Standards of Reporting and Remediation

The Impact of Illegal Drug Operations on Housing

A White Paper Discussion Prepared for
The Fraser Valley Real Estate Board
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Executive Summary

In the early 2000s, the member boards of the BC Real Estate Association (BCREA) adopted a philosophy called “Quality of Life” as a basis for its approach to real estate.

The five principles of “Quality of Life” are:

- Ensuring economic vitality
- Providing housing opportunities
- Preserving the environment
- Protecting property owners
- Building better communities

The Fraser Valley Real Estate Board (FVREB) serves 3,200 REALTORS® and their companies throughout the City of Surrey, Corporation of Delta, City of White Rock, City of Langley, Township of Langley, City of Abbotsford and District of Mission. In 2006, FVREB tasked its Governmental Relations Committee with creating a sub-committee to pursue goals associated with the “Quality of Life” principles.

One of the key areas this sub-committee has been studying is the problem of marijuana growOps and clandestine drug labs (otherwise known as illegal drug operations or IDOs) in residential and commercial properties within these seven municipalities.

To better understand the issues, the sub-committee has met, over the past two years, with experts in criminology, fire safety, public health, industrial hygiene, law enforcement, municipal administration, the BC government, the federal government, and others.

This white paper has been commissioned by the FVREB to:

- Explore the current standards of reporting and remediation within the above seven municipalities served by members of the Fraser Valley Real Estate Board, and
- Provide a background and, ideally, a launch pad for ideas to harmonize efforts in the seven municipalities.

Such efforts, combined with a consistently-employed, standard process for dissemination of information to the public on the current and former use of residential properties as IDOs, would add immeasurably to public safety and public protection from the physical dangers, as well as the serious financial risks caused by delayed remediation.

Our forum welcomes representatives from various levels of government, the healthcare sector, law enforcement, fire chiefs, municipal staff and inspectors, remediation companies, environmental experts and others. It will, we hope, open doors to discussion and facilitate the establishment of a synchronized process for full disclosure of IDOs to Fraser Valley residents.

This white paper outlines the issues, the legislation, the dangers, the stakeholders, what initiatives have been used successfully to date and what is happening specifically in the seven municipalities.
Current successes are discussed and recommendations are offered. Various initiatives are already in place; what is needed is consistency across jurisdictional boundaries.

There is currently limited means to verify the status of a particular address. Without verifiable and available data, the public remains at risk of not knowing that the property they’re about to purchase was used as an IDO or, if they do, whether it was remediated to a standard that will not put them or their families at risk.

It is our hope that the combined experience of the experts and stakeholders will produce a coherent formula for resolving these issues.
Introduction

This paper highlights and analyzes many of the issues related to illegal drug operations (IDO)s in residential and commercial properties throughout the seven municipalities served by the Fraser Valley Real Estate Board’s members. It lists common problems and challenges, profiles actions each of the seven municipalities has taken to date, and makes suggestions for further harmonization and cooperation among stakeholder groups.

By investigating the approaches to IDOs each municipality has taken to date, we hope to shed light on protocols and procedures that have experienced positive results and to encourage further action in the public interest, particularly public health and safety.

History of the Issues and Legislation

1. Who is behind marijuana grow-ops and clandestine drug labs?

A report by the Canadian Centre for Justice Statistics\(^1\) has ascertained that “incidents of marijuana growing operation reported in British Columbia (79 per 100,000 population) is nearly three times (3X) the national average (27 per 100,000 population). The majority (72%) of marijuana growing operations are found in the Lower Mainland and Vancouver Island regions of the province. However, the number of rural marijuana growing operations has increased over the last seven (7) years, with the highest increases of reported incidents in the Thompson-Okanagan and Kootenay areas.”

A 2004 study by the Fraser Institute notes that “for a modest marijuana growing operation of 100 plants, harvest revenue from 13 kilograms of marijuana sold in pound blocks out the back door is valued at $2,600 per pound. This amounts to slightly less then $20,000 per harvest. With four harvests per year, gross revenue is nearly $80,000. A conservatively high estimate of production cost is about $25,000. The return on invested money is potentially around 55 percent.”\(^2\)

The same study\(^3\) reports that the expansion of clandestine drug labs is on a par now (2005) with the rapid expansion of grow-ops in the 1990s. As grow-ops become more sophisticated (and, increasingly, rural), drug labs are also proliferating throughout the province. Since 80%, at a minimum, of the production is exported through criminal distribution channels, money laundering, violence and death are close companions. Unfortunately, with inadequate resources, the RCMP estimates that only about 20% of grow-ops are actually taken down by police.\(^4\) Clearly, help is needed from the general public and all levels of government.

A recent, substantial report on methamphetamine production and use points out that “the most recent shift in illicit synthetic drug activity has been the continuing rise in methamphetamine trafficking and availability. In contrast to the ecstasy trade, the bulk of methamphetamine available in Canada is derived from clandestine labs. The continued involvement of regional independent entrepreneurs and users, and to a lesser extent outlaw motorcycle gangs, continues to hold true. There is mounting evidence of independent and Asian organized crime networks and increased outlaw motorcycle gang involvement in methamphetamine production, trafficking, and distribution in Western Canada and Quebec.”\(^5\)
The report states further that, unlike grow-ops, very little space and equipment is required for these drug labs. They can appear in apartments, houses, commercial premises, mobile homes, rural cottages, etc. Control of the chemicals to create them is spotty, at best, since many of the chemicals have legitimate uses and privacy issues arise with commercial record-keeping of consumers’ names and other personally identifiable information.

2. Legislation to eliminate proliferation of grow-ops and clandestine drug labs

a) Federal

i) Proposed amendments to the Controlled Drugs and Substances Act (1996), introduced in 2007

An outcome of the “National Anti-Drug Strategy”, this Act concentrates on three goals: prevention, treatment and enforcement. Proposed funding for prevention and enforcement together is equivalent to that for treatment. In addition, the Enforcement Action Plan is intended to “bolster law enforcement efforts and the capacity to combat effectively marijuana grow operations and synthetic drug production and distribution operations.”

Through this legislation, mandatory sentences are proposed for serious drug offenses, including life imprisonment. Depending on the type of drug involved, amounts seized and other factors, penalties could range from fairly minor to massive. An article in the “National Post”, dated November 20, 2007, notes that under this revised legislation, “running a large marijuana grow operation of at least 500 plants will mean an automatic two-year jail term” and “the maximum penalty for cannabis (marijuana) production would increase from seven to 14 years.”


This legislation addresses the issue of the sale of ingredients used in the manufacture of illicit drugs in IDOs. Private industry, through training of retail employees, in cooperation with policing authorities, will be able to curtail the sale of large amounts of precursor chemicals used in the manufacture of illicit drugs.

iii) Proceeds of Crime (Money Laundering) and Terrorist Financing Act, 2000

As criminals try to launder the money made by IDOs, the RCMP, CSIS and local police are able to seize assets purchased by the proceeds of crime, including profits from IDOs. Of course, it is the courts that will determine whether or not the assets are returned to the criminals.

b) Provincial

i) BC Building Code

The provincial Building Code controls the building, alteration and other related measures involved in construction of any type of premises.
Municipalities also pass building bylaws based on the requirements under this Code which, as with all higher-level legislation, takes precedence over the local bylaw, in the event of a conflict. It outlines who has the authority to do any work, what standards are demanded and what remedies are available for failure to comply. Anyone bypassing electrical meters, or altering wiring, support structures, plumbing, etc. will be dealt with under this legislation.

**ii) BC Safety Standards Amendment Act, 2006**

This Act, according to a summary by the Ministry of Community Services, “provides authority for local governments to request, in writing, information about residential electricity accounts from BC Hydro, public utilities and municipally-owned or operated electrical facilities for residences within the local government’s boundaries.” Under Sec.19.2 (3), local governments may share this information with administrators of the Act (for example, safety officers), and provincial or municipal police forces.” It also states that “Section 1 adds a provision to the Safety Standards Act which requires a safety officer, who is qualified and appointed by the Minister or a local government under s. 11 of the Act, to provide written notice to owners or occupiers before entering a residence when acting on the basis of electricity information shared by a local government (Sec.19.3).”

Prior to the enactment of this legislation, the Freedom of Information Act was the controlling legislation with regard to the disclosure of hydro consumption records to anyone else, including police and municipalities. It prohibited power companies, like BC Hydro, from allowing access to its customers’ power consumption records.

The new legislation allows the local fire department to place a notice on the property that it will be inspecting it within 48 hours. The focus is on the fire hazard, not on the criminal activity. If, in the course of the fire inspection, criminal activity is ascertained or weapons are used, the police can then be brought in to deal with them. The written and posted notice must indicate “the safety officer’s intention to enter the residence and conduct an inspection, and the reasons for the intended entry and inspection.” (Sec. 19.3 (1) (b)). The owner has two days to reply in the set-out manner arranging access for the safety inspector.

Not all BC municipalities have availed themselves of this information.

Under this Act, the same consumption information is available to the police. It should be noted that BC’s Privacy Commissioner is of the opinion that the police should not have this information without the consent of the affected parties, as there is no restriction on their use of it in the legislation. Nevertheless, the Act in its accepted version allows police the same access as local governments (Sec. 19.2 (3) (b)).

A Vancouver Sun newspaper article from August 11, 2006, points out that for an inspection possibility to be triggered, “Abnormal consumption is defined as any residence that uses more than 93 kilowatt-hours (kWh) of electricity per day (the average home uses 31 kWh a day).” The same article notes that two years’ billing records can also be obtained from Hydro by municipal inspectors and the police.
In order to assist municipalities with the data load, BC Hydro provides a software tool to help analyze the data, so that realistic figures can be generated. In other words, in periods when hot tubs and pools or space heaters or air conditioners are likely to cause rises in consumption, figures can be adjusted seasonally.\textsuperscript{11}

iii) Fire Services Act, 1996

This Act permits the Fire Commissioner and the Commissioner’s inspectors to enter a property after a complaint has been made that, among other reasons, “(c) combustible or explosive material is kept or other flammable conditions exist on the premises so as to endanger life or property; (d) a fire hazard exists on the premises.” (Sec. 21) Remedies, allocation of costs and method of collection where an owner is not the resident are outlined in Sec. 22-23. Note that in the latter case, a notation is put on the title, like other issues, as a lien.

iv) Community Charter, 2003

This Act outlines in detail all of the responsibilities and processes through which local governments can administer their affairs, including drafting of bylaws. It has streamlined processes and allowed greater autonomy to municipalities.

v) Local Government Act, 2000 (revised)

In order to streamline processes affecting local governments of both municipalities and regional districts, the BC Government passed the revised \textit{Local Government Act} which contains provisions that are useful to municipalities and regional districts coping with common issues. Changes allow municipalities and regional districts to cooperate more fully and to share expenses for programs which can benefit them all or several of them, as they choose.

As the introduction to an explanatory publication called “The New \textit{Local Government Act}: Making a Difference in Your Community”\textsuperscript{12} explains, “This means services can be provided jointly by several local governments – saving money, streamlining service delivery and allowing the development of new services.”\textsuperscript{13} This can help the seven municipalities of the FVREB area coordinate programs for identification, remediation and data retrieval to assist with consumer protection in dealing with current and former IDOs, wherever located, even in more rural areas.

vi) Civil Forfeiture Act

This legislation, like the federal \textit{Proceeds of Crime Act}, is designed to assist the courts in discouraging criminals to operate in BC.

c) Municipal legislation: the role of bylaws

The Union of BC Municipalities, through the brainstorming of its member representatives, assists municipalities in producing effective bylaws to deal with local issues. At a 2005 workshop, a proposal outlined how local governments, power distribution companies (such as BC Hydro), the BC Safety Authority, and police (either local or RCMP) could work together to eliminate the
threat of grow-ops specifically. Local governments would request power consumption information from power companies which they would provide. The local governments would then send out a Safety Inspection Team of inspectors made up of fire, electrical safety and building inspectors, accompanied by police for security. The local governments would liaise back and forth with local police or RCMP and with the BC Safety Authority.

