BCSC 1405 provides interesting insight into the interpretation of the “community of interest” exception to the conflict of interest rules in the Vancouver Charter and Community Charter.*

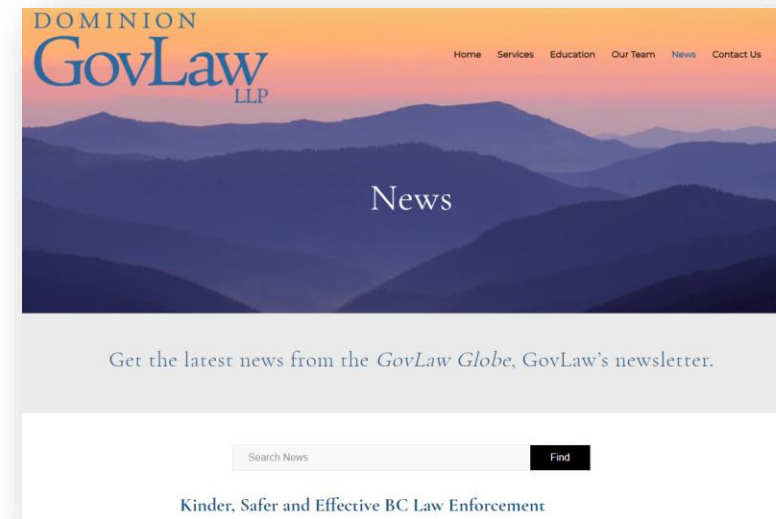
The respondent was a councillor and a part-owner of a restaurant and bar in the City of Vancouver. The petitioners, a group of electors, alleged that the respondent was in a conflict of interest position when he participated in and voted on a motion related to expanding patio seating to assist restaurants and bars during the COVID-19 pandemic (the “Temporary Patio Program”). The petitioners sought to disqualify Mr. Wiebe on the basis that he failed to disclose his conflict of interest and contravened the required restrictions on participation.

Section 145.3 of the *Vancouver Charter*, which is equivalent to section 101 of the *Community Charter*, restricts councillors from voting on matters in which they have a direct or indirect pecuniary interest. Section 145.6(1) of the *Vancouver Charter*, the equivalent of s. 104(1) of the *Community Charter*, identifies certain exceptions to these restrictions, including the “community of interest” exception at issue in this case.

The Court applied a two-step analysis, first considering whether the respondent did have a pecuniary interest in the Temporary Patio

Program, and contravened s. 145.3(2) by participating and voting at the council meetings at issue. Having found that he did have such an interest, the second step of the analysis was whether the respondent’s conduct fell into the exception under section 145.6(1)a). Specifically, the inquiry was whether Mr. Wiebe’s pecuniary interest in the Temporary Patio Program was “in common with the electors of the city generally.”

To determine whether this exception applied, the Court analyzed the meaning and scope of “electors ... generally,” a key phrase which is not defined in the legislation. The petitioners argued that the broad language of “electors ... generally” would refer to all 453,190 electors in the City. Therefore, as not all electors have a pecuniary interest in restaurants or bars, the respondent’s pecuniary interest could not be held in common with the electors, and the exception could not apply. The respondent, on the other hand, argued that equivalence should be drawn between “electors ... generally” and the holders of 3,127 restaurant and bar licenses in the City, because only this group shared a general interest in the increased patio use proposed by the Temporary Patio Program.



DOMINION GovLaw LLP

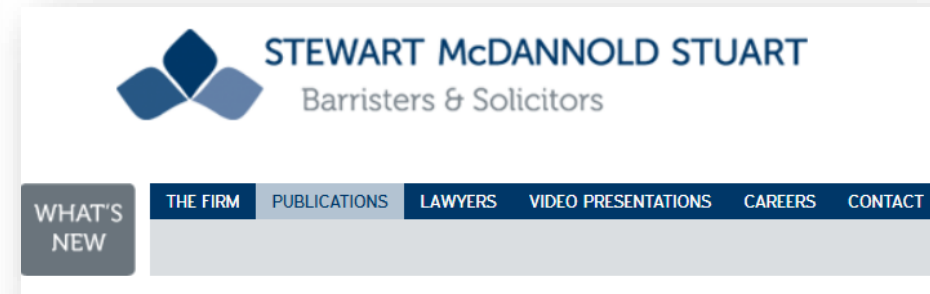
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## News

Get the latest news from the *GovLaw Globe*, GovLaw’s newsletter.

