October 22, 2026

Mayor and Council
The Corporation of the District of Saanich
770 Vernon Avenue, Victoria, BC V8X 2W7

Attention: Legislative Services

Re: Application under section 58(2) of the Community Charter for a resolution cancelling the notice filed against the title to 938 Ambassador Avenue (Lot 1, Section 65, Victoria District, Plan 9202, PID 005-572-312), Land Title Office document CB1062800

The application

1. Christopher David Caddell, registered owner of 938 Ambassador Avenue (the Property), applies under section 58(2) of the Community Charter for a resolution directing the Corporate Officer to file a cancellation notice for the note made against the title to the Property under section 57(5), and asks to be heard under section 58(3).
2. The grounds on which the previous Council confirmed the notice on July 14, 2025 are set out below, with what has happened since.

The notice

3. On November 20, 2023, Council resolved to direct the Corporate Officer to register a notice under section 57. The report to Council dated October 31, 2023, prepared by the Manager of Inspection Services and approved by the Corporate Officer, stated its purpose as a notice "for building without obtaining the required building/plumbing permits" and cited section 4.1 of Building Bylaw 9529.
4. On July 14, 2025, Council confirmed the November 20, 2023 resolution on the applicant's first application under section 58(2). The minutes record the Corporate Officer's statement that Council's role is "to determine whether the Building Inspector has provided evidence that work requiring a permit was carried out without one", and the Manager of Inspection Services' statement that staff "confirmed that work had been completed on the property without permits".

The reasons given to Council

5. The report of October 31, 2023 advised Council that "if a notice is not filed on the land title, the liability of the District is potentially increased". The minutes of July 14, 2025 record the Manager of Inspection Services' statement that "Removing the notice may expose the District to liability." Section 57(8) of the Community Charter provides that 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 section 57 or section 58 that would otherwise have constituted a breach of duty to any person.
6. The minutes of June 23, 2025 record the Corporate Officer's statement that "Staff do not recommend removing the Section 57 notice, as it was placed on title due to bylaw contraventions affecting life and safety." The report of October 31, 2023 alleges no condition affecting safety. Its ground is section 57(1)(b), work done without a permit. The Court made no finding of any unsafe condition.

What has changed since July 14, 2025

7. The District charged the applicant in Victoria Provincial Court file 187353 with five counts under section 4.1 of the Building Bylaw for the works described in the October 31, 2023 report: a bedroom, kitchen, dining room, sun deck, swimming pool, garden suite and accessory building. By reasons for judgment delivered February 19, 2026, the Court found the applicant not guilty on all five counts, and not guilty on the Zoning Bylaw count concerning the accessory building.

8. The Court held that section 4.1 captures active construction without a permit, found that there was no active construction on the Property on or about July 12, 2023, and acquitted on that basis (paragraph 70). On the swimming pool, the Court found that "no permit is required for a swimming pool" and that the evidence did not establish that the pool deck or the pool plumbing required permits (paragraphs 63 to 65). The pool was a temporary above-ground pool. It is not installed. The Court found that the District had not proven that the applicant owned the Property when the works in counts 1 to 4 were constructed (paragraph 72). In the alternative, on the District's interpretation of section 4.1, the Court found that permits were required for the two additions, the garden suite and the accessory building, and that the applicant built the accessory building in 2020 (paragraphs 60, 61, 66, 69 and 73 to 75).

9. The two convictions are under the Zoning Bylaw as it stood on July 12, 2023: having more than one single family dwelling on the lot, and permitting the use of an area of the dwelling as a secondary suite. Both are under appeal in the Supreme Court of British Columbia, to be heard the week of November 23, 2026.

10. The Zoning Bylaw has since changed. By Bylaw 10013, adopted June 30, 2024, section 5.24 provides that a secondary suite is a permitted accessory use in all RS, RD and A zones, subject to conditions that include an occupancy permit under the Building Bylaw, and section 5.26 (Additional Kitchen) was deleted. Section 5.1(a) continues to limit an RS lot to one single family dwelling. Garden suites have been permitted in the RS zone since Bylaw 9647, adopted in 2020.