A continuous exchange of information and communication is established in this model. Currently, most municipalities do not have such a thorough process in place, although some have made extensive progress in this direction. The systematic and targeted efforts in a free-flowing exchange of information to and from all sources is essential for success. Bylaws permitting and establishing this process or something similar, if implemented in all municipalities, would reduce the incidence of IDOs dramatically and efficiently.

The Union of BC Municipalities has prepared a draft “Nuisance (Controlled Substance) Bylaw” which has been adopted or revised by some local municipalities. It outlines what the regulations are for “building, health, safety, nuisance and noxious trade”, the “powers of the building inspector, fire chief and inspectors”, the “duty of the registered owner”, the process by which the municipality will determine compliance with an order and completed remediation, who will pay the associated fees, what happens if there is a default in payment (service discontinued, penalties) and a sample “Letter to Property Owner” with an attached copy of the bylaw being breached, a sample “Certification Form” showing the details of who provided the remediation, their qualifications and the property’s status, a “Do Not Occupy Notice” outlining what the issue is (grow-op or drug lab), and a list of who to contact at the municipal hall. This sample bylaw could be used by all municipalities and form the basis for a consistent, standardized reporting system accessible by the public and REALTORS® representing them.

A process has been developed by a steering committee of the Union of BC Municipalities to aid local governments in preparing for access to hydro records and the follow-up steps. In its undated report “Residential Electrical Safety Tools: User Guidelines” many practical procedures are laid out, especially with regard to staff and funding. It also provides a systematic process for identifying IDOs, notifying the owners, inspecting the property, following up with the remediation process, re-inspecting the property, certifying completion, and collecting fees, penalties, etc. from the owner. As complete as this appears to be, it does not yet address the issue of how the public will find out about the status of a home they may wish to occupy. That is our concern here.

The most common types of municipal bylaws dealing directly or indirectly with IDOs are:

- building bylaws
- unsightly premises bylaws
- noxious substances bylaws
- controlled substance property bylaws
- fire safety bylaws
3. Environmental and public health concerns

With meth and other drug labs, as with grow-ops, it is necessary to ensure safe destruction of the product and its ingredients and thorough clean-up of the site. The presence of explosives and chemicals and the use of unstable heat sources are matters of concern. Marijuana grow-ops impact the actual premises.

a) Toxic dumps

Methamphetamine lab operators may dump empty or partially filled chemical containers at an off-site location. The Township of Langley, mainly rural, has experienced an average of one dump cleanup per month costing taxpayers $10,000 – $12,000 per cleanup. In these cases, a commercial Hazmat team from Coquitlam was called in, since local cleanup companies are not qualified to deal with these dangerous chemicals, according to a recent study.16.

Fumes from chemicals as they are being “cooked” into drugs permeate the area, potentially affecting occupants. Although the incidence of meth labs is fewer than marijuana grow-ops, the potential dangers may be more extreme, creating hazards to entire neighbourhoods.

b) Mould

Spores from mould caused by extreme and prolonged damp heat in a building without proper ventilation may cause health problems. Without proper mould remediation, these spores return again and again. The gyproc have to be removed, the whole area cleaned with suitable solvents, dried out thoroughly and the gyproc replaced. In some cases, contractors untrained in proper remediation techniques have just covered up the problem.

A “Directory of Mold Testing and Removal Companies” searchable by province and city is available at www.moldbacteria.com, although no criteria for membership on the list are indicated.

c) Residue and contamination of soil and all building materials

When pesticides and herbicides are used in grow-ops to increase production, and when various chemicals are disposed of after the manufacture of illegal drugs, the soil around the facility may be contaminated. Assessment, and potential remediation, may be necessary. Professional cleaning is also required for the interior of the building to remove chemical residue.

A recent RCMP study states, “Clandestine laboratory sites are often required to be condemned by health authorities due to the contamination that had occurred because of the methamphetamine production.”17

d) Water contamination

Operators frequently dispose of chemicals and other liquids via a property’s plumbing system. Also, chemicals may be poured onto the ground and leach into the soil, potentially contaminating ground water.
c) Air quality

Particularly in drug labs, but also in grow-ops, chemical fumes from pesticides, fungicides, precursor chemicals (ingredients for the drugs) and microscopic particles from the finished product may linger for extended periods.

f) Role of industrial and occupational hygienists

Specialists are trained to certify controlled substances in grow-ops and drug labs. As Nancy Battye, with Aztech Environmental Group states: “There are no specific federal standards in place with respect to grow operations that any organization or company follows when remediating a grow operation. A large basis of the direction for clean-up comes from the knowledge of the issues that are connected to mould growth as a result of water ingress. The objective in any mould related issue regardless of whether the mould was as a result of mould growth, life style, building science, plumbing, roofing leaks, etc., is to remove the mouldy building materials (regardless of what type of building materials have been affected) with minimal disruption to reduce the potential for migration of air …, clean the area and ensure that the area is dry and that the issue that was causing the mould has been dealt with.

“The elimination of the water, food, or heat source is prime and then the cleaning efforts cannot be stressed enough… The protocols for remediation are formatted in large part to mould remediation efforts that would be used in a daily manner for general mould problems; however, they are enhanced from there with respect to the soils and chemicals. Mould can grow on soil and that becomes a big issue for us in terms of removing it. The problem with so many homeowners or general contractors doing the work is that they rip out what they think needs to come out and then start putting everything back together without making sure all the issues have been dealt with.”

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g) Role of Hazmat teams

As stated earlier, communities may have to hire professional Hazmat teams from other areas (such as Langley Township hiring a team from Coquitlam) to handle dumps of dangerous chemicals. It is not enough to hire cleaning companies and contractors. Only those trained in the complete eradication of the chemicals (while being protected themselves) can deal effectively with the problem.

4. Public safety issues

a) Electrical fire

Grow-ops cause fires because of unauthorized and amateur alterations to wiring. Overloaded circuits and electrical metre bypasses pose danger of fire and explosion. Electrocution is also an issue for those living in the home and those trying to close the operation down.

In clandestine labs, stoves can catch fire while operators are cooking the chemical components of the drugs. Power outages from blown neighbourhood transformers can be caused by overloaded circuits, resulting in cost, inconvenience and danger to nearby homes. Exposed wiring, incorrect
voltages, mixed voltages, high-voltage lamps and added commercial-quality exhaust vents can catch fire easily and endanger not only those in the IDO, but neighbouring homes as well.

b) Grow-rips and home invasions

Criminals frequently prey on each other to steal the product and/or the cash proceeds in IDOs. From time to time, they invade the homes of innocent new owners or tenants. As a result, innocent people are traumatized and sometimes seriously hurt or worse.

c) Guns, violence and organized crime

According to a paper entitled “The Scope and Impact of Organized Crime in British Columbia”19, “The most significant categories of organized crime in the province are Outlaw Motorcycle Gangs, Asian-based Organized Crime, Independent Organized Crime, Indo-Canadian Organized Crime, and East European Organized Crime.” It goes on to say that “marijuana cultivation is the most pervasive and lucrative organized crime activity and leads to significant spin-off criminal activity including violent crime and money laundering.”20 In addition, “methamphetamine production and trafficking is expanding at a rate similar to the early growth of the marijuana industry.”21 Incidences of arson, kidnapping, murder, assaults, and extortion have all increased with the expansion of the illicit drug production industry. Gangs, with the power of the proceeds of crime, are able to set up houses in any area of the community. They buy or rent upscale homes and run-down ones, urban condos or rural farms. No neighbourhood or community is immune from this activity which was once only found in the rougher parts of big cities.

d) Children in IDOs

In a 2003 report on this issue, produced by the Ontario Association of Chiefs of Police, it was noted that “Children are at risk from grow-op activity, as families of ‘crop sitters’ sometimes live in grow-ops to add an air of legitimacy to the operation. As many as 10,000 children may have resided in grow-op dwellings over the 2000-2003 period (in Ontario).”22 A Surrey RCMP detachment report stated that in one year they found children in 28 out of 116 grow-ops they closed down. That is 24%.23

e) Take-downs in neighbourhoods

In IDO “busts”, usually the owner or operator, if present, is taken quite peacefully, but at times weapons are used, adding another danger to the neighbourhood.

f) Impact on neighbourhoods

Where IDOs exist, the potential for associated problems or dangers increases: increased traffic, higher noise levels, existence of vicious dogs; and increased potential for violence as the number of criminals in neighbourhoods rises.
g) Drug paraphernalia

In the course of producing illegal drugs, equipment is discarded, at times, where contact with it may be injurious since it has not been de-contaminated. Broken glass, pieces of metal, containers of chemical ingredients and other types of materials may be found around the premises, inside and out.

h) Danger to emergency responders, remediation contractors and related professionals

Fire fighters, inspectors, contractors, hygienists, ambulance attendants, police and others take risks when dealing with the hazards involved with IDOs. From booby traps and weapons to mould, airborne contaminants, dangling wires, and chemical contact, these people risk their lives and health to close down illicit manufacturing facilities.

5. Damage to residential and other premises

Whether the residence is a house, an apartment, a townhouse, a duplex, triplex or fourplex, a mansion or a manufactured home, or the structure is a warehouse or other storage facility, a barn or other rural outbuilding, or an office, the damage is the same. Without professional, standardized remediation, such buildings may be uninhabitable or unusable without complete remediation.

a) Moisture

Moisture damage from prolonged high heat and humidity can affect not only wood, but also gyproc, concrete and other materials.

b) Wiring defects

Bypassing electrical metres involves unauthorized and often amateur wiring to steal power and avoid detection by BC Hydro through its monitoring of consumption. Wires may be unattached or poorly attached, or connected in dangerous ways that cause a severe fire hazard. If the wiring is not repaired thoroughly by a qualified electrician, an unaware new resident may be at risk.

c) Unauthorized alterations to support structures

When supporting walls or supporting roof struts are cut away to allow for more growing area in a house, the structural integrity of the building is compromised. Even after remediation, a building may not be habitable because of instability that cannot be fixed without a major and potentially costly alteration.

d) Foundations cut away for ventilation and hydro access

Since grow-ops may be hidden in basements or in newly-created extensions of basements (in what was only dirt under that part of the house), sources of ventilation for the fans must be found. Consequently, foundations are often cut away at random points, thereby weakening their strength and the stability of the whole building.
Similarly, in grow-ops access to hydro has often been achieved by chipping away the concrete, in order to bypass the legitimate connection.

c) Alterations to chimneys and roofs

Holes are sometimes cut in chimneys and roofs to allow for wiring to be passed through to the pole outside, bypassing the metre. This is especially common where the grow-op is in the attic. Moisture and other damage will necessitate a new roof and repairs to or replacement of the chimney.

f) Plumbing damage

Some operators of IDOs will dispose of dangerous chemicals through the drains and toilets of a property, potentially compromising the piping system on the way out (or clogging it). A new plumbing system may be required. If this happens in a multiple-unit dwelling, the entire plumbing system of the complex may be compromised, at significant cost.

6. Law enforcement issues

a) RCMP programs directed from “E” Division in Vancouver or Ottawa

In the past few years, the RCMP has established its own Coordinated Marijuana Enforcement Team. The RCMP manages law enforcement on a contract basis with Surrey, White Rock, Langley Township, Langley City, and Mission. It is able to draw on the resources of the RCMP at large in terms of research, replication of programs that work elsewhere, etc.

b) Local police

In 2005, the BC Government announced new funding for law enforcement specifically allocated to efforts to eliminate grow operations. Both the City of Abbotsford and the Corporation of Delta have their own police forces which are dependent on funding from their own tax bases for all law enforcement programs and initiatives.

c) Bylaw enforcement officers

Each municipality employs bylaw enforcement officers who issue tickets or notices and report breaches of bylaws to the municipality. They may or may not accompany the inspection team or a single inspector, depending on the jurisdiction, when making an initial contact with an owner or occupant of a suspected IDO. In all municipalities that have IDO-related bylaws, the local police or the RCMP accompany the inspector to ensure his or her safety.

d) Building inspectors

Checking on compliance with the local building bylaw and the BC Building Code on which it is based, these inspectors are key players in the detection of grow-ops and the remediation process. Among their many responsibilities, they are authorized to discover unauthorized structural and
other alterations, a process that leads to a “Do Not Occupy” notice being placed on the subject property to precipitate remediation or, in some cases, eventual demolition.

e) Fire Chief

The Fire Chief and his representatives are always part of any inspection team under the bylaws for fire safety. In this role, the Fire Chief can determine hazards that may have been the result of a current or former IDO.

f) Electrical safety inspectors

In municipalities where this type of inspector is part of the inspection team (EFSI), he or she can detect wiring irregularities and require disconnection of service until a successful appeal by the owner has occurred. Only when the remediation is satisfactory to the electrical safety inspector can the power be re-connected.

g) Other local authorities

i) Local health authority inspectors

Under a local bylaw, a local health authority inspector trained to discover issues relating specifically to health (mould, fungus, air quality) may be part of the inspection team after the initial visit.

ii) Safety inspectors

Under the provincial Safety Standards Act, the safety inspector checks for potential breaches of the Act where issues that would lead to public endangerment can be detected (electrical alterations and bypasses, structural hazards, and the like).

h) Other Issues

i) Who is in charge?

