

HEARING COMMITTEE AGENDA

Hearing Committee Meeting
Wednesday, January 15, 2014
Tom Davies Square

4:30 p.m. HEARING COMMITTEE MEETING
COMMITTEE ROOM C-12

Council and Committee Meetings are accessible. For more information regarding accessibility, please call 3-1-1 or email clerks@greatersudbury.ca.

DECLARATIONS OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

APPOINTMENT OF COMMITTEE CHAIR AND VICE-CHAIR

1. Report dated December 27, 2013 from the Executive Director, Administrative Services/City Clerk regarding Appointment of Chair and Vice-Chair - Hearing Committee. **3 - 5**

(RECOMMENDATION PREPARED)

(Deputy Clerk, Brigitte Sobush will call the meeting to order and preside until the Hearing Committee Chair and Vice Chair have been appointed, at which time the newly appointed Chair will preside over the balance of the meeting.)

PUBLIC HEARINGS

1. Report dated January 10, 2014 from the Acting General Manager of Growth & Development regarding Appeal of Order to Remedy - 634 Lasalle Boulevard, Sudbury. **6 - 43**

(RECOMMENDATION PREPARED)

(This report is in response to the Appeal of Order to Remedy issued to the owner of 634 Lasalle Boulevard, Sudbury.)

2. Report dated January 10, 2014 from the Acting General Manager of Growth & Development regarding Appeal of Order to Remedy - 326 Whittaker Street, Sudbury.

44 - 55

(RECOMMENDATION PREPARED)

(This report is in response to an appeal of the Order To Remedy issued to the owner of 326 Whittaker Street.)

ADJOURNMENT

BRIGITTE SOBUSH, DEPUTY CITY CLERK

LIZ COLLIN, COMMITTEE ASSISTANT

Request for Decision

Appointment of Chair and Vice-Chair - Hearing Committee

Presented To:	Hearing Committee
Presented:	Wednesday, Jan 15, 2014
Report Date	Friday, Dec 27, 2013
Type:	Appointment of Committee Chair and Vice-Chair

Recommendation

That Councillor _____ be appointed Chair and Councillor _____ be appointed Vice-Chair of the Hearing Committee for the term ending November 30, 2014.

Background

This report sets out the procedure for the election by the Hearing Committee of the Chair and Vice-Chair of the Committee for the term ending November 30, 2014.

Article 37 of the Procedure By-law provides that a Member of the Committee shall be appointed annually by the Committee to serve as Chair of the Hearing Committee. As well, a Vice-Chair is appointed annually. Members are eligible to vote and serve consecutive terms.

The above appointments need only be confirmed by resolution.

Selection

The selection of the Chair and Vice-Chair is to be conducted in accordance with Article 45 of the Procedure By-law (copy attached).

Council's procedure requires that in the event that more than one (1) candidate is nominated for either the Chair and Vice-Chair's position, A simultaneous recorded vote shall be used to select the Chair and Vice-Chair.

It is always in order for a Member of Council to nominate themselves and to vote for themselves/ Under *Robert's Rules of Order* a nomination does not need a second.

Signed By

Report Prepared By

Brigitte Sobush
Deputy City Clerk
Digitally Signed Dec 27, 13

Recommended by the Department

Caroline Hallsworth
Executive Director, Administrative Services/City Clerk
Digitally Signed Jan 3, 14

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jan 8, 14

ARTICLE 45. NOMINATING COMMITTEE**45.01 Mandate**

The Nominating Committee shall meet, as needed by Council, for the purpose of considering and recommending to Council citizen appointments to agencies, boards, advisory panels, and other bodies as required.

45.02 Primary Objectives

In making such appointments, the Nominating Committee shall take into consideration a balanced representation from communities of interest so as to be reflective of the geographical and demographic composition of the community.

45.03 Membership

The Nominating Committee shall be composed of all Members of Council and chaired by a Deputy Mayor.

45.04 Term

The term of the Nominating Committee shall coincide with the term of Council.

45.05 Procedure

In making such appointments, the procedure set out in this Article shall apply unless otherwise provided in a shareholders' declaration.