Search News Find

Kinder, Safer and Effective BC Law Enforcement



STEWART McDANNOLD STUART  
Barristers & Solicitors

WHAT'S NEW

THE FIRM PUBLICATIONS LAWYERS VIDEO PRESENTATIONS CAREERS CONTACT

# 6. Good Records Management and Evidence Collection



A good case file starts with good records management

\*Freedom of Information – your records could become public knowledge! Watch what you write and record.

# Record Keeping & Creating the Story

**BEST PRACTICES  
FOR COLLECTING  
AND DELIVERING  
EVIDENCE for  
litigation counsel**

**Jeff Locke  
October 28, 2021**



Hosted by Ken Kunka  
► October 28 , 2021

**BOABC INFORMATION &  
STUDY SESSION  
BEST PRACTICES FOR COLLECTING AND  
DELIVERING EVIDENCE**



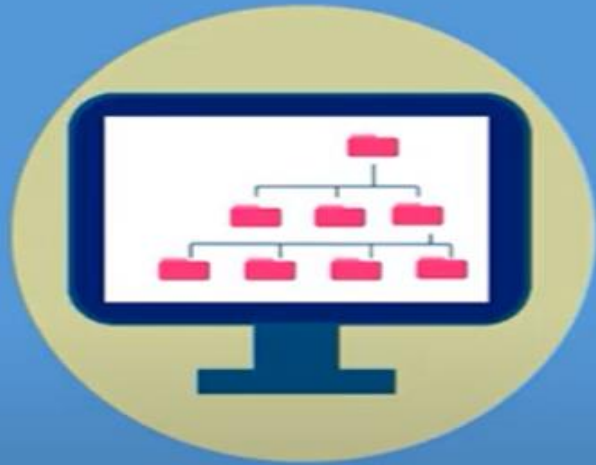
**STEWART McDANNOLD STUART**  
Barristers & Solicitors



BC - BUILDING - OFFICIALS' - ASSOCIATION  
FIRE SAFETY HEALTH STRUCTURAL

# Record Keeping – Records Management

RECORDS MANAGEMENT HELPS KEEP  
INFORMATION:



ORGANIZED



RETRIEVABLE



SECURED

RECORDS MANAGEMENT – BUILDING DEPARTMENT

# Record Keeping – Records Management



A **record** contains important information about: decisions, transactions, and events.



# Record Keeping – Records Management

## IS IT A RECORD?



Does it relate to the City or my department's business?



Does it justify or provide evidence of an action or decision?



Do I or another staff member need to act on the information?

If yes, it's a record!

# Record Keeping – Records Management

The problem with keeping everything:



COSTLY



SLOW RETRIEVAL



SECURITY RISK

# Record Keeping – Records Management

## TRANSITORY RECORDS



DRAFTS OR WORKING NOTES



CALENDAR INVITES



DUPLICATES

### TRANSITORY INFORMATION

THIS WOULD INCLUDE NOTES IN A WORK JOURNAL OR POST-IT NOTES – IF NOT RECORDED MORE FORMALLY ELSEWHERE - IT IS THEN A RECORD TO BE RETAINED.

# Record Keeping – Records Management

RECORDS CANNOT BE DESTROYED:



FREEDOM OF INFORMATION AND PROTECTION  
OF PRIVACY ACT (FOIPPA)



LITIGATION

# Record Keeping – Records Management

**DOES YOUR LOCAL GOVERNMENT HAVE A RECORDS MANAGEMENT SYSTEMS POLICY & HOW CURRENT IS IT?**

**IT IS SOMETHING THAT EVERY NEW EMPLOYEE IS TRAINED ON AND WELL KNOWN BY YOUR STAFF?**

**DO YOU HAVE A DIGITIZATION POLICY WITH DIGITAL NAMING CONVENTIONS?**

**DO YOU HAVE A POLICY ON COLLECTING PHOTO AND VIDEO EVIDENCE OR INSPECTIONS?**

**HAVE YOUR STAFF HAD TRAINING AND A FOIPPA POLICY & PROCEDURES MANUAL.**

- **FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT.**

**RETENTION – HOW LONG DO BUILDING PERMIT RECORDS NEED TO BE KEPT?**

**Forever**

# Record Keeping

## **CUSTOMER SERVICE QUESTION:**

A STAFF MEMBER IS HELPING A HOMEOWNER AT THE FRONT COUNTER RELATED TO A GENERAL INQUIRY ON RENOVATIONS. A PLANS EXAMINER IS REQUESTED TO ATTEND AND REVIEW WITH THE OWNER.