While some municipalities tend to rely on tips from the public, the local police or the RCMP before initiating an inspection, others proactively cooperate with the police in a team effort (EFSI or PSI teams). Some are taking advantage of the BC Hydro power consumption records, while others are not. In the latter cases, reliance is much heavier on the police’s ability to identify and “bust” the IDOs before any municipal authorities enter the picture.

ii) Which laws or bylaws take precedence?

With the RCMP serving as enforcement officers in most of the FVREB coverage area and two local police departments (Abbotsford and Delta), it is essential that cooperation and exchange of information strategies be in place, particularly regarding IDOs. Many of the same criminals and their gangs run these operations in different communities. Jurisdictional and procedural concerns can seriously hamper the effective closing down of such operations.
Some work is already being done in this area by the local police. A paper entitled “From Integration to Organization: A Renewed Model for Policing in British Columbia” (by Chief Constable Jim Cessford, Delta Police Department) addresses jurisdictional and overlapping policy and procedural matters, by making the following recommendations to the provincial government: “1. Create a single, unified policing organization that encompasses all provincial integrated units under one agency. This unit may be referred to as the British Columbia Specialized Policing Agency… (and) 2. Develop an overall provincial policing model that supports and promotes both the activities of local police agencies and integrated units by coordinating all efforts…” It is to be assumed that such an organization would also cooperate with the local RCMP detachments which provide policing services to much of the Fraser Valley, although directed in large part from either “E” Division in Vancouver or Headquarters in Ottawa.

7. Public awareness

a) Address lists

Some jurisdictions outside the Fraser Valley post the addresses of known grow-ops on a publicly-accessible website (Ottawa, for example) or they maintain a list at the municipal offices. This, at least, warns a potential buyer or tenant of the former use of the home. It does not, however, indicate the status of remediation, if any.

b) Notice on title

Vancouver has been working on a policy to put a “Bylaw Contravention Notice” on the title of properties used as grow-ops on more than one occasion (not the first time). Some municipalities also use the title as a means to warn the public of the existence of an IDO. Here the notice is removed once the property is satisfactorily remediated. The removal of the notice upon remediation would show on the title like a cancelled mortgage or lien. The Township of Langley notes, as a fee in the bylaw, the cost of registering a charge and the cost of removing it, but does not note IDOs on title. How this issue is being dealt with is in transition in many communities.

c) Notice on tax certificate

Where this appears, it can take the form of a note regarding a contravention of a bylaw (by number) and the tax arrears from the costs associated with remediation, if not paid by the end of the applicable calendar year. This is inconsistently used throughout the region. Nowhere will it state directly that the property has been used as an IDO.

d) “Do Not Occupy” notice on door

All jurisdictions with a bylaw related to IDOs have the means to place a “Do Not Occupy” notice on the property, either on the door or on the front window advising anyone interested in the property of there being an issue of habitability. The notice is removed only after satisfactory remediation. There is a penalty for early removal.
e) No common method

The review of programs throughout the seven municipalities shows an eagerness to provide public information, but no consistent, harmonized method for making the public aware of identifying factors and how to report suspected IDOs is yet available throughout the region.

f) Information not always reliable

The public cannot always make clear assumptions about the current or prior use of a property based on information provided by the municipal hall, because not all of it is maintained there, or it may be incomplete, because not all IDOs are “busted”, let alone remediated, and information may be out-of-date on some properties. Each jurisdiction has its own method of compiling information.

8. Coordination between law enforcement bodies and municipal authorities

Where the programs designed to detect and close down IDOs are in place, the cooperation and coordination between municipal authorities and the police are significantly strengthened. Where they are not working together directly, it is much harder to maintain any kind of database of properties. The RCMP, for example, may be less able to share its data with the municipal authorities than would a local police force, because of differing mandates and protocols.

9. Privacy and legal concerns

a) Liability of municipalities

Municipalities are justifiably concerned about their legal liability in entering properties for inspections. Some have built legal protection into their bylaws. Others are silent.

New inspection programs, like the Electrical Fire Safety Initiative (EFSI) or the Public Safety Inspection (PSI) teams in some Fraser Valley municipalities are intended to be financed on a cost-recovery basis with the owner paying all the costs through fines, penalties and fees. In some jurisdictions, even the municipality’s legal fees must be paid by the property owner. Any out-of-pocket expenses incurred by the municipality for providing the services must also be covered by the owner.

b) Court cases regarding refusal to allow police on property without a warrant

Because inspections, in some municipalities, are carried out by EFSI or PSI teams, which include police protection for the inspectors, no warrants are required. The inspectors give notice of intent to enter the property for fire and safety inspections. There have been recent instances where a homeowner has refused the participation of the police, while being willing to let the inspectors enter the property. Since the police do not have a warrant at this stage, the issue of the owner’s ability to refuse entry has become a court case in more than one jurisdiction across the country, Surrey being one of them. Others have occurred in Coquitlam and Ottawa. No case law has yet been established to determine whose rights take precedence.
c) BC Privacy Commissioner’s response

Generally, the disclosure by a municipality that a given property has been an IDO would not contravene Canada’s *Personal Information Protection Act* or BC’s *Freedom of Information and Protection of Privacy Act*, since information about a property is not protected. In addition, a letter from the Executive Director of the Office of the Information and Privacy Commissioner of BC, dated June 24, 2008 to the FVREB, stresses “(t)here is a positive duty in law to disclose information about a significant risk to someone’s health or safety.”

As a related issue, there has been discussion about regulating the sale of hydroponic and other potentially drug-related equipment. This is a useful measure to protect the public and aid enforcement officers. It would involve maintaining “personally identifiable information” on customers of these businesses. How this information would be protected and/or later used is not yet clear.

A report by David Loukedelis, BC’s Information and Privacy Commissioner, dated August 30, 2006 and entitled “Local Governments and the Growth of Surveillance” expresses concerns with municipalities developing bylaws for the collection of information on buyers of hydroponic equipment and other materials that could be used in criminal activity, such as IDOs. His preference is to allow the provincial legislation, specifically the *Safety Standards Amendment Act*, 2006 to be used to its full force and effect. As he states, “Amendments under the *Safety Standards Amendment Act*, 2006, which came into force in June of this year, require BC Hydro, and other electrical power producers, to share domestic electrical consumption information with municipal safety authorities. This is intended to allow safety officials to inspect residences whose electricity consumption is sufficiently high over time to identify possible marijuana grow-ops.” He continues, by saying, “It is clear that the *Safety Standards Amendment Act*, 2006 provides a much more direct and effective tool for identification of suspected grow-ops than any municipal bylaw aimed at sales of equipment or material that might, just might, be used for illegal purposes. This new law effectively removes the point of such municipal bylaws and municipal councils should, for this reason as well, not be passing them.”

It should be noted that a way around these issues has been found for at least some, but not all of the chemicals required for methamphetamine production. The “Methamphetamine Report for Federal-Provincial-Territorial Ministers Responsible for Justice” states that “(p)resently, there are other means to control the importations of ephedrine and pseudoephedrine into Canada. A licensed dealer requires an import permit for each importation. Prior to the permit being issued, Health Canada verifies the legitimacy of the importation by checking the client list and asking the prospective purchaser to verify their intention to purchase and the intended use of the precursor.” This process, though, has its weak spots and Health Canada continues to refine its procedures to control use and distribution of these controlled ingredients. Since some cough medications can be cooked to produce the desired ingredients, thought has been given to controlling the sale of these products, but nothing definite has occurred. Since the actual equipment involved could also be used for daily life in any kitchen, the chances of controlling or monitoring these sales are remote and the processes unwieldy.

The current issue, as revealed in this same study, is that operators of these IDOs continuously alter the ingredients, so they can take advantage of non-controlled substances and effectively bypass any scrutiny. There is no end to their inventiveness and creativity. Whether the operations...
are so-called “Super Labs” for larger production or “Tweaker Labs” run in a kitchen by one or two addicts for their own use and some small distribution, they are dangerous and基本上 uncontrollable, until a fire or explosion occurs, or the fumes and chemical residue bother the neighbours enough that a complaint is made to the police. Often, these labs are in outbuildings on rural or semi-rural property, so that the neighbours do not notice the signs as readily. The equipment needed for a small operation could just as easily be used in a science classroom.

Stakeholders Affected

1. Prospective buyers and tenants

Anyone wishing to buy or rent a home should be able to determine whether or not it has ever been used as an IDO. Public health and safety demand that anyone be able to analyze, with reliable information, whether or not it is safe to buy or rent a home.

2. Landlords

The BC Residential Tenancy Act and the Manufactured Home Park Tenancy Act have addressed landlord concerns by ensuring that one of the grounds for terminating a tenancy is “illegal activity”, which must, of course, be proven. Landlords who do the legislated regular inspections of the property will be far more aware of an incipient illegal activity than those who choose to turn a blind eye and just collect the rent (usually in cash). Even a small grow-op or a kitchen drug lab can be grounds for eviction. Landlords need to be vigilant, not only for legal reasons, but also because their fire insurance will be void in the event of a fire caused by “illegal activity”.

A bulletin from BC Hydro entitled “Marijuana Grow-Ops: A Growing Hazard” points out that “landlords should have a detailed rental agreement in place and ensure that the individual(s) renting the premises are those living there”. It also points out the necessity of “having an inspection agreement for every two months written into the rental agreement” which will “deter growers from renting, as inspections will be during the grow cycle.” Prospective tenants who want to meet a landlord off-site or want to pay in cash should also be checked out thoroughly, as these are clues to potential criminal activity.

Landlords and tenants can obtain forms through the Residential Tenancy Office’s website (www.pssg.gov.bc.ca/rto) or call Enquiry BC at 1-800-663-7867 for a local office’s contact information. It should be pointed out that the Safety Standards Amendment Act is silent on how an absentee owner, renting his or her property out, could know that an electrical safety inspection was imminent based on hydro consumption records. If the tenant does not tell the landlord that such a process is in place (within 48 hours), any repercussions may come as a nasty surprise to the landlord. The tenant will receive the notice and 48 hours may be long enough to dismantle a lab or grow-op and disappear. By the time the police have access, there may be no one there and no evidence on which to establish a worthwhile case to take to the Crown Prosecutor.
3. Neighbourhoods

An “Open Letter from the Registrar of Mortgage Brokers” to BC mortgage brokers, dated November 2004, points out a serious problem affecting home owners and buyers: “Properties purchased for the purpose of using them as grow-ops often have inflated property values as a result of purchasers’ willingness to pay a premium over and above the market value of the property to ensure a quick possession date. This in turn inflates the value of surrounding properties, and creates false market values. Subsequently, when the grow-op is abandoned and it becomes known that the property was used as a grow-op it is often difficult to re-sell the property to a legitimate purchaser, resulting in a significant reduction in both the value of the property and the value of property in the neighbourhood.”

4. Municipalities, Union of BC Municipalities, Provincial Government

It is always a problem raising enough funds through taxes to implement needed programs. The initial start-up cost of an EFSI or PSI program, for example, can range from under $100,000 to $500,000+. The ongoing maintenance of the program, however, through owner fees, penalties and fines normally pays the running expenses, so that the program pays for itself. Jurisdictions with smaller tax bases may find it harder to set up such programs.