45.06 Number of Applicants Matches Positions - Motion

Where the number of applicants matches the positions to be filled, a motion to appoint the applicant(s) to the position(s) in question shall be presented and voted upon.

45.07 Simultaneous Recorded Vote

A simultaneous recorded vote shall be used to select the applicants to fill each position available, in accordance with Article 33.05, except that:

- (1) the Clerk need not read each ballot aloud nor record each individual vote; and
- (2) the ballots shall be retained as part of the minutes.

45.08 Number of Applicants Exceeds Positions - Simultaneous Recorded Vote

Where the number of applicants exceeds the number of positions available, a simultaneous recorded vote shall be conducted in accordance with Article 37.09.

45.09 Term of Appointment – Local Boards

The term of office of each citizen appointed to a Local Board shall be set out in the body's terms of reference and shall not exceed the term of Council, unless otherwise specified by statute. However for purposes of continuity, such citizen appointments shall remain in effect following a municipal election until their successors are appointed by the incoming Council.

45.10 Term of Appointment – Staff

Except where prohibited by statute, the Nominating Committee may recommend the appointment of a member of staff to a board or agency within its mandate in the place of a Member when no other Members are available to be appointed.

Request for Decision

Appeal of Order to Remedy - 634 Lasalle Boulevard, Sudbury

Presented To:	Hearing Committee
Presented:	Wednesday, Jan 15, 2014
Report Date	Friday, Jan 10, 2014
Type:	Public Hearings
File Number:	453037

Recommendation

THAT the City of Greater Sudbury uphold the Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy #453037 issued to 1277897 Ontario Ltd, owner of 634 Lasalle Blvd, City of Greater Sudbury.

Background

The Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy (herein referred to as "the Order") was issued pursuant to the Building Code Act, S.O. 1992, Chapter 23 as amended, (herein referred to as "the Act").

The Council of the City of Greater Sudbury enacted By-law 2011-277, cited as the "Maintenance and Occupancy Standards By-law" (herein referred to as "the By-law"). This By-law has been passed under the authority of section 15 of the Act and prescribes standards for the maintenance and occupancy of properties within the City and for requiring properties not in conformance with the standards therein to be repaired and maintained to conform to the standards. This By-law was enacted to ensure the safety of residents and the upkeep of properties to prevent the degradation of the community and neighborhoods.

The enforcement and appeal provisions of this By-law are found in the Building Code Act. It provides for inspection powers of the officer, the issuance of an Order, the establishment of a Property Standards Committee, and the procedures for an appeal of the Order. Specific time frames and methods of notification are established in the Act and the powers of the Property Standards Committee are also set out in the Act.

Facts and Evidence Supporting the Order - Presented by Officer Kyle Anderson

On October 7th, 2013, the City of Greater Sudbury Compliance and Enforcement Division received a complaint by telephone which stated that a bathtub surround was installed at 634 Lasalle Blvd apartment

Signed By

Report Prepared By

Darlene Barker
Manager of Compliance and
Enforcement
Digitally Signed Jan 10, 14

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official
Digitally Signed Jan 10, 14

Recommended by the Department

Paul Baskcomb
Acting General Manager of Growth &
Development
Digitally Signed Jan 10, 14

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jan 10, 14

201 and is considered by the caller to be unsafe.

Case #453037 was generated and assigned to the area By-law Officer, Kyle Anderson for inspection and enforcement follow-up.

On October 8th, 2013, at approximately 11:01 am, Officer Anderson attended 634 Lasalle Blvd, apartment 201, Sudbury and conducted an inspection of the unit. During the inspection Officer Anderson observed that a new bathtub surround was installed over top of the existing bathtub. He noted that this work was done recently as he had last visited that particular unit for a previous case on September 16, 2013, and at that time this work had not yet been done. He further observed that the new bathtub surround did not appear to be properly installed. Lumber was attached to the wall on top of the existing surround and the new surround was attached to the lumber likely with an adhesive. This left large gaps at the top and bottom of the surround between the new materials and the existing wall, the approximate thickness of 2"x4" lumber. A large amount of white silicon was used at the top of the surround to attempt to seal this gap; however some wood was left exposed. This area also causes some pooling of water from the shower, and allows for water to penetrate between the new and old tub surround. Officer Anderson also observed that the new tub surround felt very pliable over most of its surface due to the void between the new and existing materials, and that this felt unsafe. Also due to much of the surface being very pliable, he observed that much of the silicon applied to seal the transition from the new materials to the old bathtub along the bottom of the tub surround had already become cracked and loose. As a result, he observed that water would likely easily penetrate in these areas. The corners of the new surround were also found to be sharp and already peeling off from the lumber to which the surround is attached. In his notes, Officer Anderson observed that "overall the new surround was not properly installed, is not of the proper dimensions to fit the space, not water tight or structurally sound, and poses a safety and health hazard".