THE CONVERSATION TURNS INTO A MORE SPECIFIC INQUIRY RELATED TO CONVERTING AN ACCESSORY BUILDING INTO A LANEWAY HOME AND A PLANNER IS ALSO ENGAGED FOR REVIEW ZONING REQUIREMENTS (DP REQUIRED). THE ADDRESS IS NOW KNOWN AND SPECIFIC ZONING AND BUILDING CODE RELATED INFORMATION IS PROVIDED AS WELL AS AN OPPORTUNITY TO SET UP A PRE-APPLICATION MEETING.

THE OWNER IS SOMEWHAT FRUSTRATED AND DECLINES THE MEETING AND TAKES THE INFORMATION (PHOTO-COPIES OF ZONING AND A BULLETIN ON ADU'S) PROVIDED BY STAFF.

**WOULD YOU NORMALLY MAKE A RECORD OF THE CONVERSATION?**

**YES – WHY?**

**NO – WHY?**

# Best Practice for Delivering information to Litigation Counsel

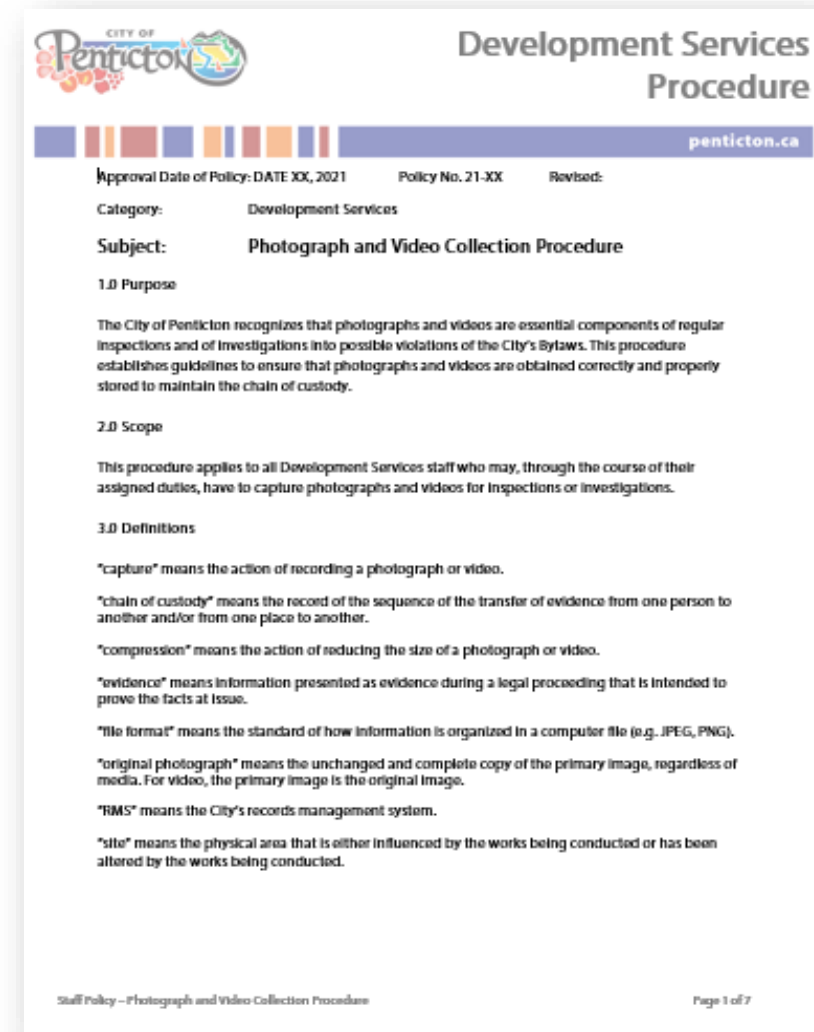
- WHAT IS EVIDENCE?
- HELPING TO CREATE A STORY.
- COLLECTING GOOD EVIDENCE - DIGITAL IMAGES.
- CHRONOLOGICAL RECORDS COLLECTION.