11. The report of October 31, 2023 states that the violation "was confirmed on July 13, 2023, by the Bylaw Officer". At trial, each of the three bylaw enforcement officers who attended the Property, Greg Nelson, Robert Carrie and Dean Ridley, testified that he is not a registered building official. Section 10(3) of the Building Act, SBC 2015, c. 2, provides that a person must not decide on behalf of a local authority whether a matter conforms to a building regulation unless the person is a qualified building official. The Registrar under the Building Act has that question before it in file BA-026-2026 concerning Mr. Nelson and Mr. Carrie.

12. In The Corporation of the District of Saanich v. Kinney, 2025 BCSC 1132, the Supreme Court of British Columbia held that the affidavit evidence of the Manager of Inspection Services who authored the October 31, 2023 report was "conclusory and without an evidentiary foundation" because it provided "no dimensions or measurements" and did not set out the Building Code requirements relied on (paragraphs 62 to 64). In the applicant's trial, the Court applied Kinney to the same Manager's evidence: "it is not enough for a building inspector such as Mr. Thomassen to make conclusory statements; he must, in addition, provide evidence of the underlying facts and the standards upon which he relies" (paragraph 65). The October 31, 2023 report consists of two pages of

text, two photographs and a site plan. It states no measurement and no Building Code requirement.

The complaint and the District's enforcement policy

13. The notice originates in a single complaint, entered on November 23, 2022. No other complaint about the Property was received. The complainant was the tenant of the suite he reported. He had been asked on September 27, 2022 to set an end of tenancy date and moved out on November 26, 2022. On December 1, 2022 he sent the investigating officer a written statement describing a personal dispute with the applicant.
14. Council Policy 18/CNCL, the Bylaw Enforcement Policy adopted September 17, 2018, provides at section 1.3 that complaints concerning alleged illegal secondary suites "will only be investigated upon receipt of two separate written complaints registered by two or more residents from separate dwellings located within 100 metres of the alleged illegal suite and who are not occupants of the property that is subject to the complaint", and at section 1.7 that "Vexatious complaints will not be acted on", a vexatious complaint being one "made for retaliatory or bad faith purposes". Section 1.4 permits an investigation on the observation of staff, police or another agency, or proactively by an officer. This investigation was begun on the one complaint.
15. The minutes of July 14, 2025 record the Chief Administrative Officer's statement that bylaw investigations are not limited to cases with two or more complaints.

Notice of the November 20, 2023 meeting

16. Section 57(2)(a) requires the Corporate Officer to give notice to the registered owner before the matter is placed before Council, and section 57(3) requires that the owner be given an opportunity to be heard. The District had known since April 6, 2023 that the applicant was represented by counsel on the enforcement file; the District's counsel wrote to that counsel on April 11, 2023. From August 21, 2023 the applicant's second counsel corresponded with the Manager of Inspection Services and the bylaw officer on the same subject.
17. The notice of the November 20, 2023 meeting was sent by registered mail to the Property on November 7, 2023. The applicant was outside Canada. No notice was given to either counsel. The Corporate Officer placed the matter before Council on November 20, 2023 without confirming that the registered mail had been received. No one appeared for the applicant, and the minutes record no inquiry into whether he had received notice. The registered mail was returned to the District unclaimed on November 29, 2023. The applicant learned of the resolution in January 2024.
18. The minutes of July 14, 2025 record the Chief Administrative Officer's statement that "The District followed proper procedure by sending the notice via regular and registered mail." On the applicant's first application, Council had deferred the matter on June 23, 2025, as the minutes record, "to allow for representation", and the applicant's counsel was notified and appeared on July 14, 2025.
19. A decision to file a notice against title is an adjudicative decision affecting the owner's property rights, and Council owes the owner procedural fairness in making it: 667895 B.C. Ltd. v. Delta (Corporation), 2016 BCSC 2356 at paragraph 39; Nanaimo (City) v. Rascal Trucking Ltd., 2000 SCC 13 at paragraph 28; Pinnacle Care Group Ltd. v. White

Rock (City), 2022 BCSC 2272 at paragraph 80. The applicant was not heard before the resolution of November 20, 2023 was passed.