Deficiencies of the By-law were noted and seventeen (17) photographs were taken. Items of Non-Conformity with the Property Standards By-law 2011-277 are as noted;

- 1) *Fail to maintain all plumbing, drain pipes and plumbing fixtures in every building and every connecting line to the sewage system in good working order and free from leaks and defects. Section 4.12(1)*
- 2) *Fail to provide, install and maintain all plumbing systems:*
 - a) *In compliance with the respective requirements of any applicable act or By-Law;*
 - b) *In good working order and good repair; and*
 - c) *In a safe condition. Section 4.12(3)*
- 3) *Fail to carry out repairs and maintenance of property with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned. Section 2.01(3)*

On October 9th, 2013, Officer Anderson prepared an Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy, outlining the items of non-conformity with the By-law as listed in the previous paragraph, and requiring compliance with the terms and conditions of the Order before November 1, 2013. The Order was sent registered mail to the owner of the property to the address as last shown on the Assessment Rolls for the City of Greater Sudbury; 1277897 Ontario Ltd, 1016 Arthur Street, Unit 101, Sudbury, ON P3A 5N1. The Order was received by C. Sgouros on October 10, 2013, as shown on the Track Status record of Canada Post.

The Order included the following repairs to be conducted in Order to be in Compliance with City of Greater Sudbury Property Standards By-Law 2011-277:

- 1) *Replace the bathtub and surround with materials which are suitable for their intended purpose,*

properly installed, water tight, free from defects, structurally sound, easily cleaned, and provide a smooth and continuous surface.

On October 22, 2013, Officer Anderson received letter from 1277897 Ontario Limited requesting an appeal.

On December 19th, 2013, at approximately 1:00 pm, City of Greater Sudbury Building Official Jason Radley attended 634 Lasalle Blvd, apartment 201, Sudbury and conducted an inspection of the bathtub. As a result a report was sent to Officer Anderson by email outlining the following observations:

"I conducted my inspection on Thursday, December 19, 2013, where it was observed that the existing one-piece enamel tub/shower fixture, has been retrofitted with a new fibreglass surround. Based on my observations, it is my suggestion that this new surround does not adequately fit the existing tub. There are apparent gaps and lifting of the new surround where it has been attached to the existing tub curvatures and large amounts of caulking where capping should be applied. Refer to OBC Div. B Part 7.2.2.1.(1) - ***Except for the area designed to be slip proof in such fixtures, every exposed area of a fixture shall have a smooth, hard corrosion-resistant surface that is free from flaws and blemishes that may interfere with cleaning.***" (Email included)

Attached to this report for the Committee's review and in support of the recommendation are the following;

1. 17 pictures dated October 8, 2013.
2. Copy of Roll Information - confirming property owner.
3. Copy of Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy, #453037 dated October 9, 2013.
4. Canada Post Tracking record RW 770 765 353 CA - Delivery Receipt for Order
5. Email containing report from Building Official Radley, dated December 30, 2013.
6. 6 pictures taken by Building Official Radley on December 19, 2013.
7. Letter from 1277897 Ontario Limited requesting Appeal of the Order, dated October 16, 2013.
8. CGS appeal confirmation letter.
9. CGS notice of hearing letter.

Conclusion

Section 15.3(3.1) of the Building Code Act sets out the powers of the committee on an appeal of an Order. It provides to the committee the same powers and functions of the officer who made the order, and can confirm, modify or rescind the Order, and can also extend the time for complying with the order, if in the committee's opinion doing so would maintain the general intent and purpose of the by-law and of the official plan or policy statement.