Supervisor or legal counsel

# What is Evidence

- Evidence is every type of information presented during a legal proceeding, which is intended to assist the presiding official in determining the material facts of the case.
- Evidence can include oral testimony of witnesses, including experts on technical matters, documents, public records, objects, photographs, and affidavits.
- Charts, maps, and models that are used to demonstrate or explain matters are not evidence by and of themselves, but testimony based upon such items and marks on such objects may be included as evidence.
- It is important that all evidence submitted be relevant, material, and authentic, so as to survive the possible objections of the opposing party





# Records as Evidence – Escalating Enf.

**Evidence is key to supporting any challenges – such as:**

- Dispute with the offender-owner
- Reviewing with your direct supervisor
- Bylaw Enforcement Adjudication
  - Screening Officer
  - Adjudicator
- Section 57 or Remedial Action
  - Quasi-judicial process
- Injunctive Action – Cease and Desist
- Supreme Court – Injunction

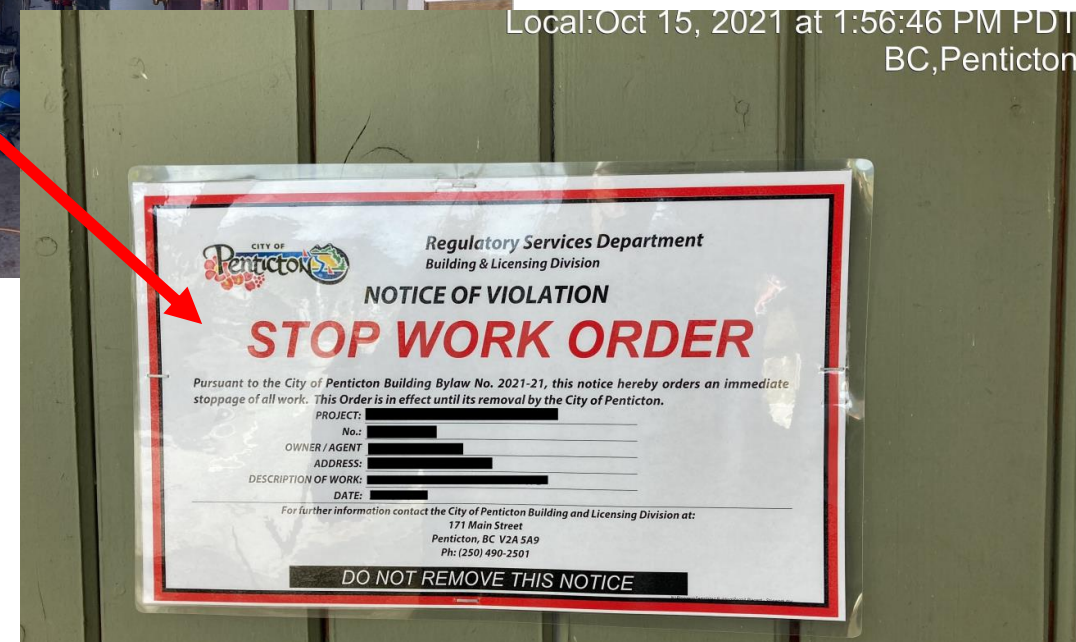
**\*Potential Claims**

# Evidence is used to create the story

Case File Example - Major interior reno – confirm location and posting



Stop Work – permit issued to complete works.



Avoid having people in the photos – especially minors.

# SITE SAFETY Reminder!

## Operational procedures and policies

- Staff check in process
- Investigation and Stop Works
- Hoarding or Vacant Buildings
- Site Safety Assessments

## Personal Protective Equipment

## Hazardous materials



As an Employer and Supervisor – big responsibility in worker safety – however the staff member is ultimately responsible for theirs and co-workers well being.

As a supervisor/manager – have you taken specific training related to safety?

# SITE SAFETY Reminder!

## Operational procedures and policies

- **What research was done prior to attending the property?**
  - Property file search
    - Outstanding permits
    - Previous works
    - Inquiries
  - **Title search – owner**
    - Resident or Non-Resident owner(s)
    - Renters
- **Any previous issues – safety alerts**
  - Dangerous dogs/persons
  - Repeat Offenders
- **What is the age of the building?**
  - Hazardous materials?



