



COUNCIL REPORT  
Development Services  
For the August 13th, 2019 Council Meeting

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DATE: July 30, 2019  
TO: Paul Gipps, CAO  
FROM: Geoff Brownlie, Building Services Manager  
Nancy Henderson, General Manager of Development Services  
RE: *Community Charter*, Section 57 Notice on Land Title  
Legal: Plan KAP26206 Lot 23 District Lot 3866 Osoyoos DIV of Yale District  
Address: 1543 Griffiths Place  
Owner: Ryan Gurney and Keilen Gurney

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RECOMMENDED MOTION:

**THAT** Council direct the Corporate Officer to file in the Land Title Office pursuant to Section 57 of the *Community Charter* a notice on the title of the subject property legally described as Plan KAP26206 Lot 23 District Lot 3866 Osoyoos Division of Yale District, which shall state that a resolution relating to that land has been made under this section and that further information about it may be inspected at the Municipal Hall.

RATIONALE:

The Notice on Title will advise prospective purchasers of issues with the subject property in relation to unauthorized building on the property.

LEGISLATIVE REQUIREMENTS:

Section 57 of the *Community Charter* provides that where a building inspector, during the course of carrying out duties, either:

- (a) observes a condition, with respect to land or a building or other structure, that the inspector considers results from the contravention of, or is in contravention of, a municipal bylaw, a Provincial building regulation, or any other enactment, that relates to the construction or safety of buildings or other structures, and 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 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 and the permit was not obtained or the inspection not satisfactorily completed,  
then the inspector may recommend to the Council that it consider a resolution directing the Corporate Officer to file a notice in the Land Title Office stating that a resolution relating to that land has been made under this section, and further information about it

may be inspected at the Municipal Hall. This recommendation must be made in writing, and notice of the proposed resolution must be given to the affected landowner in advance.

Council must provide the building inspector and the owner an opportunity to be heard before passing or declining to pass the resolution.

Relevant excerpts of sections of the City of West Kelowna's Building Bylaw No. 0086, 2009 (the "Building Bylaw") provide as follows:

### **Policy and Bylaw Review**

#### Building Bylaw No. 0086

Relevant excerpts of sections of the City of West Kelowna's Building Bylaw No. 0086, 2009 (the "Building Bylaw") provide the following regulations:

#### **PROHIBITIONS:**

7.1 No person shall build or install a structure except in conformity with the requirements of this bylaw, the Code and other District bylaws.

7.2 No person shall commence construction of any project for which a permit is required, without first obtaining a permit for that purpose from the Building Inspector.

No owner, agent or tenant shall allow use of a project or portion of a project for which a permit is required under this bylaw, without first obtaining an occupancy permit.

#### **PERMITS**

8.1 A permit is required whenever a project regulated by this bylaw is to be commenced. Projects regulated by this bylaw include, but are not limited to:

8.1.3 Interior and exterior alteration of buildings and structures which involve materials or systems controlled by the Code;

8.1.13 Construction of retaining walls over 1.2 m (3.9 ft) in height, measured from the ground level on one side of the structure to the ground level on the opposite side of the structure.

8.13 Every owner shall ensure that all construction complies with the Code, this bylaw and other applicable enactments respecting safety.

#### BACKGROUND:

On June 21<sup>st</sup>, 2019 it was communicated to the City's Building Services Department by legal counsel for the Municipal Insurance Association of British Columbia that it had been reported to legal counsel by a former owner of the property that in or about the year 2008 work had been done to a single family home at the above noted address without building permits

Review of City records found permits only for the original house construction in 1977 (November 28<sup>th</sup> 1977) and for a sewer connection on July 25<sup>th</sup>, 2002. No other records are noted for this property.

Review of professional reports from legal counsel and through an exterior only site inspection of the property on June 27, 2019 (Attached) a number of items were identified as not being completed under authorization of a Building Permit as well as contrary to the 2018 British Columbia Building Code and to the City of West Kelowna Bylaw No. 0086.