Section 18 of the City of Greater Sudbury's Official Plan starts with the statement "Adequate and affordable housing for all residents is a fundamental component of Greater Sudbury's Healthy Community approach to growth and development. Further statements include the achieving diversity in the housing supply by maintaining a balanced mix of ownership and rental housing, and addressing housing requirements for low income groups and people with special needs. One of the objectives of the policy is to ensure that the City's housing stock provides acceptable levels of health and safety through enforcement of the property maintenance standards in all forms of housing. The intent and purpose of the by-law may also be determined through statements in the preamble; "Whereas the lack of upkeep of a residential property can lead to the degradation of a neighbourhood and of a community."

It is for these reasons that the recommendation in this report is to uphold the Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy, #453037, dated October 9, 2013, to ensure that the owner of the property of 634 Lasalle Blvd, complies with the maintenance and occupancy

standards as set out in the CGS By-law, 2011-277.

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Journals

Date According To:

2013/12/16

**Roll Information**

Roll No. 030.030.00300.0000 0

Address 634 LASALLE BLVD

Owners

1277897 ONTARIO LTD

Legal Description

MCKIM CON 6 LOT 3 RP

53R10099 PARTS 1 & 2 PIN

02171-0210

Mailing Address

1016 ARTHUR ST UNIT 101

OTHER

1.04AC 160.13FR D

SUDBURY ON

P3A5N1

Mortgage Code**Mortgage Acct#****Group Code****Tax Balance**

Tax Levied Penalty Adjustment Payment Balance

Projected Balance

Total Owing:

Assessments

WTX

Appeals

Archive Trans

Assessments

Audits

Bill Detail

Capping

Collections

Detail

Correspond ☐

Installments

Local Charge

PAP

Ph-In/Def

Phone,Email... ☐

Post Dated

Receivables

Remarks ☐

Schedules

Tax Sale

Transactions

Vacancy



PO BOX 5000 STN A
200 BRADY STREET
SUDBURY ON P3A 5P3

CP 5000 SUCC A
200 RUE BRADY
SUDBURY ON P3A 5P3

**ORDER TO REMEDY
NON-CONFORMITY WITH STANDARDS
FOR MAINTENANCE AND OCCUPANCY OF
ALL PROPERTY**

Issued pursuant to section 15.2(2) of
The Building Code Act, S.O. 1992, chapter 23, as amended.

Case # 453037

Date of Inspection: OCTOBER 8, 2013.

Time: 11:01 PM

By-Law No.: 2011-277

Municipal address or legal description of property

X Occupied

Unoccupied

APT 201 – 634 LASALLE BOULEVARD, SUDBURY, ON - MCKIM CON 6 LOT 3 RP 53R10099 PARTS 1 & 2

Name of owner and mailing address

1277897 ONTARIO LTD, 1016 ARTHUR ST UNIT 101, SUDBURY, ON P3A 5N1

DESCRIPTION OF NON-CONFORMITY

LOCATION

**BY-LAW
Reference**

- | | | | |
|----|---|-------------------|-------------------------------|
| 1) | Fail to maintain all plumbing, drain pipes and plumbing fixtures in every building and every connecting line to the sewage system in good working order and free from leaks and defects. | Bathroom, Apt 201 | 2011-277, Part 4, Ss 4.12 (1) |
| 2) | Fail to provide, install and maintain all plumbing systems:
a) In compliance with the respective requirements of any applicable act or By-Law;
b) In good working order and good repair; and
c) In a safe condition. | Bathroom, Apt 201 | 2011-277, Part 4, Ss 4.12 (3) |
| 3) | Fail to carry out repairs and maintenance of property with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned. | Bathroom, Apt 201 | 2011-277, Part 2, Ss 2.01 (3) |

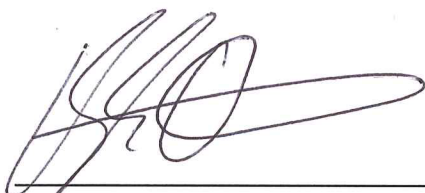
REQUIRED ACTION

- 1) Replace the bathtub and surround with materials which are suitable for their intended purpose, properly installed, water tight, free from defects, structurally sound, easily cleaned, and provide a smooth and continuous surface.

