IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Fraser Valley (Regional District) v. 13HE13 Holdings Corp.,* 2025 BCSC 1590

Date: 20250618
Docket: S40099
Registry: Chilliwack

Between:

Fraser Valley Regional District

Petitioner

And

13HE13 Holdings Corp.

Respondent

Before: The Honourable Justice Ormiston

Oral Reasons for Judgment

In Chambers

Counsel for the Petitioner:	Z.S. Currie T.J. DeSouza (June 13, 2025) S. Brown, Articled Student
Appearing as Representatives for the Petitioner on June 18, 2025:	G. Daneluz L. Hinton B. Ozeroff
Counsel for the Respondent:	R.T. Gill
Appearing as Representative for the Respondent on June 18, 2025:	T.S. Sekhon
Place and Dates of Hearing:	Chilliwack, B.C. June 13 & 18, 2025
Place and Date of Judgment (via videoconference):	Chilliwack, B.C. June 18, 2025

[1] **THE COURT:** The petitioner, which is the Fraser Valley Regional District ("FVRD"), seeks the following orders: first, a declaration that the respondent, the registered owner of a property at 58510 Laidlaw Road in Hope, B.C., has contravened the FVRD Building Bylaw 1188 by commencing and continuing construction without a building permit; second, an order prohibiting the respondent from erecting buildings or structures on the property without a building permit; third, an order directing the respondent to submit an application to the FVRD to demolish all buildings on the property that were built or renovated without a building permit by July 4, 2025; fourth, an order prohibiting the respondent from occupying any buildings or structures on the property that were built or renovated without a building permit; and finally, an order to demolish all buildings on the property built or renovated without a building permit no later than November 28, 2025.

Did the Respondent Contravene the Bylaw?

[2] The issues to be decided by this Court have been narrowed by counsel for the respondent, who wisely and fairly concedes the first issue, which is that the respondent started and continued construction of the buildings at 58510 Laidlaw Road without building permits.

[3] This conclusion is amply supported by the affidavit evidence before the court. For clarity, I find the petitioner has proven that there are three different structures that have been built or renovated without building permits and they are the ones depicted in the photographs that are found in Louise Hinton's affidavit and described by the petitioner as the "primary structure", the "accessory building" and the "modular homes".

[4] I accept the following uncontroverted evidence. In October 2021, a bylaw officer inspected the property at issue and found a pre-existing building known as the "primary structure" undergoing major reconstruction that included new trusses, walls, beams and stairs. It also included a second story addition to the existing building. Stop work notices were posted to the primary structure.

[5] In response, Mr. Sekhon, who acknowledged the stop work order, asked for leniency and advised he did not think the permits were required. He was corrected

by the bylaw officer and given a deadline for obtaining the proper permits. The deadline was not met and infraction notices were sent.

[6] Sorry, I just see that – Mr. Gill, that I do not –

[7] CNSL R. GILL: Sorry.

[8] THE COURT: – see your video on.

[9] CNSL R. GILL: I apologize. Yes.

[10] THE COURT: I just want to make sure you are still there and that –

[11] CNSL R. GILL: No, absolutely, I'm sorry.

[12] THE COURT: Okay. Good.

[13] CNSL R. GILL: And I just want to make the note, I believe one of the officers from my client's office is out – is trying to get – oh, no, I see he is in. Mr. Sekhon is in there. I see him. That is fine, thank you.

[14] THE COURT: Okay. We will carry on.

[15] In November 2021, the bylaw officer observed more construction on the primary structure, including plumbers who were installing under slab plumbing and framers who were preparing to erect the second floor walls of the addition. Further infraction tickets were sent to the respondent.

[16] In December 2021, the bylaw officer saw that further construction had occurred on the property on the primary structure, and had also begun on the accessory building. Bylaw officers also witnessed a concrete truck actively pouring concrete on site. The stop work order had been removed and officers posted a new one, including on the accessory building and on the derelict modular home. Further infraction notices and tickets were sent to the respondent. They were also warned of potential legal action. There is evidence of construction continuing through to late 2024.