### BC ASSESSMENT

#### Property information

Are the property details correct? ▾

Year built	1950
Description	1 STY house - Basic
Bedrooms	2
Baths	1
Carports	
Garages	
Land size	.169 Acres
First floor area	984

# Evidence is used to create the story

Case File Example - Major interior reno – confirm location a



Stop Work - Remedial Action for illegal carriage house- dismantled by owner's agent.

# History Trail – Chronological

- Dates
- Event
- Associated Documents

At times writing in third person is helpful in confirming what staff member said what-when.

THE CORPORATION of THE CITY of PENTICTON		
Bylaw File Number: CFS 123456		
File Information	Assignment Information	
<b>Date/Time of Issuance:</b> 2021/09/19 <b>Supervising Officer:</b> Barry Mundy	<b>Civic Address:</b> 1234 Fish Street <b>Class:</b> Building <b>Problem:</b> Work Without Permit <b>Assigned Officer:</b> Ray Manta <b>Date Assigned:</b> 2021/09/19	
Owner Information	Owner Contact Information	
<b>Owner Name:</b> Red Salmon <b>Address:</b> 1234 Ocean Avenue, Vancouver, BC	<b>Daytime Telephone:</b> N.A. <b>Cell Number:</b> N.A. <b>Email:</b> N.A.	
Date	Event	Associated Document(s)
2020/11/09	John Dory, owner of Gale-Force Contracting Ltd., attempted to submit a Building Permit application for the construction of a covered deck at the subject property. The Building Permit application was received, but was not accepted, due to the requirement for the Planning and Land Use Department to review the Building Permit application.	<ul style="list-style-type: none"> <li>• <a href="#">Exhibit 1 - Building Permit Application for 1234 Fish Street</a></li> </ul>
2020/11/09	Ann Chovey, Planner, sent an e-mail to Gale-Force Contracting Ltd. regarding the Building Permit application made on November 9, 2020. Chovey requested additional information on the extent of the works at the subject property.	<ul style="list-style-type: none"> <li>• <a href="#">Exhibit 2 - 1234 Fish Street</a></li> </ul>
2020/11/09	Dory sent an e-mail to Chovey that included two photographs of the covered deck at the subject property that Dory refers to as the "existing covered patio" and claimed to be "simply updating". Dory also claimed to not be "extending the existing foot print in any way".	<ul style="list-style-type: none"> <li>• <a href="#">Exhibit 3 - 1234 Fish Street</a></li> </ul>
2020/11/09	Chovey sent an e-mail to Dory that stated that Chovey would need to do further evaluation in regards to the covered deck.	<ul style="list-style-type: none"> <li>• <a href="#">Exhibit 4 - RE 1234 Fish Street</a></li> </ul>

# Tips and Tricks for record keeping

- Complete your forms – If you use a form, complete all field in the form
- No editorializing – Leave personal comments/observations/reflections out of your retained documents (it could be all made public knowledge)
- Use photos to tell the story – e.g. not just a copy of the Stop Work Order, but an image of it posted to the relevant structure.

# Tips and Tricks for record keeping

- Name and date your notes – otherwise difficult to determine authorship and date
- No jokes or sarcasm – it does not translate well
- Beware of copying external parties on emails – you may lose privilege
- Signed copies of letters – retained signed copies of letter
- No need for early drafts – generally, no need to retain early drafts of letters & etc.
  - Unsinged letters can be problematic.



# 7. Education – External

In this day of technology and renovation programs – is there any excuse not to know when you need a permit.

Suggestions to get the word out

1. Seasonal project reminders – Spring
  - homeowner projects – home show
2. Website, Guide and Bulletins
  - Provides consistency internally and externally
  - Notice boards/posters at building supply stores
3. Target certain industries/problems
  - manufactured home parks, trades.
4. Code and Bylaw updates
  1. Newsletters
  2. Social media
  3. Workshops
  4. One:One or Team review sessions
5. Pre-Application reviews
6. A.I. – Chatbots – when do you need a permit