5. Law enforcement

The RCMP’s Clandestine Lab Team under the Federal Drug Enforcement Unit provides teams to dismantle drug labs in a safe manner. The risk to personnel, be they police, Hazmat team members, fire fighters, municipal inspectors, or ambulance attendants is immense. They must work cooperatively to protect the public safety, often at great risk to themselves. A recent “Super Lab” takedown in Richmond involved major danger to these individuals. The sophistication of the operation and the volume of drug product already produced was extreme.

The problem is, of course, that specially-trained personnel in all these areas of expertise are limited in number and stretched to the breaking point. The rapid proliferation of IDOs and the complexity of the operations limit possibility of controlling, never mind eliminating, these problems.

As mentioned earlier, the RCMP serves as law enforcement in Surrey, White Rock, Mission, Langley city, and Langley Township, on a contract by contract basis arranged by each municipality with the RCMP in Ottawa. Local police forces in Delta and Abbotsford have even less capacity to address the numbers of operations, even when they are identified.

6. Business

Local businesses, in areas where known IDOs are located, often experience higher rates of break-ins and other crimes because of the types of people drawn to the neighbourhood by these operations. Shoppers are less eager to patronize businesses where they may be accosted on the street or in parking lots.
7. Hydro companies

It has been estimated that approximately “20% of the found marijuana growing operations involved electricity theft.”\(^{35}\) The level of sophistication has improved over time with the use of timers, custom electrical generators, air cleaners, and high-wattage lights.

According to a BC Hydro publication called “Marijuana Grow-ops, Safety and Electrical Theft”\(^{36}\), the high power consumption required by grow-ops leads to damage to the whole power grid: “Power surges and electrical system failure due to high loads can cause power outages and damage to BC Hydro power equipment and infrastructure, including the premature failure of distribution transformers.”

BC Hydro employs its own team of former law enforcement officers to deal with “electricity theft and metre tampering. Where thefts are confirmed, BC Hydro lays complaints with law enforcement agencies, which in turn obtain search warrants and recommend charging suspects.”\(^{37}\) The same publication adds that from 2005 to 2008, BC Hydro has shut down over “1,500 electrical diversions, recovering $5 million in lost revenue. All of these diversions have been associated with grow-ops.”\(^{38}\)

BC Hydro reports that approximately 12 municipalities access the power consumption information they can obtain under the **Safety Standards Amendment Act** and only six municipalities in BC have “launched electrical fire safety inspection programs that target grow-ops in residential neighbourhoods.”\(^{39}\)

BC Hydro also receives tips through Crime Stoppers, a non-profit group, which pays for tips that result in convictions.

8. Insurance companies

Insurance companies are often victims of these criminal operations. If a fire or an explosion is caused by a grow-op or a drug lab, the losses can be extreme. Some insurance companies are refusing to honour policies on properties that catch fire when used as IDOs.

In 2001, when discussions on bylaws to deal with IDOs were beginning in the Township of Langley, a Township councillor who was also an insurance agent, spoke of the liability of landlords who buy properties that already have tenants and who are unaware of the existence of such operations on their properties. She spoke of the high remediation costs and said “this is a loss that most insurance companies will not cover.”\(^{40}\) Now, with the **Residential Tenancy Act** amendments allowing landlords to regularly inspect their properties and some municipal bylaws requiring landlords to do so, improvement in this area has been experienced.

A Globe and Mail article entitled, “Marijuana grow-ops booming in suburbs”\(^{41}\) noted that “the Insurance Bureau (of Canada) estimates the average repair bill for a former grow-op house is between $60,000 and $80,000.”
9. Home warranty programs and the Homeowner Protection Office

In 2004, the National Home Warranty Program Ltd., a third-party insurer of high-ratio purchases, declined to continue insurance on a home used as a grow-op or drug lab. As Ray Windsor, COO of the company, stated, “(I)t’s impossible to guarantee a home once used for growing marijuana because of damage from moisture and heat which causes mold, as well as dangerous hazards including bad electrical wiring”42. However, he noted that “the warranty suspension can be reversed pending a review. Some homes may remain in warranty suspension indefinitely and some may undergo remediation and have their warranty reinstated.”43 This same article points out that the Homeowner Protection Act does not mention grow-ops specifically, but does talk about uses “other than residential” which would include IDOs and void the protection.44

10. REALTORS®

REALTORS® representing sellers have a duty to disclose any latent defects (known to them and/or disclosed to them by the seller) to a prospective buyer, who may or may not also be their client (limited dual agency). If the information regarding a property, especially any history as anIDO, is not available from the owner (i.e. the owner chooses not to reveal information) or is not accessible by the public from a disinterested third party, how can REALTORS® protect the public? A reliable third-party source for the current and former status of residential properties is needed, similar to methods for checking tax records, titles, legal maps for dimensions, etc. The potential liability for REALTORS® is significant, but the danger to the public is greater. Buyers acting without a REALTORS’® guidance should be able to obtain this information to make an informed decision.

As a result of efforts initiated by the Fraser Valley Real Estate Board and the Real Estate Board of Greater Vancouver, the BC Real Estate Association’s Property Disclosure Statement, whether for strata properties or other residential properties, now includes questions which ask about the use of the property as a grow-op or the site of the manufacture of illicit drugs. This is useful, but it is not a legally required document, so owners are free to draw a line through it, initial it and not fill it out.

When sellers sell privately, only the lawyers or notaries acting for the parties see the documents before they are filed at the Land Titles Office. They will be unaware of the condition of the property. They, too, could access the municipal databases of grow-ops if a standard, usable system were established. Frequently, buyers will think they are finding a “hot” property because the price is low, unaware that the reason for it is that the seller is hoping no one will notice the resultant issues with the property from being used as an IDO, or will minimize their effect while concentrating on the price alone.

In 2004, the Canadian Real Estate Association produced a manual for REALTORS® called “Grow-Ops: What REALTORS® Need to Know” which has been extremely helpful in guiding REALTORS® as they work with the public.

Now, with the federal FINTRAC (Financial Transactions and Reports Analysis Centre of Canada) regulations in place, REALTORS® (and some others) are required to identify their clients through designated documents and record this information in a specified manner to track real or
potential illegal activity (particularly to do with money laundering and terrorist financing). The risk of prospective tenants and buyers giving false names is now reduced dramatically.

However, legitimate-appearing tenants may be using sophisticated, false documents and be a “front” for those who will actually be using the premises for illegal purposes, such as IDOs. An alert property manager may detect some abnormality, but an absentee owner or an inexperienced owner, renting out his or her property, may not check these documents or even do a credit check.

**Current Programs**

1. **EFSI (Electrical Fire Safety Initiative)**

In Surrey, the implementation in 2005 of a pilot project that became the EFSI (preceding the passing of the *Safety Standards Amendment Act* in 2006), allowed the dismantling of 199 grow-ops. Surrey’s Fire Chief Len Garis, chair of the Fire Chiefs Association of BC, Public Safety Initiative, is a strong believer in the ability of local governments to identify potential grow-ops through the use of hydro records.

2. **PSI (Public Safety Inspection) Teams**

Some communities have established PSI teams, committees or advisory groups to ensure that the public is informed about what to look for and how to report it safely, without getting directly involved. Abbotsford, Langley City and Langley Township, Mission and nearby Chilliwack all use variations of this model. The municipality-by-municipality analysis later in this report and the appendix chart at the end explain in greater detail how this process works.

3. **Niagara grow-op strategy (Ontario)**

Ontario has adopted, as a province-wide protocol, the leading-edge strategy formed by cooperation among local police, fire, regional and city officials in the Niagara Region over the past few years. According to an article in the Hamilton “Standard”, dated June 7, 2007⁴⁵: “In Niagara, landowners are required to remediate properties that housed grow-ops within 30 days or run the risk of having the structure torn down. Until the building is fully remediated, the property has a notice registered on the title, which alerts would-be buyers the home was a grow-op and, as such, poses serious health risks to occupants.” The Ontario plan is to be replicated throughout the province by consultation with a team of experts who will guide other jurisdictions in putting this plan into effect. It is bolstered by the province’s financial input of major funding for additional police through the “Safer Communities – 1,000 Officer Partnership” program. Funding for this program is provided, in part, by the seizure of assets confiscated during the process of shutting down the grow-ops. It also provides for compensation to victims and crime prevention programs.

The Toronto Star, March 7, 2007⁴⁶, reported that discussions have been taking place regarding a provincial, centralized registry of grow-ops to help inform and protect consumers in the same sense as information regarding other hazards (for example, flooding and Urea Formaldehyde Foam Insulation) must be disclosed to potential buyers.
4. Chilliwack “Grow-Watch”

Chilliwack has recently set up a partnership between the RCMP and the local Block Watch program “to develop an innovative community participation program aimed at education and prevention”47. Through a three-step plan, neighbourhoods become certified and designated as “Grow Watch Neighbourhoods” with signs erected warning criminals that “The Neighbours are Watching, Recording and Reporting”.

5. Records and data-sharing

PRIME-BC (Police Records Information Management Environment), a newly introduced province-wide police records management system, now gives police a greater and timelier capacity to share information on founded drug production facilities with one another.

6. Meth Watch Coalition

A report from the BC Government on its “Crystal Meth and Other Amphetamines: An Integrated BC Strategy”48 notes that “a group of concerned retailers and health product manufacturers…has developed and launched the Meth Watch Coalition, which aims to curtail the theft or purchase of over-the-counter cold remedies and other household products that can be used to produce methamphetamines. This program trains retail employees to recognize suspicious purchases and to report these to law enforcement officials through a toll-free hotline provided by the RCMP.”49

7. Federal government and police joint efforts

The same paper reports that “The Ministry of Public Safety and Solicitor General is working with the federal government and police to review and develop proposals to tighten up the Controlled Drug and Substances Act regulations on precursors in the production of methamphetamine.”50 It is clearly anticipated that slowing down the sale of these ingredients can reduce the incidence of clandestine labs.

8. Crime Watch

The City of Langley’s RCMP Detachment (which also covers the Township of Langley) has set up a volunteer-run program to detect crimes of all types and report to the RCMP. They also have established Victim Services, Speed Watch (vehicles, not drugs.), Block Watch, Auxiliary Policing and staffing of Community Police Office.

9. Tip lines to local police or RCMP

In his major analysis entitled “Marijuana Growing Operations in British Columbia Revisited, 1997-2003”, Dr. Darryl Plecas notes that “the vast majority of cases coming to the attention of the police were as a result of public complaints, usually from anonymous complainants, landlords, neighbours, or, on occasion, from BC Hydro. Even those discovered by police were, in most cases, identified as a result of some unrelated police action, such as the serving of a warrant.”52 He
goes on to say that the number of cases has not increased, not because of proactive police work specifically, but because of additional sources of tips from other sources.

10. Crime Stoppers

Crime Stoppers is an excellent resource for the public to provide tips anonymously to police. Tipsters are paid a reward for a tip that leads to a successful conviction. However, although it is run by volunteers, funds to pay for tips are limited, as are human resources to manage the program.

11. Block Watch

Block Watch is a neighbourhood program set up by concerned residents in a neighbourhood who voluntarily take training to identify suspicious activity and report it to the police. It deals with “stranger danger” for children and provides safe places where a person in peril can go to get help. It is not specifically focused on IDOs, but it is also being used for this purpose in some areas.

12. Realty Watch

Realty Watch is a program initiated by the members of the Fraser Valley Real Estate Board, the Chilliwack and District Real Estate Board, and the Real Estate Board of Greater Vancouver. REALTORS® are taught to spot specific types of activity and report them to the police. Originally set up to help with locating missing children and seniors suffering dementia, it is also an “eyes and ears” program of reporting suspicious activities in the neighbourhoods where REALTORS® live and work.