[17] The relief sought at para. 1 of the petition is granted.

Orders Regarding Occupancy and Further Construction

[18] The order sought by the petitioner to prohibit occupancy of the structures built or renovated without permits and to prohibit further construction flow easily from the above-noted findings. Again, counsel for the respondent reasonably says his client offers to abide by a no-occupancy order and to fall into compliance with the bylaws.

[19] I agree there is a strong evidentiary basis for making these orders, as well. I have found that multiple structures on the property have been built or renovated without permits. While the respondent maintains that the structures were built by professionals, proof in this regard is lacking. An order to prevent further construction is also required, given the pattern of repeated breaches through 2021 up to and including 2024, despite clear and unequivocal expressions that construction must stop.

[20] While Mr. Sekhon, the property manager of the respondent company, may have been disadvantaged in understanding the process as counsel submits, the stop work orders posted at the site were far from the only indication given to the respondent that their work was in ongoing contravention of the bylaws.

[21] The relief sought in paras. 1 and 4 of the petition is also granted.

Type of Injunction

[22] The primary issue at this hearing, given the respondent's concessions, is whether or not this Court should grant the orders related to the demolition of the buildings at the subject property. The petitioner seeks a statutory injunction to do so, pursuant to s. 420 of the *Local Government Act*, R.S.B.C. 2015, c. 1, and s. 274 of the *Community Charter*, S.B.C. 2003, c. 26.

[23] Our B.C. Court of Appeal has found that once a clear breach of an enactment is shown a statutory injunction will be ordered except in "exceptional circumstances"; see *Maple Ridge (District) v. Thornhill Aggregates Ltd.*, (1998), 54 B.C.L.R. (3d) 155, 1998 CanLII 6446 (C.A.) at paras. 8–12. While the respondent here does not directly challenge the petitioner's position that this case is not exceptional, the respondent submits that a demolition order would be premature. Counsel submits that the respondent ought to be granted an interim order allowing

them time to seek professional opinions about whether it is viable to bring the buildings into compliance without full demolition.

[24] Counsel acknowledges the petitioner's evidence from Mr. Ozeroff, the Manager of Inspection Services for the FVRD, that work completed on the property that was concealed without inspections will require "significant demolition" to expose and test. Counsel submits that while the respondent may ultimately decide the cost of partial demolition is prohibitive, they ought to be allowed the opportunity to investigate this option. In the meanwhile, given orders prohibiting occupancy and further construction, the respondent submits it will cause the petitioner no prejudice to allow the additional time such an order would necessitate.

[25] I cannot accede to this submission for the following reasons: first, the additional information the respondent wants more time to collect fails to address all of the problems with seeking the permits retroactively; second, the respondent has already had ample opportunity to collect this information or comply with the bylaws and has not done so; and finally, there is a prevailing public interest in granting the order sought by the petitioner. I will discuss each of these reasons in turn.

[26] First, the respondent has tendered evidence that the electrical infrastructure in the new construction has now been approved by the Technical Safety Board of B.C. An engineer has also been consulted and, having inspected the wall sheathing and nailing of the buildings, confirms the requirements of the structural drawings and specifications were met. The respondent has plans to further consult with engineers, an architect, plumbers and other professionals.

[27] Nevertheless, what has been done to date and what the respondent plans to do falls short of the problems identified by Mr. Ozeroff. There is no evidence before me that concerns about potential deficiencies with the foundation and the exterior wrap have been allayed. More importantly, as the Manager of Building Inspections, Mr. Ozeroff, forecasts a significant issue with the respondent being able to retroactively obtain the required opinions about the architectural integrity of the substantial renovations to the primary structure, this obstacle to the respondent's plan is additional to his observation that "significant demolition" will be required to inspect and test concealed work.