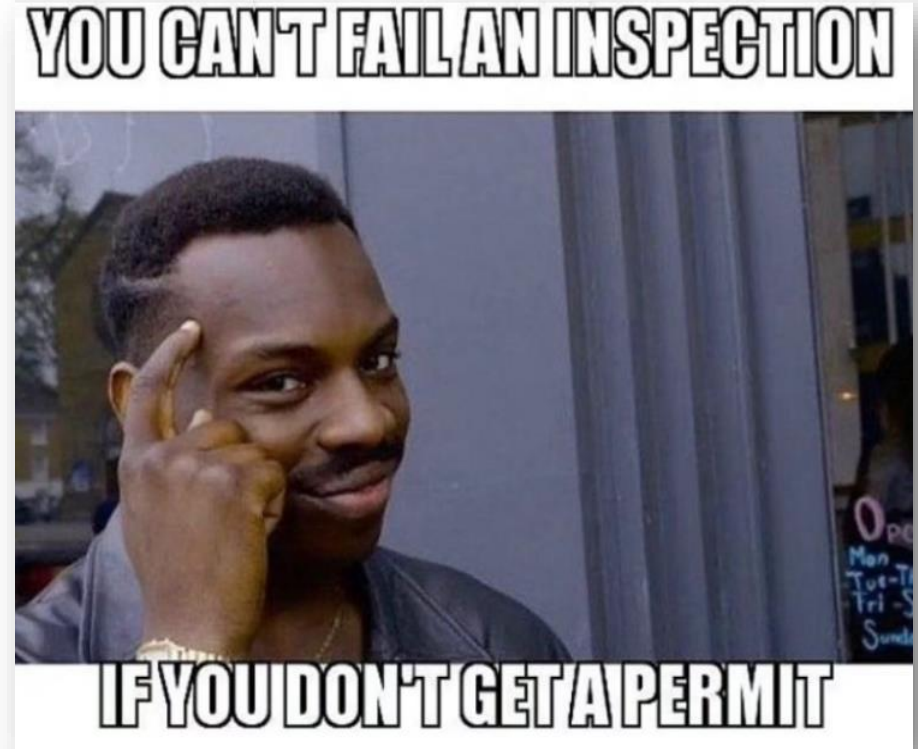


# Why do people not get permits?

- Permits cost too much
- Take too long
- Property taxes will go up
- Bad experience
- Bad reputation – don't got to city hall!
- Big brother!

**Do your systems, service levels and communication encourage compliance? Why are the same mistakes made?**

**Education and voluntary compliance is the best solution.**



# Does anyone read a permit letter?



A Building Permit is a consent to build and a legal agreement between two parties.

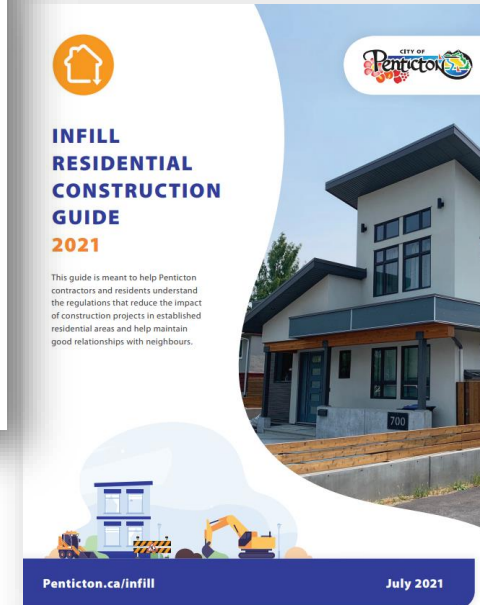
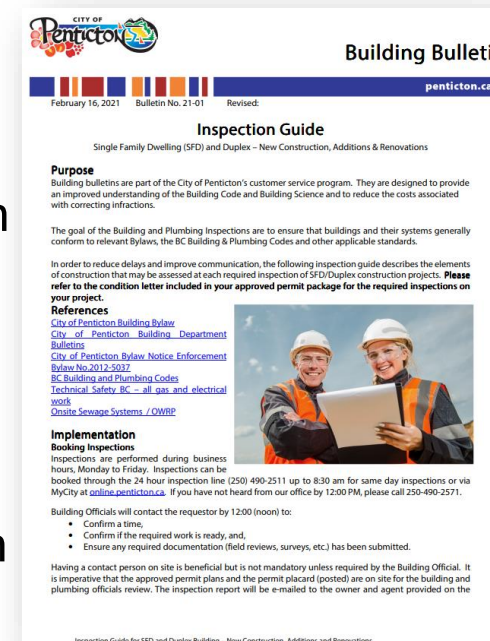
What issues does your community continually run into with on-site errors or mis-inspections.