Challenges and Hurdles

1. Funding and staffing for law enforcement

A 2005 study commissioned by the RCMP and written by Dr. Darryl Plecas shows that despite the huge increase in marijuana production (partly due to more sophisticated processes), the number of cases that actually result in successful prosecutions and imprisonment has shrunk. Lack of adequate funding to hire officers dedicated to the problem means that no matter how much the police forces try to control and eliminate the manufacture/growth of drugs, they are too few against too many. Basically, they are “out-gunned.” A 2007 presentation by RCMP Commanding Officer “E” Division and Deputy Commissioner Pacific Region, Gary Bass, in a presentation entitled “Crime in British Columbia: An Overview,” noted that police were capable in 2007-2008 of investigating approximately a quarter of organized crime groups. In an August, 2006 article for The Vancouver Sun, the head of the Delta Police drug section was quoted as saying that with the availability of hydro consumption information, “we’ll have to come up with some systematic approach to deal with these numbers.” An estimate at that time was that there were approximately 450 grow-ops in Delta, but only eight officers in the whole drug section.
2. Funding and staffing for inspections and administration

Not only will funding and staffing issues need to be addressed for enforcement officers, but administrative and inspection staff will also have to be increased, at a significant additional cost. Since many re-inspections must occur during remediation where a program is in place, the demand for electrical, building and fire inspectors will be huge, especially in areas where there are larger numbers of IDOs. Finding such funding may eventually result in cost-recovery programs where the fees and penalties to the IDO operators will cover the costs to a major extent, but the initial set-up of a program, hiring of staff and implementation of the program will not generate adequate funding from these sources immediately. Clearly, provincial and federal help is needed, particularly at this stage.

The Union of BC Municipalities newsletter for August 2006 points out that the “BC Safety Authority performs electrical inspections throughout BC (eight municipalities in BC have delegated authority to perform their own electrical inspections) and if the program (EFSI) was to be expanded across the province the BC Safety Authority would require additional funding to cover the additional costs and the workload of an expanded EFSI approach to low level grow operations in the province.”

3. Limited number of suitable remediation companies

A CMHC study, entitled “A Discussion Paper on Indoor Air Quality Investigations of Houses Used for Marijuana Grow Operation” shows that “training programs specific to MGOs (marijuana grow operations) are not yet available in Canada, (but) discussions among various stakeholders, including CMHC, have taken place in the wake of the National Grow-Operation Conference in late 2004.”

It continues to express concern that remediation companies are not qualified fully to meet the standards of Health Canada’s (2004) required documentation. CMHC recommends that all documentation regarding remediation be maintained for future potential owners. As CMHC’s report states, “It is recommended that detailed records of all remediation activities be maintained as this may improve future marketability of the home.”

4. Limited number of hygienists and Hazmat staff

With a limited number of qualified indoor air quality analysts and Hazmat teams having to come from other areas when an emergency exists, it is clear that more funding and training are required. CMHC has called for a nation-wide protocol to be established regarding the remediation process for grow-ops and drug labs. It is too early to tell if such a plan will emerge or not.

5. Challenges to entry by police without a warrant

As stated earlier in this paper, some court cases have been launched where homeowners have refused entry to the police accompanying the inspection team. Results of these cases will help determine future action by municipalities across the country.
6. Physical dangers to inspectors and police

In even attempting to enter a property for an initial inspection, the inspection team or the police on their own risk being hurt or killed by any number of hazards and weapons, such as guns, booby-traps, explosives, vicious dogs, chemical toxins, broken glass, exposed wires, fumes, etc. Inspectors must be accompanied by police for their own protection.

7. General lack of a procedural template

The Union of BC Municipalities (UBCM) newsletter of August 2005 stresses that “to be successful on a widespread basis, it (the EFSI program) must be applied universally, or at least regionally (otherwise, grow operators will simply move to nearby communities).” If all local governments in an area, such as the Fraser Valley, were to employ the same programs, then setup, administration, enforcement, public education and awareness initiatives, and public safety and health programs would become much more feasible in combating IDOs. In addition, databases of current and past operations could be shared among the municipalities, including the measures taken in remediation, the status of such measures, and the habitability of the properties. The latter, of course, is designed to protect the public.

Currently, most Fraser Valley municipalities have their own procedures, forms, databases and other administrative tools in place to handle grow-ops and drug labs. To a greater or lesser degree these work for them; however, because they are not consistent across the region, information-sharing and cost-reduction measures are not maximized. Economies of scale implemented under the new BC legislation allowing municipalities to work together more closely will go a long way to assist all municipalities in this battle.

8. Inconsistent sharing of information between police forces and municipal bylaw enforcement staff

Because there is no centralized database available yet for use by all of these interested parties, none of them can be assured of totally understanding the status of a particular property in terms of whether or not it has been “busted” or whether or not an EFSI or PSI team has dealt with it, where the process is documented, and when a property has been restored to habitability. Police may “bust” an IDO, but the municipality may not know about this until much later. Conversely, an inspection team may discover an IDO, in the company of peace (law enforcement) officers for their protection, but it will take another process (a warrant) to actually deal legally with it.

9. Lack of a centralized, searchable record of closed and/or remediated grow-ops and clandestine drug labs

The “Methamphetamine Report for Federal-Provincial-Territorial Ministers Responsible for Justice”, July, 2007 recommends establishment of a drug resource Web site for law enforcement professionals and partners with a tracking system providing comprehensive information about clandestine methamphetamine labs and information on existing intervention strategies.” Something similar for grow-ops and other IDOs would be equally valuable.
Seven Municipal Responses to IDOs

1. City of Surrey

a) Bylaw

The *Controlled Substance Property Bylaw, 2006, No. 15820* provides the permitted procedure for inspecting, closing down, remediating, re-inspecting and approving former IDOs.

b) Current process

Surrey’s Fire Chief, Len Garis, in 2005, implemented a pilot project to show how the fire and electrical inspection process could help Surrey deal with its, at that time, huge grow-op and drug lab problem.

With successful results of this pilot project, Garis lobbied the provincial government to allow municipalities to obtain hydro records of properties using an excessive amount of electricity. The result of his efforts and those of others, were the amendments to the *Safety Standards Act* (2006) which allows municipalities and police who ask for power consumption records to obtain them for the purpose of highlighting excessive use.

The results of the 90-day pilot project are documented in the 2005 study, “Eliminating Marijuana Grow Operations: An Alternative Approach” by Dr. Darryl Plecas of the University College of the Fraser Valley, Fire Chief Garis and others. Chief Garis took the findings to a practical level in introducing the “Electrical Fire Safety Initiative” (EFSI) to Surrey. According to a “Corporate Report” from the City of Surrey, the EFSI team is made up of “two police officers (RCMP), a firefighter and an electrical inspector.” Initially, they followed up backlogged tips that the RCMP could not cope with to set up electrical and/or fire safety inspections.

With the passing of the *Safety Standards Amendment Act* in 2006, these teams were able to pinpoint properties on their own through power consumption records. This alone increased the effectiveness of the team in zeroing in on potentially hazardous properties. The report states, “At locations with electrical hazards, or where an inspection was refused, the electricity was shut off until repairs were made and approved by the city’s electrical inspectors.”

Concern has been expressed where EFSI teams (and also PSI teams) proactively close down IDOs because charges are not laid in the process against the operators. Public health and safety are the goals of these teams, not prosecution. Police officers are part of the team, but not in a role other than the protection of the inspectors. Law enforcement must obtain a warrant and go through the protocol not required for inspection teams. It may be argued that in attending the sites, police officers have access to information they could not obtain legally without a warrant (and the time lag involved to get it, serve it and allow for a response). The process is quite new and, no doubt, wrinkles will work themselves out legally and procedurally over time with experience on all parts.

Under the heading “Building, Safety, Health, Nuisance and Noxious or Offensive Trade” in the bylaw, a comprehensive list of prohibitions is set out with reference to hydro alterations, storage...
of dangerous goods, alteration of the building, etc. Where a suspect property is to be dealt with, the Manager, Bylaw and Licensing Services is mandated to “coordinate a special safety inspection of the controlled substance property; and deliver to the owner of the parcel a form of notice advising of the requirements of this bylaw”. Then, an inspector (the EFSI team, in effect) may enter the property to “inspect, disconnect or remove a service” as defined in the bylaw and the inspector may visit the property during remediation to ensure that it is proceeding.

In addition to disconnecting hydro, if it is discovered that the service has been bypassed or otherwise tampered with, the fire chief may order the water turned off if it is being used to water grow-ops or facilitate the operation of a drug lab. The city may also disconnect natural gas service if the service has been used to provide heat for a grow-op or drug lab.

The building inspector or the fire chief posts a “Do Not Occupy” notice on the subject property. The power is disconnected by the city and no one may reconnect it or re-occupy the premises until permission by the city has been given. A special safety inspection is carried out complete with all required permits, at the owner’s cost. Remediation is deemed completed when a professional engineer has provided written certification that all building safety requirements have been met. During the remediation of IDOs, the bylaw specifies that within 14 days of the delivery of the inspection notice, the owner must “remove and dispose of all carpets and curtains”, “have the furnace, all air ducts, main distribution ducts, venting, and filtering cleaned by a professional cleaner or by a duct cleaning company”, and “have all walls, floors, insulation, moisture barrier and ceilings in the building replaced or cleaned and disinfected by a professional cleaner”. Then, a “qualified professional”, as defined in the bylaw, must inspect the building and provide a written certification in the form required by the Manager, Bylaw and Licensing Services verifying that “the building is substantially free of any pesticides, fertilizers, toxic chemical contamination, moulds or fungi, prior to the occupancy or re-occupancy of the building.” All of this work must be completed within 60 days of the posting of the “Do Not Occupy” notice (may be extended with permission).

Also, the owner must have paid all service fees and other costs required under the bylaw. Once the building inspector has removed the “Do Not Occupy” notice, the building may be re-occupied legally. Failure to pay all the costs involved by December 31 will lead to those costs being added to the property tax bill for the applicable year and treated as taxes in arrears. Schedule A outlines all the costs including $2,100 for the initial safety inspection, $550 for each additional inspection (no ceiling), $100 for shutting off water service and the same for re-connecting it, $550 for re-inspecting and re-sealing a water service after it has been altered or tampered with, plus all “out-of-pocket” costs incurred by the city in order to enforce this bylaw and a fixed $300 to cover service costs. In other words, the bylaw is designed to ensure that the city incurs no costs to provide this service to the public. Everything is paid for by the owner, either directly or through the tax collection process.

If the property is to be occupied by a party other then the owner, the owner is obligated to notify in perpetuity (and in writing) any prospective tenants or owners that the property has been used as a grow-op or drug lab and that the “requirements of this bylaw were met.”
c) Reporting method

In Surrey, the Tax Certificate will show that the fees and costs were in arrears, but only if December 31st has passed. On this certificate, under the heading “Important Property Comments”, a notation will be made that the property is subject to a certain bylaw infraction or that it was subject previously to a bylaw infraction (with the number of the bylaw). The public is advised to ask further questions of the staff in the Bylaws and Licensing Department. The lack of a notation on the Tax Certificate does not prove that the property was never used as an IDO. It may not have been detected yet.

2. City of Abbotsford

a) Bylaw

The 2006 Controlled Substance Property Bylaw (No. 1611-2006) sets out the process through which inspectors and others may identify, close down, remediate and re-open a property used as an IDO.

b) Current process

In 2004, Abbotsford established a pilot program (the “Grow Op Public Safety Pilot Program”) creating the precursor to the Public Safety Inspection Team in place since mid-2005 (the bylaw of 2006 resulted from the success of this team). A city-produced document entitled “A Community Public Safety Initiative: Removing Marijuana Grow Op Hazards in the City of Abbotsford”, October 2005, outlines the mandate of this preliminary team and its structure, duties, costs, etc. The pilot program depended largely on tips from the public and the local police to determine which properties should be investigated.

The current, formally established PSI Team (since 2005) is made up of building inspectors, bylaw enforcement officers, and fire officials. It does not specifically include an electrical safety inspector (unlike the EFSI in Surrey); electrical bypass and alterations and gas issues are referred to the BC Safety Authority instead. At this point, three PSI teams are taking action against grow-ops in Abbotsford.