[28] As Mr. Ozeroff explains, the primary structure is a complex building. Compliance requires letters of assurance from various professionals, including an architect. Mr. Ozeroff deposes that these letters of assurance cannot be issued by professionals who were not involved in the construction. I am mindful that Mr. Ozeroff's communication with the Architectural Institute of British Columbia is hearsay. However, this Court need not rely on this correspondence for the truth of its contents in order to find that Mr. Ozeroff has given a reasonable explanation for why the respondent's reliance on retroactive letters of assurance is going to be problematic.

[29] The petitioner has referenced applicable bylaws that set out a process whereby professionals are engaged at the outset and at the end of construction with field reviews conducted throughout the process. The respondent has not tendered evidence capable of meeting the concerns raised by Mr. Ozeroff. I find there is no realistic prospect that the petitioner will grant the permits sought on the basis of the evidence before me.

[30] Not only is there a factual gap in the evidence presented by the respondent, there is a legal deficiency, as well. The petitioner's position is well-supported by jurisprudence explaining why incremental inspections are critical in the building process. As the court writes in *Surrey (City) v. Sidhu*, 2023 BCSC 1837, at para. 35:

> … The permitting and inspection process is designed to ensure that sufficient standards are satisfied both before a project is commenced and incrementally as a building is constructed. …

[31] Demolition is warranted where those incremental inspections have not occurred. Accordingly, based on the evidence that is presently before the court, I find the respondent's plan to bring the new construction into compliance is not viable.

[32] The second factor favouring the order sought by the petitioner is that the respondent's request for further time to bring the new construction into compliance comes very late in a process where the respondent has repeatedly demonstrated either an unwillingness or at least an inability to comply with the FVRD bylaws. While counsel submits that the respondent struggled to navigate the construction process without the assistance of counsel, the petitioner has led persuasive

evidence that stop work orders have been deceitfully hidden and ultimately removed. When bylaw enforcement spoke directly with agents of the respondent company in 2021, they expressed defiance, not confusion over the rules.

[33] In October 2021, the stop work order was hidden behind an old permit; in November, it was folded such that it was not visible. Ultimately it was removed and the bylaw officers were told they had no right to enforce the bylaws short of legal action. Enforcement officers directed the respondent to obtain the kind of engineering reports they now want time to prepare more than four years ago when construction was still relatively fresh. Despite the involvement of counsel in February of this year, the respondent has not presented the kind of opinion that would contradict Mr. Ozeroff's evidence, and the respondent has not removed any of the unlawful construction.

[34] The questions that remain unanswered at the time of this hearing cast further doubt on the viability of the order that the respondent seeks. In short, this Court lacks a basis on which to find the respondent will or even can do what is required to avoid demolition. The order the petitioner seeks gives a generous further period of months before demolition will be required.

[35] Third and finally, both parties have made submissions about how the public interest should impact this Court's decision. On one hand, the respondent says he is trying to build a community and faith-based facility that includes education and training centres for youth. On the other, the petitioner emphasizes the importance of public safety which these bylaws are intended to protect.

[36] I agree with the petitioner that the laudable and prosocial efforts of the respondent do not detract from the petitioner's concerns. Instead, they amplify the importance of ensuring these buildings are safe. The respondent submits they are not resisting the need to ensure safety but rather asking for more time to meet the petitioner's requirements. However, even this more narrow issue comes with a public interest component, namely, the prejudice it creates for the petitioner. The respondent submits that if this Court allows the interim order they seek there would be no prejudice to the petitioner, especially since the respondent would bear all the costs and efforts of investigating whether they could bring the buildings into compliance with the bylaws.

[37] On the facts of this specific case, I cannot agree. The petitioner has been engaged in attempts to enforce their bylaws in relation to this construction since 2021. This has required various forms of bylaw enforcement, all of which have been in some way thwarted. Regardless of whether Mr. Sekhon's resistance to the bylaw scheme can be said to be in bad faith, on the evidence before me it certainly is not accidental. The deliberate and sustained conduct on the respondent's part weighs heavily in the public interest analysis.