Based on these professional reports and the site inspection, the works completed without permits are as follows:


1. Front entrance exterior stairs exceeds the maximum rise of 200mm (7 7/8") and is not uniform in rise and run.
2. Guardrails – They are missing in a few locations or have not been installed correctly.
3. Front retaining walls – The front retaining walls have been constructed and show signs of bulging and failure.
4. At a number of locations no flashing has been installed for the horizontal junction of the cladding elements.
5. Damproofing has been installed and is visible in some locations at the top of the foundation wall. It is unknown if the materials installed are acceptable for the use or if the materials were installed correctly.
6. Exposed weeping tile is unknown what the drainage is for or if it was installed correctly.
7. Rear Decks have been modified from the original permit application and new decks have been added at the front and rear of the home.
8. The rear house footing appears to be exposed and does not appear to have the minimum frost protection at rear elevation under lower deck.
9. Positive draining has not been maintained under rear lower deck.
10. Shared correspondence from Counsel has indicated that structural repairs were previously completed in approximately 2008 on the southeast corner of the home without involvement of a structural, or geotechnical professional or without a building permit.
11. Shared correspondence from Counsel has indicated that grading and drainage of the foundation and for the site has been modified with the addition of a foundation/ slab drainage system and a French drainage system adjacent to the home in approximately 2013.

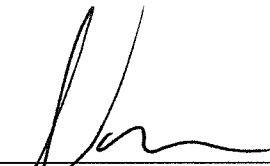
This is not a comprehensive list of deficiencies and missing documentation. City building officials have not inspected covered work, meaning that there may be unobserved deficiencies which will require exposure of certain elements for assessment.

#### ALTERNATE MOTIONS:

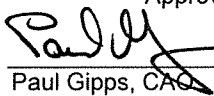
1. That Council postpone the resolution as written to place notice on the title of the subject property legally described as Plan KAP26206 Lot 23 District Lot 3866 Osoyoos DIV of Yale District.

Respectfully submitted,

  
Geoff Brownlie  
Building Services Manager

  
Nancy Henderson  
General Manager of Development  
Services

Powerpoint:  Yes  No

Approved for Agenda  
  
Paul Gipps, CAO  
Date: Aug 9, 2019

Attachment - 1543 Griffiths Place Inspection report dated June 27<sup>th</sup>, 2019

H:\DEVELOPMENT SERVICES\BUILDING\3760 Building Regulations\ - 30 Notices on Title



**City of West Kelowna**  
2760 Cameron Road, West Kelowna, British Columbia V1Z 2T6  
Tel (778)797.1000 Fax (778)797.1001

# Inspection Report

**Address:** 1543 Griffiths Place, West Kelowna, British Columbia

**Legal address:** Plan KAP26206 Lot 23 District Lot 3866 Osoyoos DIV of Yale District

**Arrived:** 9:00 am

**Inspection date:** Thursday June 27<sup>th</sup>, 2019 (1:40 pm – 2:05 pm)

**Classification:** Part 9 - Group C Single Family Dwelling

**Inspection performed by:**

Geoff Brownlie, Building Services Manager, City of West Kelowna  
Michael Foster, Senior Official, City of West Kelowna

## **Background/ Scope:**

The Building Services Department with the City of West Kelowna was recently made aware from legal counsel for the Municipal Insurance Association of British Columbia that work had been done to a single family home at the above noted address without building permits. It was also noted however that the work may have been completed some time ago being 2011 through 2015.

Review of our records found permits for the original house construction in 1977 (November 28<sup>th</sup>, 1977) and for a sewer connection on July 25<sup>th</sup>, 2002. No other records are noted for this property.

Only general observations have been made, and limited to the exterior of the home. No access was requested to the interior nor was the interior of the home made available to view and therefore not part of this Inspection. The building was found to be occupied, and the home itself appears to still be the same overall footprint from the original Building Permit application issued in 1977 with the exception of a rear deck that has been added.



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### **Observations/ Comments:**

The following deficiencies were observed and unless noted otherwise found in violation of the 2018 British Columbia Code Division B or require further investigation. A full investigation has not taken place, and additional items may become apparent through additional review and be required in addition to these items:

1. Front entrance exterior stairs – Access to principle entrance bottom riser exceeds the maximum rise of 200mm (7 7/8”) and is not uniform in rise and run. The bottom rise differs by 25mm, Articles 9.8.4.1 require uniform rise and run and uniformity in accordance with Article 9.8.4.4..
2. Guardrails – They are missing in a few locations or have not been installed correctly. The front entrance walkway and exterior stairs do not have a guardrail, and the rear built in deck seating area has opening exceeding the maximum permitted size. Elevation differences exceeding 600mm are required to be protected in accordance with Article 9.8.8.1., and openings are to limited to a maximum of 100 mm (3 7/8”) as required by Article 9.8.8.5..
3. Front retaining walls – The front retaining walls have been constructed and show signs of bulging and failure. Retaining walls are required to be designed to resist the lateral pressure of the retained material pursuant to Article 9.4.4.5..