Now, Abbotsford uses the access permitted to BC Hydro’s high-consumption records by the Safety Standards Amendment Act (2006) to “flag” suspect properties, as well as its own water consumption records. Because Abbotsford is quite a rural area, high consumption of either is often related to legitimate farms or even multi-family developments where water and hydro are controlled by one metre. The staff analyze the consumption records and determine which properties are not in these categories and may be, instead, grow-ops, before attending at the properties in person.

The three PSI Teams, now called the Public Safety Inspection Division, are “looking to enforce the Fire Services Act, the BC Building Code and the city’s Controlled Substance Property Bylaw.” In addition, they are focusing on breaches to the Safety Standards Act. Since they rely partly on the public for tips, a large-scale multi-media public awareness campaign has been set up this year with TV public service announcements, radio announcements, presentations to public
meetings, and print ads. This campaign complements the existing tips lines and Crime Stoppers, Block Watch and other community-based efforts. The Abbotsford Police website (http://abbypd.ca) also is an excellent resource for information on how to identify a grow-op and a clandestine drug lab and how to tip off the authorities.

If an IDO is found, a “Do Not Occupy” notice, stating that the property is unsafe to occupy, is placed on the front window of the home. Only the inspectors, the “professional cleaners” and a certified hygienist can enter until all approvals have been finalized. At that point, a “Re-Occupancy Permit” will be issued. There is a major fine for removing the notice until acceptable to the city. (No letter to the owner is provided by the bylaw.)

The owner is required to follow strict guidelines set out in the bylaw for the hiring of “professional cleaners” and a hygienist. Failure to do so can be costly. A list of what must be cleaned is included in the bylaw.

As Nancy Battye of Aztech Environmental Consulting Services notes, “the City of Abbotsford has adopted…a requirement to have safety inspection checks of the furnace system and any other gas operated appliances within the home.” This approach seems to be unique in the region and would probably be a useful addition to other revised bylaws.

Counter-tops and cabinets must be professionally cleaned (Sec. 5.2 (4), in addition to all walls, floors, ceilings, curtains and carpets.

The owner has 90 days to remediate the property (this can be extended by 30 days for a fee if approved). All expenses for multiple inspections, shutting off and reconnecting power, water and natural gas, clean-up, and remediation are borne by the property owner. Failure to pay the costs and to remediate the property leaves the owner liable for an additional fine of up to $10,000 (for each offense) and imprisonment for up to six months. The program is run on a cost-recovery basis, so there is limited impact net to taxpayers.

The program has experienced increasing success over the past two years of its operation, through the combined efforts of the city, local police, fire officials, and the public at large.

c) Reporting method

As yet, there is no centralized source at the City Hall for a buyer or tenant to learn the background on a property he or she wishes to occupy.

Abbotsford registers a “Land Title Notice”, a notation on the title (at the owner’s cost) and then discharges this notation when everything has been approved (also at the owner’s cost). Once the charge is removed there is no record. If the notation is still on the title, a buyer should contact the Bylaw Enforcement and Animal Control Department for further details.

Also, a search at the Permits Department would show a series of permits being sought and approved (or not) to remediate the property. REALTORS® acting for a buyer or a seller are expected to obtain a current title search and do other research on the status of a property at the City Hall which would reveal this information. A private buyer or tenant would not necessarily
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think of doing a title search and other research and more than likely would be unaware that that is how some necessary information could be obtained. It should also be stressed that the lack of a notation on the title does not mean the property was never used as an IDO; it may just mean that it has not been recorded yet.

3. City of Langley

a) Bylaw

The Controlled Substance Property Bylaw, 2006, No. 2625, “a Bylaw to regulate, prohibit or impose requirements respecting controlled substance properties”, is the bylaw under which properties suspected of being IDOs can be inspected and services disconnected until satisfactory remediation, as stipulated, has occurred. A schedule of fees is attached (Schedule A). Under this bylaw, a “grow operation” also includes “psilocybin mushrooms” (hallucinogenics, commonly known as “magic” mushrooms).

b) Current process

The PSI Team (Public Safety Inspection) made up of the fire chief or his representative, a building inspector, a peace officer (“including a member of the Langley RCMP Detachment”), a bylaw enforcement officer, a safety officer under the Safety Standards Act, a health inspector appointed by the local health authority and others authorized to attend, may inspect the property in question. If a hazard is discovered, the Fire Chief or the building inspector may post a “Do Not Occupy” notice conspicuously on the property and deliver a letter to the occupants requiring them to vacate the premises immediately.

It should be noted that this bylaw, unlike others of its type, specifies in Sec. 3.4, “A grow operation or clandestine drug lab may be found to have existed on a parcel and a property may be deemed to be a controlled substance property for the purposes of this bylaw even if (a) no person has been charged with an offence relating to the grow operation or clandestine drug lab; or (b) a person charged with an offence relating to the grow operation or clandestine drug lab was acquitted of all charges in proceedings before a criminal court or the charges are withdrawn or stayed or otherwise do not proceed.”

A list of nine prohibitions outlines what cannot be done with a residential property. A breach of any of these constitutes a breach of the bylaw.

The inspector or a team of inspectors, along with the RCMP, may enter a property to inspect it and also to disconnect or remove a service (hydro, water, natural gas) where deemed essential for public safety.

Unlike other similar bylaws, this one also specifically states the requirements of landlords in the City of Langley. A landlord must inspect rental properties every three months. If a contravention is discovered, he or she must notify the building inspector and rectify the contravention within two months or else the “Do Not Occupy” notice will not be removed. The notice can be removed only by the fire chief or the building inspector. (Sec. 5.1)
As in the Abbotsford bylaw, all carpets and curtains must be removed; the furnace (if forced air) must be cleaned (including the ducts) by a “professional cleaner” or a duct cleaning company; and the walls, floors, insulation, moisture barrier and ceilings in the building (must be) replaced or cleaned and disinfected by a professional cleaner. (Sec. 5.2(a)-(c) The owner must remediate the property, at his or her cost, within 60 days (or longer if so permitted by the building inspector). The “Do Not Occupy” notice remains on the property until all work has been completed to the satisfaction of the building inspector. (Sec. 5.4) The professional cleaner completes a form provided by the building inspector certifying that he or she is sure that “the building is substantially free of any pesticides, fertilizers, toxic chemical contamination, moulds or fungi, prior to the occupancy or re-occupancy of the building.” (Sec. 5.3)

The owner is responsible to pay for all inspection and remediation costs, as well as any service costs to the city. Failure to pay will result in these amounts being added to the property taxes and shown as arrears, if not paid by December 31 of the applicable year. If the owner refuses to comply with the order, the city can remediate the property on his or her behalf and charge all costs to the owner.

Each contravention of the bylaw will generate a fine of up to $10,000 and each day that the contravention continues without visible effort on the part of the owner, a further $10,000 fine will be assessed.

The City of Langley also has two other bylaws which are used to mitigate against the hazardous effects of IDOs, among other deleterious problems:

i) a bylaw (similar to White Rock’s) regarding accumulation of waste and unsightly properties called the “Community Standards Bylaw, No. 2487.

ii) a “Maintenance of Premises Bylaw, No. 2509 (a less specific version of the Controlled Substance Property Bylaw) which allows inspectors and peace officers, among listed others to enter a property, place a “Do Not Occupy” sign, remediate or cause to be remediated any condition breaching the bylaw, and charging the owner for the process.

The City of Langley, in 2006, also passed a bylaw to control the sale of drug paraphernalia (specifically bongs and crack pipes) by prohibiting new businesses from selling drug paraphernalia, requiring existing businesses to obtain identification from customers and forward it to the Langley RCMP, and prohibiting the sale of drug paraphernalia to minors under 19. No mention of the sale of hydroponic equipment and high-wattage grow lights, used in grow-ops was made in this bylaw.

c) Reporting method

The Controlled Substance Property Bylaw stipulates in Sec. 5.9 that “Before a parcel is re-occupied after removal of a grow operation or clandestine drug lab, a registered owner(s) must notify any prospective occupants from that time forward in writing that a grow operation or clandestine drug lab was removed and that the requirements of this bylaw were met.” The intention of this requirement is commendable, but criminals do not tend to provide reliable information to anyone, so a buyer or tenant could not really depend on the adherence by a
criminal seller or landlord not willing to divulge this information. Only the actual facts from the City Hall’s various departments (permits and taxes, particularly) would reveal some of the truth, but not the full story, so far.

The City of Langley notes that only the documentation provided by outside parties who are trained to certify the condition of the property will determine, finally, the habitability of the property. The city does not officially rely on its own inspectors and other employees and, therefore, reduces its legal liability to those who rely on its information. So, even with the information from the City Hall, could a potential buyer or tenant without access to the outside professionals’ opinions be fully assured of not buying or renting a former IDO or of its satisfactory remediation?

The city does not record anything on title or on the Tax Certificate (other than arrears of fees, etc.) that would give the public information relative to the presence of a former IDO.

4. Township of Langley

a) Bylaw

The Controlled Substance Property Bylaw 2006, No. 4537, outlines the process for handling IDOs in residential and other properties in the Township of Langley.

b) Current process

This bylaw is identical to Bylaw 2625 for the City of Langley discussed in the previous section. Only references to the township instead of the city and a slight variation in the names of department and officials have been made. As such, the process is the same as for the City of Langley.

Since 2007, an EFSI team, made up of two RCMP officers, a fire inspector, a bylaw inspector and an electrical inspector have been conducting inspections based on hydro records of extreme power consumption. They must provide the owner with 24 hours written notice of an inspection. If a legitimate use is discovered (such as a swimming pool, kiln, hot tub, etc.), then no further action is taken and there is no cost to the owner.

The Township of Langley website (www.tol.bc.ca) provides useful public information on security, as well as how to identify and report the possible existence of an IDO. Because of the more rural nature of the township, IDOs are more prevalent in what appear to be farm buildings for growing mushrooms, for example, or other normal-appearing outbuildings. They are harder to distinguish without entering the property to investigate. The prevalence of IDOs in the township has consistently been several times greater than in the city for this reason. The township’s 2008 budget, based on a tax increase to property owners, allocates $9,000,000 to fire safety in part to handle “grow-ops, meth labs and hazardous materials”. Clearly, fires caused by grow-ops and drug labs are a major issue for this municipality and it is taking serious action.
c) Reporting method

Like Surrey, the Township of Langley uses the Tax Certificate as a temporary record of bylaw violation. Once the violation has been resolved satisfactorily, the record is removed from the certificate so that the property is not “stigmatized”. It is also possible, upon written request and a fee, to obtain more background on bylaw violations and current and past remediation permits concerning the property in question.

5. District of Mission

a) Bylaw

The current municipal legislation covering grow-ops and clandestine drug labs is Bylaw 3888-2006, “A Bylaw to regulate, prohibit or impose requirements respecting nuisances, noxious or offensive trades, controlled substance properties and to promote health and safety.”

b) Current process

Under the bylaw (2006), municipal building inspectors and bylaw enforcement officers, as well as others authorized by the bylaw (RCMP, fire and rescue, a representative of the director of engineering and public works, a safety officer and others named from time to time) can enter properties where they suspect a “controlled substance “is being manufactured or grown. Even “trace amounts of chemical or biological materials” used for these purposes are deemed “controlled substances” in this context.

This year, the district of Mission has also implemented the PSI model. This model is made up of “one fire inspector, a building inspector, and two RCMP officers, along with a manager, and administrative clerk” according to Dennis Clark, director of corporate administration. Recently, also, the district has hired a manager of public safety.

The PSI team, based in a central fire station, will use the permitted access to BC Hydro consumption records to determine which properties should be checked. Prior to visiting a property, they will determine from their own business licence records whether or not the property may have a business-related legitimate reason for higher-than-normal consumption (at least three times normal), such as a kiln. If no such business exists, they will visit the property and give the owner (or tenant) a notice stating they will be back within 24 hours to inspect the premises for potential structural issues or fire safety concerns related to this usage. If, however, a pool or hot tub or other plausible reason for the higher consumption is given on the first visit, an inspection may not be required and no cost to the owner will be incurred.