Are your instructions clear?

Do new builders, trades and owners require to complete an orientation session? INFILL CHALLENGE!

Do we need a boot camp for repeat offenders – before building again?

Do you ticket the builder/trade or owner – what does your Bylaw say?



Examples of Inspection Guide to help owner/builders to be more prepared and avoid Infill nuisance complaints?  
Can technology help?

# Education – Permits and our Role



Better Awareness

What could be done to improve awareness of the role of a Building Official, Permits and the importance of enforcing regulations?



A recruitment poster for Building Officials. At the top, it says "MAY IS BUILDING SAFETY MONTH ACROSS ONTARIO". The main headline is "THOUGHT OF A CAREER AS A BUILDING OFFICIAL?" followed by "ONTARIO MUNICIPALITIES ARE HIRING!". Below this, there are three sections: "EXPLORE A REWARDING CAREER AS A BUILDING OFFICIAL" with a sub-point "Join the OBOA with Member Benefits!"; "BE PART OF THE SOLUTION TO BUILDING SAFE HOUSING FOR ONTARIANS" with a sub-point "Attain a well paying job working in a Municipality"; and "SHAPE YOUR FUTURE AS A BUILDING OFFICIAL: MANY AVAILABLE POSITIONS FROM ENTRY TO EXECUTIVE" with a list of roles: Permit Administrator, Plan Examiner, Building Inspector, Specialist Plan Examiner / Building Officials, and Chief Building Official (Deputy CBO, Supervisors). There are also two circular images: one of a house and one of a person holding a tablet. At the bottom, there is a QR code and the text "SCAN HERE FOR BUILDING OFFICIAL JOB OPPORTUNITIES!". The OBOA logo is at the bottom right, and social media handles are listed at the bottom left.

# Key Take aways

- Why are you/we doing this?
- What are you enforcing – Code or Bylaws?
- Finding balance in the tension of service and regulations.
- Fair Service over Customer Service.
- You don't have to enforce your bylaws.
- Are your Bylaws and Policies up to date?
- What are the Risks – Risk Matrix.
- Education is key to Compliance & how to offer routes Compliance.
- Records and Case file management are key!
- Build your toolbox and story.
- Follow through!



# Question - Comments

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**Consulting** – Bylaw revisions, policy development, bulletins/guides  
**Team and One-One coaching** – Codes, BOIT, Leadership



# Case Study #1

**Single Family Permit issued – Frame inspection called for but when file reviewed, it appears under slab works were not called for.**

A pre-inspection call is made and it is confirmed that the slab has been poured with inspections.

Builder asks if pictures can be provided with declaration from plumber?

**What should happen?**



# Case Study #2

**Property file request by listing agent. A review of the files indicates there are:**

- **Expired permits- renovation**
- **Pool-Retaining without permits**

House is listed and they want to finish permit and take permits out for non-permitted works?

**What should happen?**



# Case Study #3 – Change of Occupancy



An annual Fire Dept check reveals that a tenant space has been altered without permits into a wood working operation – almost finished. It is difficult to ascertain when works were completed as the former business had been running for over 20 years and existing records are not detailed.

The use is not permitted by the Zoning regulations, and it appears the parking storage area has been reworked and expands into an environmental protection area (Riparian). Additionally, a review of records show that the building is under orders from the fire department for fire alarm testing and delinquent in backflow testing.

- Interior layout altered from existing permit records, which are not very detailed
- Two storage mezzanines added
- Upper office space converted to a care-takers suite
- Wood working and Spray booth added

# Case Study #3 – Change of Occupancy



There are notes on file of some general renovation questions asked by the future business owner and the delinquent fire alarm system – 3 months previously. No follow thru by staff at that time.

Changes to the roadway (Fire Dept Access) and the new use (Change of Occupancy) will require a rated roof or fire suppression system, which will require a major water service upgrade and significant renovation/engineering costs.

The owner is a prominent developer/property owner, however, has a well-established record of non-compliance and negativity towards staff and bylaws.

The owner notes that the building is Old and likely close to end of use – existing buildings should be exempt as noted in the Code – 1.1.1.2. Application to existing Buildings.

There is pressure from the business and property owner on your supervisor, City Manager, and Mayor.

**What should happen? Retire?**