**There must be compliance with the terms and conditions of this order
before this date: November 1, 2013.**

TAKE NOTICE THAT if such repair or clearance is not done within the time specified in this order, the Municipality may carry out the repair or clearance at the expense of the owner. Clause 15.2 (2) (c).

APPEAL TO PROPERTY STANDARDS COMMITTEE - An owner or occupant upon whom this order has been served, if not satisfied with the terms or conditions of the order, may appeal to the Property Standards Committee by sending notice of appeal by registered mail to the Secretary of the Committee on or before **October 30, 2013**, and in the event that the order is not appealed, it shall be deemed to be confirmed. Subsection 15.3 (2).



Kyle Anderson
Property Standards Officer,
Municipal Law Enforcement Officer
705-674-4455 ext. 2510

Date Order Served: **October 9, 2013**

DISTRIBUTION OF ORDER TO REMEDY* - The order shall be served on the owner of the property and such other persons affected by it as the officer determines and a copy of the order may be posted on the property. Subsection 15.2(3).

REGISTRATION OF ORDER - Where a copy of this order is registered in the proper land registry office, any person acquiring any interest in the land, subsequent to the registration of the order, shall be deemed to have been served with the order on the day on which the order was served. Subsection 15.2 (4).

OFFENCE - A person is guilty of an offence if the person fails to comply with an order, direction or other requirement made under the Building Code Act, 1992. A person who is convicted of an offence is liable to a fine of not more than \$25, 000 for a first offence and to a fine of not more than \$50,000 for a subsequent offence. Subsections 36 (1) (b) and 36 (3).

Personal information contained on this form, collected pursuant to a by-law passed under the Building Code Act, 1992 will be used for the purposes of that by-law. Questions should be directed to the Municipal Freedom of Information and Privacy Coordinator at the institution responsible for the procedures under that Act.

Original - CONTRAVENOR*	Copy - OFFICE	Copy - PROPERTY STANDARDS OFFICER	Copy - BUILDING CONTROLS	Copy- FIELD
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CANADA
POST



POSTES
CANADA

REGISTERED
DOMESTIC

CUSTOMER RECEIPT

RECOMMANDÉ
RÉGIME INTÉRIEUR



To

Destinataire

Name

Nom

Address

Adresse

City / Prov. / Postal Code

Ville / Prov. / Code postal

Declared Value

Valeur déclarée

\$

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CONFIRMATION

CONFIRMATION
DE LA LIVRAISON

www.canadapost.ca
or/ou

www.postescanada.ca

1 888 550-6333

CPC Tracking Number

Numéro de repérage de la SCP

33-086-584 (11-04)





Date: 2014/01/06

Dear Sir or Madam:

Madame, Monsieur,

Please find below the scanned delivery date and signature of the recipient of the item identified below:

Vous trouverez ci-dessous la date de la livraison et la signature de la personne qui a accepté l'envoi sous mentionné:

Item Number

Numéro d'article

RW770765353CA

Product Name

Nom de produit

Not Available/Non disponible

Reference Number 1

Numéro de référence 1

Not Applicable/Sans objet

Reference Number 2

Numéro de référence 2

Not Applicable/Sans objet

Delivery Date (yyyy/mm/dd)

Date de livraison (aaaa/mm/jj)

2013/10/10

Signatory Name

Nom du signataire

C SGOUROS

Signature

Signature

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Yours sincerely,

Salutations distinguées,

Customer Relationship Network
1-888-550-6333

(from outside of Canada 1 416 979-8822)

Réseau des relations avec la clientèle
1 888 550-6333

(de l'extérieur du Canada 1 416 979-8822)

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Kyle Anderson - Courtesy Site Inspection at 634 Lasalle Blvd - Unit 221

From: Jason Radley
To: Kyle Anderson
Date: 12/30/13 4:17 PM
Subject: Courtesy Site Inspection at 634 Lasalle Blvd - Unit 221
CC: Andre Guillot
Attachments: 634 Lasalle Unit 221.pdf; IMG-20131219-01051.jpg; IMG-20131219-01052.jpg; IMG-20131219-01054.jpg; IMG-20131219-01053.jpg; IMG-20131219-01056.jpg; IMG-20131219-01057.jpg