A “Do Not Occupy” notice (Schedule D) is placed, by the fire chief or his representative, on the door of the property if evidence of an IDO is found and the occupants must move out immediately. If the property has been shut down by the RCMP as a grow-op, the owner is handed or delivered a “Letter to Property Owner” (Schedule B) with an explanation of the process and requirements. Interestingly, no process is set up or mentioned in the bylaw for the dismantling of a clandestine drug lab and the remediation of its potentially even more toxic environment.
If a controlled substance manufacturing operation is found, the district will disconnect the power and BC Hydro will charge the owner for reconnection when remediation is finished and occupancy is permitted again.

The district is also authorized to cut off the water supply to a grow-op with 24 hours written notice to the owner. Failing an immediate, successful appeal by the owner, the water will stay off until remediation is completed.

This remediation involves having the owner obtain all proper “permits, approvals and authorizations”, hiring a “professional cleaner” as defined in the bylaw, paying for the analysis by a person or company certified by the Canadian Registration Board of Occupational Hygienists or the American Board of Industrial Hygiene (regarding air quality and mould removal, specifically), and paying for additional inspections by the building inspector and the safety officer.

Only the building inspector is authorized to remove the “Do Not Occupy” notice. The owner has two months in which to bring the property back to an acceptable state and pay the costs, but he or she must, within 14 days from the notice being posted, do much of the interior remediation of the home, including removal of carpets and curtains, having the furnace and duct work cleaned professionally, and having the “walls, floors and ceilings replaced or cleaned and disinfected by a professional cleaner” (Sec. 6.3 (c) of the bylaw.

The bylaw stresses that it does not rely solely on the reports from inspectors, hygienists and professional cleaners (Schedule C “Certification Form”) to determine the habitability of a property. It relies on documentation provided by a “professional engineer, architect or other person (who provides documentation to the effect that) the work required or contemplated by this bylaw substantially conforms to the requirements of this bylaw and that the building complies with the health and safety requirements of the Building Code, the Safety Standards Act, this bylaw and all other health and safety requirements established by applicable legislation…” (Sec. 7.2)

If the owner fails to comply with the bylaw or other legislation, the district can enter the property and have the work done by hiring contractors and charging the owner with the cost. If the owner fails to pay all the associated costs, by December 31 of the applicable year, the costs may be added to the property tax bill as arrears, with applicable fines and penalties for late payment.

Although some initial costs to set up the program have been incurred, it is expected to be run on a cost-recovery basis, with the fines of $4,900 per property inspection, paid by the property owner, to pay for the program. Additional fees, service fees, district equipment and vehicle costs, actual costs of goods and services used by the district in the process, and re-inspection after remediation will also contribute. The owner must pay $10,000 per offense under the bylaw. If the offense continues, it is deemed to be a new offence every day, with the accumulation of $10,000 per day in fines. The program budget for this year (2008) is approximately $500,000.

A current court case, as yet unresolved, has a landlord, ostensibly unaware of a grow-op in a rental property, suing the District of Mission for the costs of clean-up and remediation ($30,000+) which have been billed to him as the owner. The bylaw is clear, but the resolution to the court
case will, no doubt, have some effect on how the process is handled in other jurisdictions with similar legislation.\textsuperscript{70}

c) Reporting method

Overdue payments appear on the Tax Certificate, but no other permanent notation, other than a record of permits applied for and approved, will appear in a format accessible to the public.

6. Corporation of Delta

a) Bylaw

The \textit{Controlled Substance Property Bylaw No. 6200 (2004)}, further described as “A Bylaw to Prohibit the Use of Property for the Manufacture, Trade, Use, Sharing or Barter of Controlled Substances” determines the municipal authorities’ response to IDOs in Delta. Under the bylaw, it is not only prohibited to use property for the reasons listed in the sub-title and Sec. 3, but it is an offense to “cause, permit or allow water, rubbish or noxious, offensive or unsightly matter to collect or accumulate around any property in connection with the manufacture, trade, use, sharing, sale or barter of a controlled substance.” (Sec. 4)

b) Current process

Upon a tip from either the police or the public, an inspector has the authority to issue a notice to an “owner or occupant” (e.g., a tenant) to “remedy any hazardous situation or a potentially hazardous situation that exists on the property or any thing or condition that is not in compliance with this bylaw”. (Sec. 5) The owner or occupant then has 21 days to remedy the situation (this can be extended if the inspector deems it necessary). Failure to comply, in a timely manner and as required, will permit the municipality to remedy the situation itself and bill the owner or occupant for all costs.

An owner or occupant has 14 days to appeal the disconnection of hydro, water and natural gas. Once these utilities have been disconnected, they will not be reconnected until the full remediation has occurred and been passed by the inspector. The owner or occupant must apply for a “special safety inspection” (Sec. 8(e)) and pay a fee of $525. The property must also be inspected by “all other lawful authorities having jurisdiction over the supply of electricity, water or natural gas for compliance with all health and safety requirements of the municipality’s bylaws and any provincial statute or regulation relating to building, electrical, water, gas or fire safety.” (Sec. 8(f)) All other permits must be obtained, as well, to meet these standards and all associated fees must have been paid before an Occupancy Permit will be re-issued after alterations and repairs have been completed satisfactorily. Of course, all inspections and remediation costs must be paid for by the owner or occupant, including any costs incurred by the municipality if they have to do the remediation directly. These would include “the issuance of a search warrant or in the disassembly, removal, transportation, storage and disposal of equipment, substances, materials and other paraphernalia associated with such trade, business or manufacture.” (Sec. 9)

A failure to comply with the bylaw will generate a fine not to exceed $5,000. However, for each day that the offense continues, there will be a separate $5,000 fine. (Sec. 11) If an owner or
occupant is prosecuted for this offense, he or she is still responsible for compliance with the bylaw and the associated costs. (Sec. 11)

The Corporation of Delta’s website contains comprehensive tips for the public in identifying grow-ops. As well, the Delta Police website (http://deltapolice.ca) is an excellent resource for the members of the public to learn about IDOs and how to notify police without jeopardizing themselves. It also provides statistics on the recent success the police have been experiencing in dismantling IDOs in Delta homes.

c) Reporting method

Where an owner fails to pay the associated costs, fines, penalties, etc. by December 31 of the year in which the offense was discovered, any arrears will be added to the property taxes. (Sec. 10) The tax information at the Municipal Hall will, therefore, show any extra amounts owing above and beyond the normal taxes which would be a clue to a buyer or tenant that at least something was amiss with the payment. How they would discover the cause, i.e., failure to pay for the cost of cleaning up a grow-op or clandestine drug lab, is not set out anywhere. The bylaw is silent on any method whereby the public could trace the history of the property in this regard and determine the actual status. A permits search would show any permits applied for and any outstanding permits taken out for work to be done, but not completed and inspected yet, as well as what their purpose (electrical, plumbing, building, etc.) was, but would not say specifically anything about a property being used as an IDO. There would be no record here about hydro, water or natural gas disconnections and reconnections, as they are found at other sources, either at the Municipal Hall (water) or with BC Hydro (power) or Terasen (natural gas).

7. City of White Rock

a) Bylaw

Currently, there is no specific bylaw in White Rock related to IDOs, but the city is in the process of producing one. However, White Rock does enforce several bylaws that deal with many issues related to grow-ops and drug labs without mentioning them specifically:

(i) Bylaw No. 1651 “A Bylaw requiring an owner of property to maintain a standard of maintenance for ‘residential premises’ and ‘residential property’ as defined in the ‘Residential Tenancy Act.’”

Although limited in its scope as far as IDOs might be concerned, this bylaw does allow access by inspectors, peace officers (police), bylaw enforcement officers, BC Hydro’s representatives and others who may determine a use that can be reported to the police and taken further. Failure to comply with this bylaw will generate an initial fine of $500, followed by subsequent fines of no less than $1000. It is clear, nevertheless, that “Nothing in this bylaw shall be interpreted to authorize a peace officer entry to a Residential Property or Residential Premises for the purpose of enforcing the provisions of a federal law.” (Sec. 11)
(ii) Bylaw No. 1698, “A bylaw providing for: the community improvement and remediation of unsightly property within the City of White Rock; and the control of graffiti”

This bylaw includes the goals to “(a) protect the community from unsightly, hazardous and blighting conditions that contribute to the deterioration of neighbourhoods; (b) to provide for the abatement of such conditions; and (c) to prevent public nuisance.” (Sec. 1) The definition of “rubbish” here includes “both combustible and non-combustible wastes”. (Sec. 3[k]) Although the focus of this bylaw is on appearances and elimination of offensive materials and graffiti, it does assist in reducing some of the dangers found in waste products dumped around IDOs. Failure to comply with payment of fines and penalties, as well as costs of remediation, will result in the amounts being added as arrears to the property taxes if not paid by December 31 of the applicable year.

(iii) Building Bylaw No. 1782

This bylaw regulates the alteration of property and all building permits. Failure to comply with the demands of a building inspector will lead to a “Do Not Occupy” notice. All costs are to be paid by the owner.

The City of White Rock website provides information on grow-ops and meth labs which is useful to the public whose tips to the RCMP can result in “busts”.

b) Current process

Because the bylaw specific to IDOs is in the drafting stage, there is no process to report here.

c) Reporting method

Similarly, there is no reporting process in place yet, either. RCMP records of drug busts are not searchable by the public, but the RCMP website for BC does highlight “busts” that have occurred in the province. This is too unapproachable, however, for most people trying to check on an individual property. A search of bylaw violations for a specific property would yield some clues, but there is no central source for the information on suspected IDOs here either.

Best Practices

In 2006, the joint application from the City of Abbotsford and the City of Surrey received Honourable Mention in the Best Practices category from the Union of BC Municipalities. The report called “Eliminating Residential Hazards Associated with Marijuana Grow Operations and the Regulation of Hydroponics Equipment” was submitted as evidence of the success experienced in using safety inspection teams as the initial contact with suspected grow-ops and clandestine drug labs. Whether EFSI or PSI teams, they have served to reduce greatly the number of re-established grow-ops and have minimized the proliferation of new ones.

A study in 2007 by Parvir Girn entitled “An Alternative Response Model to Marijuana Grow Operations: the Electrical Fire and Safety Investigation Initiative as a Case Study” addresses the
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The issue of whether or not the insertion of such teams into the process of closing down IDOs could be deemed an obstacle by policing authorities and, as a result, inhibit their ability to charge IDO operators in a timely manner. The research she conducted actually shows that, with the combination of the effective, focused bylaw and the use of the inspection safety teams, “re-establishment dropped to 1% for police cases and to zero for EFSI cases.” Prior to the actual bylaw being enforced, “re-establishment for EFSI cases was three times (12.7 per cent) greater than for the police (4.1 per cent). Furthermore, re-establishment for EFSI increased to one in every five cases in which no change in property ownership took place.” Clearly, effective bylaws combined with EFSI or PSI teams are effective models, despite some controversial aspects of the approach.

The process best identified for these purposes, simply put is:

1. **Identification**

Municipalities that request and act on hydro information about power consumption have experienced a decline in the number of IDOs. Effective tips lines combined with public education and awareness programs assisting the police in surveillance of neighbourhoods has led to a decline in the proliferation of these operations. However, in some areas, they have just become larger, despite being fewer in number; in other areas, they have moved to more rural settings, less controlled by bylaws and harder to police.

2. **Method of closing down**

Whether the operation is closed by the posting of a “Do Not Occupy” notice or is “busted” by the police directly, IDOs tend to have a fairly short “shelf life” in organized and proactive municipalities. In less policed or inspected areas, they may exist for a long time before any action is taken.

3. **Remediation process**

In virtually all the bylaws for the seven municipalities we have studied, the process is quite similar, with some variations, exclusions and additions: an inspection team visits the property, determines the situation, places a type of notice prohibiting occupation, gives the owner a certain time to remediate the property under specific guidelines and requirements, re-inspects, has third parties inspect and report in writing, and then removes the notice with instructions to the owner regarding notification to future occupants in writing. The seller pays for all costs. Designated professionals are required for the remediation process. The municipality does not rely on its own inspectors as the final definitive source for remediation approval (for the sake of legal liability), but rather on the professional written opinion of designated experts (engineers, etc.).