Pictures shared by Counsel from the time of the construction also show that there are concentrated loads from the retaining wall now applied to the foundation of the home. These concentrated loads would exceed the prescriptive requirements for the uniform loads assumed for the original construction. Loads exceeding the prescriptive requirements are to be designed in accordance with Part 4 as required by Article 9.4.1.1., and with Professional Involvement as outlined by Clause 2.2.7.1.(1)(c) of Division C.

4. At a number of locations such as the pressure treated ledger at front of the home and rear added deck no flashing has been installed for the horizontal junction of the cladding elements. Such flashing is required in accordance with Article 9.27.3.8..
5. Damproofing has been installed and is visible in some locations at the top of the foundation wall. Pictures supplied by Counsel have also shown damproofing and drain tile installed. It is unknown if the materials installed are acceptable for the use or if the materials were installed correctly. The front left elevation has wood siding that has been covered by the newer installed damproofing and appears to be in contravention of damproofing requirements and exterior finishing clearances.



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Sufficient information is required to determine if the work completed conforms to the Code. Such information is required pursuant to Article 2.2.2.1. of Division C.

6. Exposed weeping tile at the Northwest Corner (front left elevation) - It is unknown what this drainage is for or if it was installed correctly. Sufficient information is required to determine if the work completed conforms to the Code. Such information is required pursuant to Article 2.2.2.1. of Division C.
7. Rear Decks have been modified from the original permit application and new decks have been added at the front and rear of the home. A number of deficiencies were observed with the wood deck construction such as, but not limited to:
  - Supporting wood posts are in contact with soil and do not appear to be on support 2' below frost.
  - Beams have incorrect splicing.
  - Existing deck has been modified with a header that is exceeding its design load.
  - Wood Joists have exceeded the maximum cantilever distance (20" measured past beam).
  - Insufficient fasteners.
  - Insufficient bearing of framed members.

All framed members are required to be framed, anchored, fastened, tied and braced to provide the necessary strength and rigidity in accordance with Article 9.23.2.1..

Sufficient information is also required to determine if the work completed conforms to the Code. Such information is required pursuant to Article 2.2.2.1. of Division C.

8. The rear house footing appears to be exposed and does not appear to have the minimum frost protection at rear elevation under lower deck. Additional review is required to determine if there is adequate frost protection as required by Article 9.12.2.2. and the City of West Kelowna Bylaw 086 item 4.2..
9. Positive draining has not been maintained under rear lower deck. Such surface drainage is required so that water will not accumulate at or near the building in accordance with Article 9.14.6.1.
10. Shared correspondence from Counsel has indicated that structural repairs were previously completed in approximately 2008 on the southeast corner of the home without involvement of a structural, or geotechnical professional or without a building permit. Further investigation is required for the for the structural and geotechnical work completed in accordance with Clause 2.2.7.1.(1)(c) of Division C.



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11. Shared correspondence from Counsel has indicated that grading and drainage of the foundation and for the site has been modified with the addition of a foundation/ slab drainage system and a French drainage system adjacent to the home in approximately 2013.

Drainage and grading systems are requirements of Section 9.14 and a french drainage system is outside the scope of the prescriptive requirements. Further investigation is required by a geotechnical professional for the work completed in accordance with Clause 2.2.7.1.(1)(c) of Division C.