[38] Given this history and the respondent's own admission that their proposed process could result in further litigation if the parties cannot agree, there is a real risk of further court actions to resolve ongoing disputes. Regardless of the prospect of being awarded costs for such actions, failing to grant the order sought does prejudice the petitioners who will have to continue to expend resources to supervise the proposed remediation.

[39] On the available evidence, I cannot find that the impact on the respondent will be disproportionate as alleged. That is precisely the evidence that is missing here, which the respondent says they need more time to harvest. While there will undoubtedly be financial loss to the respondent, this cannot trump the public interest when ensuring that this type of bylaw is obeyed.

[40] In conclusion, I am satisfied that the bylaw has been breached and I am not satisfied that the injunction sought by the petitioner should be postponed. In cases such as this, the public interest generally favours the enforcement of municipal laws. Notably, personal hardship has been found not to constitute an exceptional circumstance; see *Surrey (City) v. Singh*, 2022 BCSC 1455, at para. 38.

[41] The evidence before me does not disclose the kind of "exceptional circumstances" that would warrant a discretionary refusal to enforce the legislative requirements as appears in the jurisprudence; see *Victoria (City) v. Smith*, 2020 BCSC 1173. Given the deliberate and protracted nature of the construction, I cannot find that there is "such uncertainty that it can be said that the breach is not being flouted". Furthermore, even though the respondent is prepared to abide by a no-occupancy order and an order to stop further construction that violates the bylaws, I would still grant the injunction for the reasons outlined above.

[42] This case is analogous to others where demolition has been ordered for structures built without valid permits; see *Surrey (City) v. Singh*, where the court also found there was "no realistic prospect that the City would retroactively approve a building permit that addressed all the building issues", at para. 45; see also *Surrey (City) v. Sidhu*, at para. 31.

[43] The case at bar is factually distinguishable from the *District of West Vancouver (Corporation of) v. Liu*, 2016 BCCA 96, which is relied upon by the respondent. In *Liu* personal hardship to the homeowner was found to be disproportionate because there was no prejudice that accrued to the District in allowing the homeowner's building to encroach on District land for which there was "no easily identifiable public right" or future plan that the District may have had for that land.

[44] In *Liu*, the injunctive relief was found to be premature because in the "unusual circumstances" of that case, the District wanted to sell the subject land to the homeowner, which would obviate the need for the demolition. This is a very different situation from the case at bar where the District does not believe the breach of the bylaws can be cured with anything short of demolition.

[45] Accordingly, the relief sought in paras. 2–5 of the petition is granted on the terms set out in the draft order, which require an application for demolition to be made by July 2025, and demolition to be accomplished by November 2025.

[46] Mr. Currie, you will draft the order for signature as an E-order since this appearance is remote, I take it?

[47] CNSL Z. CURRIE: Yes, I will.

[48] THE COURT: All right. Any submissions with respect to costs?

[49] CNSL Z. CURRIE: I just believe that the – I think that the normal rule of costs should follow. So since the petitioner was successful, we should be awarded costs.

[50] THE COURT: Mr. Gill?

[51] CNSL R. GILL: I would ask that the court consider, as I said, the subtext that we put forward with respect to the – I would say that the deficiency in the

client's sophistication with respect to dealing with matters, I do note the court's language that although there may not be finding of bad faith, it was certainly not accidental. Also looking at the fact that the purpose of the structures was not to finance or for commerce *per se*, it was the public interest with respect to the Sikh community, and on that basis to let that inform any decision on costs. I will just leave it at that.

[52] THE COURT: Thank you, Mr. Gill.

[53] I have considered the laudable purposes behind the buildings at issue. However, given the way this matter has wound its way towards this particular hearing, I see no reason to deviate from costs to the successful party on the ordinary scale.

[54] CNSL R. GILL: Thank you.

[55] THE COURT: Thank you to both counsel.

[56] CNSL R. GILL: Thank you, Justice.

[57] CNSL Z. CURRIE: Thank you, Justice.

[58] THE COURT: The matter is adjourned – or court is adjourned. Thank you.

“Ormiston J.”