These records will be on file at the municipal hall, but will be impossible to access except by municipal staff. Research by a buyer or tenant will show that a re-inspection has passed, but will not disclose the full history of the property’s use.
4. Occupancy permit

Once the re-inspection has been approved, an occupancy or re-occupancy permit can be issued. This permit will also be on record at the municipal hall (Permits and Licences or similar department). Asking for that information is possible, but it does not necessarily tell a buyer or tenant why the occupancy permit was denied or temporarily suspended in the first place.

5. Reporting methods

a) Tax Certificate notation

The most effective way of ensuring the payment of costs is, of course, attaching them to the property taxes which must be paid if the property is transferred to a new owner. But, if the property is retained by the owner of record and the tax arrears build up, it may take a long time before any final action is taken in court to force a sale. By then, many tenants may have been affected adversely by the toxicity involved in an IDO, even if the property has been substantially remediated. Buyers will see the notation before the bill is paid, but after the notation is removed, depending on the municipality, there may no clear indication of any bylaw violation in the past.

b) Title notation

Where a notice is placed on title pending remediation, the buying public will see it, but tenants do not see titles, as a rule, so there is no notice to them. Even prospective buyers, especially those buying privately without the aid of a REALTOR® who could probe the notation further (and is expected to do so), would not really understand the significance of it. The notation itself would not prohibit a title transfer. It is to be assumed that a notary or lawyer acting for the buyer would probe further and explain the significance to the buyer. So much depends on what the notation reveals.

c) Public warnings

In some municipalities, a “No Occupancy” or “Do Not Occupy” notice is attached to the door or front window once an inspection has been made and an IDO has been found. This is removed after remediation has been approved by the designated authority, depending on the jurisdiction. Nowhere is there a public warning like this to a potential buyer or tenant except during this process. Once the notice is removed by the municipal authority, no other sign remains on the property to warn the public of the property’s past use.

Some bylaws require the owner to inform all future tenants or buyers of the previous status as an IDO, while others require this disclosure to only the next occupants after remediation. The likelihood of this happening 100% of the time is slim and the enforcement would be next to impossible.
Recommendations

In order to protect the public’s health and safety from the dangers of IDOs, answers to the following questions, clustered into three main areas, need to be available to the public and to their agents and representatives through each municipal hall:

Reporting

- Has the property ever:
  a) been used as an illegal drug operation (IDO); or
  b) had a major bylaw infraction related to EFSIs, PSIs, or report by police as an IDO?
- What is the current status of the property?
- Was it reported by an EFSI or PSI team, police or RCMP, or fire department?
- When was it reported?
- Is reporting consistent across each municipality?
- In cases of properties identified as IDOs, where can that information be found?
- When known, what type of IDO was the property used for?

Remediation

- Who is responsible for remediation?
- Who is responsible for assessment?
- Why was the property remediated?
- What was assessed on the property, e.g., air quality, water, ground, mould, building code violations?
- Can the public rely on the assessments to ensure properties used as IDOs are safe for occupancy?
- What information is available about the remediation and to whom?
- When was it remediated?
- Where is the remediation information located?

Final Inspection

- Who does final inspections?
- Who gives final occupancy approvals?
- When was the final occupancy approval provided for the property?

With these questions in mind, the following recommendations are offered as directions in which stakeholders may wish to approach resolution to the issues:

1. Establish a comprehensive reporting system.

For the public to be able to access and understand crucial information on properties, it is imperative that a user-friendly reporting system be established in the seven municipalities. Vancouver has a “file research program” which “provides written information on any property in
the city to prospective purchasers.”73 Fees are charged for the service. Buyers can obtain the following information: “1. the permitted occupancy of the building; 2. whether there are any existing by-law violations; 3. the zoning of the property; 4. Business license information; and 5. Permits issued for the property. And, if specifically requested, the city will advise if a property was ever used as a grow operation.”74

2. Establish a reliable remediation process.

Presently, there are no consistent standards for remediation of distressed properties in the Fraser Valley. REALTORS® are obligated by law to disclose information on a distressed property if aware of its history; however, this information is often hard to obtain. Buyers must know the property they are purchasing has been safely remediated to an acceptable standard.

3. Create a task force, including representatives from each of the stakeholder groups, to explore resolution to these issues.

It is recommended that a task force be convened to identify methods to improve the processes of reporting and remediating affected properties across Fraser Valley municipalities. The task force should consist of representatives from each of the stakeholder groups.

The Fraser Valley Real Estate Board thanks the BC Real Estate Association and Real Estate Foundation of British Columbia for providing partial funding for the Quality of Life initiative.
## Appendix

### Chart of Municipal Bylaws Focused on IDOs

<table>
<thead>
<tr>
<th></th>
<th>Surrey</th>
<th>Abbotsford</th>
<th>Langley City</th>
<th>Langley Twp</th>
<th>Mission</th>
<th>Delta</th>
<th>W. Rock</th>
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</thead>
<tbody>
<tr>
<td><strong>Bylaw focused on IDOs</strong></td>
<td><em>Controlled Substance Property Bylaw, 2006, No. 15820</em></td>
<td><em>Controlled Substance Property Bylaw, 2006, No. 1611-2006</em></td>
<td><em>Controlled Substance Property Bylaw, 2006 No. 2625</em></td>
<td><em>Controlled Substance Property Bylaw, 2006, No. 4537</em></td>
<td><em>Controlled Substance Nuisance Bylaw 3888-2006</em></td>
<td><em>Controlled Substance Property Bylaw No. 6200, 2004</em></td>
<td>In the drafting process at this time; using RCMP and nuisance bylaws</td>
</tr>
<tr>
<td><strong>Type of approach</strong></td>
<td>EFSI (Electrical Fire Safety Inspection)</td>
<td>PSI (Public Safety Inspection)</td>
<td>PSI (Public Safety Inspection)</td>
<td>PSI/EFSI combo</td>
<td>PSI (Public Safety Inspection)</td>
<td>Not defined</td>
<td>tba</td>
</tr>
<tr>
<td><strong>Form of notice</strong></td>
<td>notice is left at the residence allowing for a response to inspection request; Fire Chief or Building Inspector places “Do Not Occupy” notice on property once IDO is found</td>
<td>inspector posts a notice on the property (in the form approved by the Director) indicating the property is in an unsafe condition</td>
<td>Fire Chief or Building Inspector places “Do Not Occupy” notice on property once IDO is found</td>
<td>notice is left at the residence allowing for a response to inspection request; Fire Chief or Building Inspector places “Do Not Occupy” notice on property once IDO is found</td>
<td>Schedule B sample Letter to Owner; Schedule D sample “Do Not Occupy” notice; $10,000 fine for removing or defacing it</td>
<td>notice to remedy hazardous situation; no posted notice indicated</td>
<td>tba</td>
</tr>
<tr>
<td>(continued)</td>
<td>Surrey</td>
<td>Abbotsford</td>
<td>Langley City</td>
<td>Langley Twp</td>
<td>Mission</td>
<td>Delta</td>
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<tr>
<td><strong>Powers of inspectors</strong></td>
<td>Order to vacate; disconnection of water if used for an IDO; disconnection of electrical service if system compromised, or complete electrical inspection is denied, or owner/occupant has not responded to notice of electrical inspection; disconnection of natural gas service if heating system altered or used for an IDO</td>
<td>Order to vacate; disconnection of water if used for an IDO; all steps required to correct, remediate or bring the property up to the standard in the bylaw</td>
<td>Order to vacate; disconnection of water if used for an IDO; all steps required to correct, remediate or bring the property up to the standard in the bylaw</td>
<td>Order to vacate; disconnection of water if used for an IDO; disconnection of electrical service if system compromised, or complete electrical inspection is denied, or owner/occupant has not responded to notice of electrical inspection</td>
<td>Order to vacate; disconnection of water if used for an IDO</td>
<td>Notice to remedy situation within 21 days (no order to vacate); can disconnect electricity, water and natural gas</td>
<td>tba</td>
</tr>
<tr>
<td><strong>Re-inspection</strong></td>
<td>“qualified professional” provides written confirmation re. removal of specified toxins and other substances</td>
<td>have an occupational or industrial hygienist certify in writing that the property is substantially free of pesticides, fertilizers, toxic chemicals, moulds and fungi</td>
<td>“qualified professional” provides written confirmation re. removal of specified toxins and other substances</td>
<td>a professional engineer certifies in writing that building safety requirements have been met</td>
<td>have an occupational or industrial hygienist certify in writing that the property is substantially free of pesticides, fertilizers, toxic chemicals, moulds and fungi</td>
<td>have inspector and any other lawful authorities approve remediation</td>
<td>tba</td>
</tr>
<tr>
<td><strong>Fines and penalties</strong></td>
<td>$10,000 for each contravention plus $10,000 per day if continuing offense</td>
<td>max. fine of $10,000 and six months imprisonment; same for each day offense is continued</td>
<td>$10,000 for each contravention plus $10,000 per day if continuing offense</td>
<td>$10,000 for each contravention plus $10,000 per day if continuing offense</td>
<td>$10,000 for each contravention plus $10,000 per day if continuing offense</td>
<td>None indicated</td>
<td>tba</td>
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<tr>
<td><strong>(Re-) Occupancy permit</strong></td>
<td>Cannot (re-) occupy until written certification from Mgr, Bylaw and Licensing Services</td>
<td>Cannot (re-) occupy until written certification from Building Official</td>
<td>After a professional engineer has certified in writing that the property meets the bylaw and other standards, the Building Inspector or Fire Chief removes the “Do Not Occupy” notice</td>
<td>Cannot (re-) occupy until written certification from Building Inspector</td>
<td>Cannot (re-) occupy until written certification from Building Inspector or Fire Chief</td>
<td>Issued after total compliance</td>
<td>tba</td>
</tr>
<tr>
<td><strong>Responsibilities of landlords</strong></td>
<td>must inspect every 3 months and report contravention of bylaw within 24 hours</td>
<td>must inspect every 3 months and report contravention of bylaw within 24 hours</td>
<td>must inspect every 3 months and report contravention of bylaw within 24 hours</td>
<td>must inspect every 3 months and report contravention of bylaw within 24 hours</td>
<td>no reference made</td>
<td>no reference made</td>
<td>tba</td>
</tr>
<tr>
<td><strong>Notice to prospective occupants before, during and after remediation</strong></td>
<td>owner must notify all future occupants (in perpetuity) in writing that property was an IDO and that requirements of bylaw have been met</td>
<td>no requirement in bylaw</td>
<td>no requirement in bylaw</td>
<td>owner must notify all future occupants (in perpetuity) in writing that property was an IDO and that requirements of bylaw have been met</td>
<td>owner must notify prospective occupants in writing that property was an IDO and that requirements of bylaw have been met (does not indicate how long this has to be done)</td>
<td>No reference made</td>
<td>tba</td>
</tr>
</tbody>
</table>
Footnotes

3 ibid., p. 11.
4 ibid., p. 13.
6 *Bill C-26: An Act to amend the Controlled Drugs and Substances Act and to make consequential amendments to other Acts*, LEGISinfo, 39th Parliament – 2nd Session, October 16, 2007, p. 5.
9 Letter to Rich Coleman, Minister of Forests and Range and Minister Responsible for Housing, April 6, 2006.
11 loc. cit.
12 Found at www.marh.gov.bc.ca.
13 ibid., p.3.
14 Found at www.civicnet.bc.ca.
15 loc. cit.
18 Private correspondence.
19 See note 17, p. 2.
20 ibid.
21 ibid.
23 See note 19.
25 Private correspondence.
27 ibid., p.10.
28 See note 5, p. 11.
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Union of BC Municipalities (UBCM) newsletter, August 2005.

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*Controlled Substance Property Bylaw*, 2006, No. 1611-2006, City of Abbotsford
*Controlled Substance Property Bylaw*, 2006, No. 2625, City of Langley
*Controlled Substance Property Bylaw*, 2006, No. 4537, Township of Langley
*Controlled Substance Nuisance Bylaw 3888-2006*, District of Mission
*Controlled Substance Property Bylaw No. 6200, 2004*, Corporation of Delta

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