Geoff Brownlie  
Building Services Manager

CC  
Michael Foster, Senior Official City of West Kelowna







# CONTEXT MAP: 1543 GRIFFITHS PLACE



Subject Property  
1543 Griffiths Place

Rose Valley Elementary



-  Subject Property
-  City Boundary

File: Notice on Title

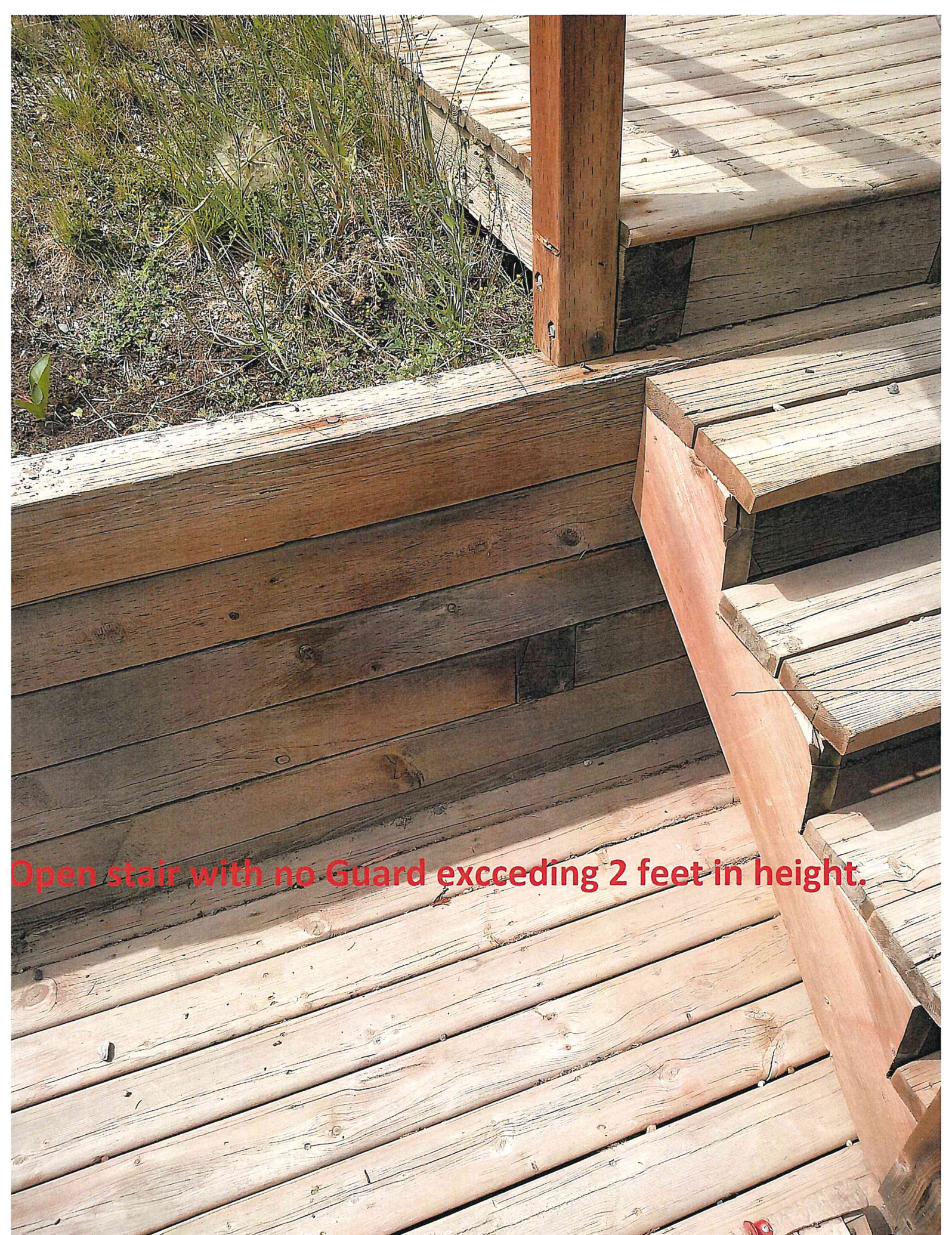
Legal Description: Lot 23 DL3866, ODYD, Plan KAP26206



1:8,000

Date: 2019-08-08

Path:



**Open stair with no Guard excceding 2 feet in height.**



Foundation footing exposed - inadequate frost protection minimum 2 feet of coverage required

**Incorrect damp proofing installation & finish  
material not approved for contact below  
grade (possible structural earth load on  
wood frame wall)**





Retaining wall leaning and starting to fail