The warrant and the search

20. The photographs in Appendix A to the October 31, 2023 report were taken on July 12, 2023 during the execution of a warrant obtained on the affirmed information of a bylaw enforcement officer who testified at trial that he is not a registered building official. The applicant challenged the warrant under section 8 of the Canadian Charter of Rights and Freedoms. The trial judge ruled on December 11, 2025. The applicant has appealed the refusal to quash the warrant and to exclude the evidence obtained under it; that is ground 3 of the appeal to be heard the week of November 23, 2026.

Effect of the notice

21. The notice has been on title since December 6, 2023. In 2023 an accepted sale of the Property did not complete. The District's file records that on May 25, 2023 the bylaw officer "contacted the Realtor and advised of an open building and plumbing file which any future purchaser should be aware of", and the purchasers have pleaded in Supreme Court action S251545 that the threat of the notice affected their ability to obtain financing. The Property cannot be financed or sold on ordinary terms while the note stands. The applicant has lived under this enforcement file for four years and under the notice since December 2023.

Participation in the hearing

22. The decision on this application is adjudicative (paragraph 19). Section 100(2)(b) of the Community Charter requires a council member who has an interest in a matter that constitutes a conflict of interest to declare it and, under sections 100(3) and 101(2), to take no part in the matter. The applicant asks that the following members make that declaration and not participate in the hearing or the vote:
    a. Councillor Teale Phelps Bondaroff, who moved the resolution of November 20, 2023 and the confirmation of July 14, 2025, and who is the subject of a published review by the applicant on which he has provided his comments (item h).
    b. Councillor Colin Plant, who seconded the confirmation of July 14, 2025 and is the subject of a published review by the applicant (item g).
    c. Councillor Nathalie Chambers, who voted for the resolution of November 20, 2023 and the confirmation of July 14, 2025 and is the subject of a published review by the applicant (item i).
23. The applicant asks that Council receive no report or advice on this application from the following staff and counsel, and that Council obtain its legal advice on the application from counsel who has not acted against the applicant:
    a. Brent Reems, Chief Administrative Officer, whose statements of July 14, 2025 are set out in paragraphs 15 and 18, who told Council the same evening that "there's been procedural fairness afforded", and who is the subject of the applicant's publication and letter to Council (items j and k).
    b. Angila Bains, Corporate Officer, whose conduct is set out in paragraphs 3, 4, 6 and 17, and who is a defendant in Supreme Court action S262461 brought by the applicant.

c. Roy Thomassen, Manager of Inspection Services, who authored the report of October 31, 2023, testified for the District at trial, and is a defendant in Supreme Court action S262461.
d. Andie Britton-Foster, Municipal Solicitor, who attended the meeting of November 20, 2023 as solicitor and is counsel for the District and for Robert Carrie in BC Human Rights Tribunal complaint CS-009036 brought by the applicant.

Resolution sought

24. That Council direct the Corporate Officer to file a cancellation notice in the Land Title Office in respect of the note made under section 57(5) against the title to 938 Ambassador Avenue, Lot 1, Section 65, Victoria District, Plan 9202, PID 005-572-312.

Materials

25. The following are attached for distribution with the agenda:
    a. Reasons for Judgment, District of Saanich v. Caddell, Victoria Provincial Court file 187353, February 19, 2026.
    b. Report to Mayor and Council, Notice on Title, 938 Ambassador Avenue, October 31, 2023.
    c. Council minutes, November 20, 2023, June 23, 2025 and July 14, 2025, the 938 Ambassador Avenue items.
    d. Zoning Bylaw 8200, consolidated to December 15, 2025, section 2 (definitions) and sections 5.1, 5.24 and 5.26.
    e. The Corporation of the District of Saanich v. Kinney, 2025 BCSC 1132.
    f. Title searches for PID 005-572-312, 1995 to 2000, 2000 to 2016, and 2016 to March 15, 2024.
    g. Colin Plant: You Didn't Do the Work, published October 1, 2026.
    h. Teale Phelps Bondaroff: Your Promises Mean Nothing, with Councillor Phelps Bondaroff's comments.
    i. Nathalie Chambers: You Claim Civic Engagement, Until Residents Engage.
    j. Meet the Man Who Really Runs Saanich, September 23, 2026, revised October 6 and 10, 2026.
    k. Letter to the Mayor and Council and the Chief Administrative Officer, September 25, 2026.

Date: October 22, 2026

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Signature of applicant
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