



## REQUEST FOR DECISION

To: Mayor & Members of Council

Title: Building Official – Section 57 Notice on Title - Building Bylaw No. 3939 - Lot 6, Section 6, Township 21, Range 9, W6M, KDYD, Plan KAP84599 - 4540 72 Avenue NE

Date: June 23, 2025

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### **Motion for Consideration:**

THAT: Council direct the Corporate Officer to file in the Land Title office, pursuant to Section 57 of the *Community Charter*, a notice on title to that property legally described as Lot 6, Section 6, Township 21, Range 9, W6M, KDYD, Plan KAP84599 (PID 027-189-236) (4540 72 Avenue NE).

### **Background:**

During the construction of a concrete retaining wall, included under permit 16596B, the professional engineer responsible for the design and construction of the wall informed the city and owner that they would not be able to provide their letter of assurance in the form of a Schedule C-B. The email from the engineer, dated August 10, 2021, explains the deficiencies with the retaining wall and is included in Appendix A of this report. The retaining wall is located along the front property line with the neighboring lot (4560 72 Ave NE), separating the driveways (as shown in the pictures included with the engineer's email in Appendix A).



Consequently, a Stop Work Order (attached in Appendix B) was issued by the city on August 11, 2021. The Stop Work Order was to be adhered to until the retaining wall in question is certified by a registered professional engineer.

On January 24, 2023, the building inspector gave the owner 30 days to rectify the issues with the retaining wall by either obtaining a professional engineer’s approval for the existing wall or demolishing the retaining wall and re-building it under the supervision of a professional engineer. This inspection slip has also been attached to this report in Appendix C.

On October 21, 2024, the city building inspector met with the owner to review and discuss the retaining wall. No visual deficiencies with the retaining wall were visible at the time of this meeting. The owner indicated that she does not have the financial means to rectify the issues with the retaining wall at this time, and does not intend to in the near term.

A Registered Letter was sent to the owners on October 23, 2024. The letter advised of the findings of the October 21 visit and instructed the owners that the violations needed to be addressed within thirty (30) days. In the letter, the owner was advised that the City would be proceeding with Notice on Title. The owner has failed to communicate or provide any documentation to address the deficiencies within the allotted timeframe.

It is recommended that the City proceed with the filing of a Section 57 Notice on the title of the subject property. Once registered on title, the Notice will provide a warning to perspective buyers of the bylaw infraction.

The Notice may be removed in the future provided that the owner obtains a professional engineer’s approval for the existing wall or demolishes the retaining wall and re-builds it under the supervision of a professional engineer.

**Legislative authority / plans / reports:**

	Official Community Plan		Master Plan
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X	Community Charter/LGA		Other
X	Building Bylaw No. 3939 / Policy 3.2 - Filing of Notice in Land Title Office of Bylaw Contravention		Corporate Strategic Plan
	Zoning Bylaw		2025-2029 Financial Plan
			Long Term Financial Plan

**Financial Considerations:**

The cost of filing the Notice on Title is paid by the City. Once the issues are remedied the owner may request that the Notice on Title be removed and pays the cost for doing so.

**Alternatives & Implications:**

Council could decline to provide direction to file the Notice on Title. This is not recommended as the City is aware that the retaining wall has not been constructed in accordance with the Code.

**Communication:**

A registered letter was mailed to the owners on October 23, 2024. Between January 2023 and October 2024, the owner and staff have communicated via email and site visits to address the professional certifications required for the non-compliant retaining wall.

Pursuant to the *Community Charter* and Council Policy No. 3.2, the Corporate Officer notified the owner on June 10, 2025 of a Hearing scheduled for June 23, 2025 advising of their opportunity to address Council with regard to Council's consideration of the registration of the Notice.

Prepared by: Building Official  
Reviewed by: Director of Planning & Community Services  
Approved by: Chief Administrative Officer

**Attachments:**

- Appendix A – Email from structural engineer and site photos
- Appendix B – Stop Work Order
- Appendix C – Inspection Record