Good afternoon Kyle,

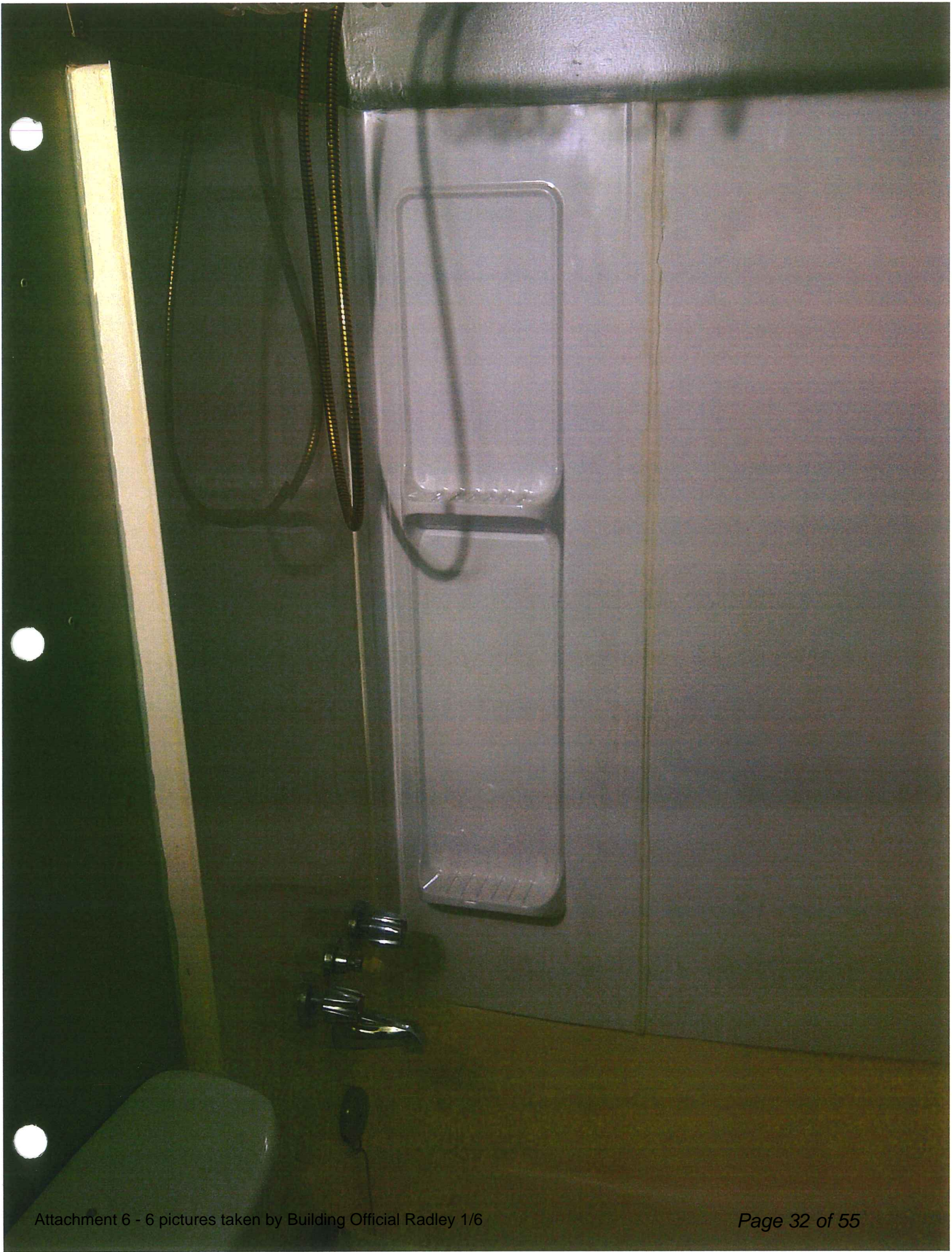
As directed by Manager of Inspections, Andre Guillot, I have conducted a courtesy site visit to 634 Lasalle Boulevard, Unit #221, as requested by yourself, regarding concerns that measures to improve the existing shower/tub fixture are not is good workmanship and may be unsafe.

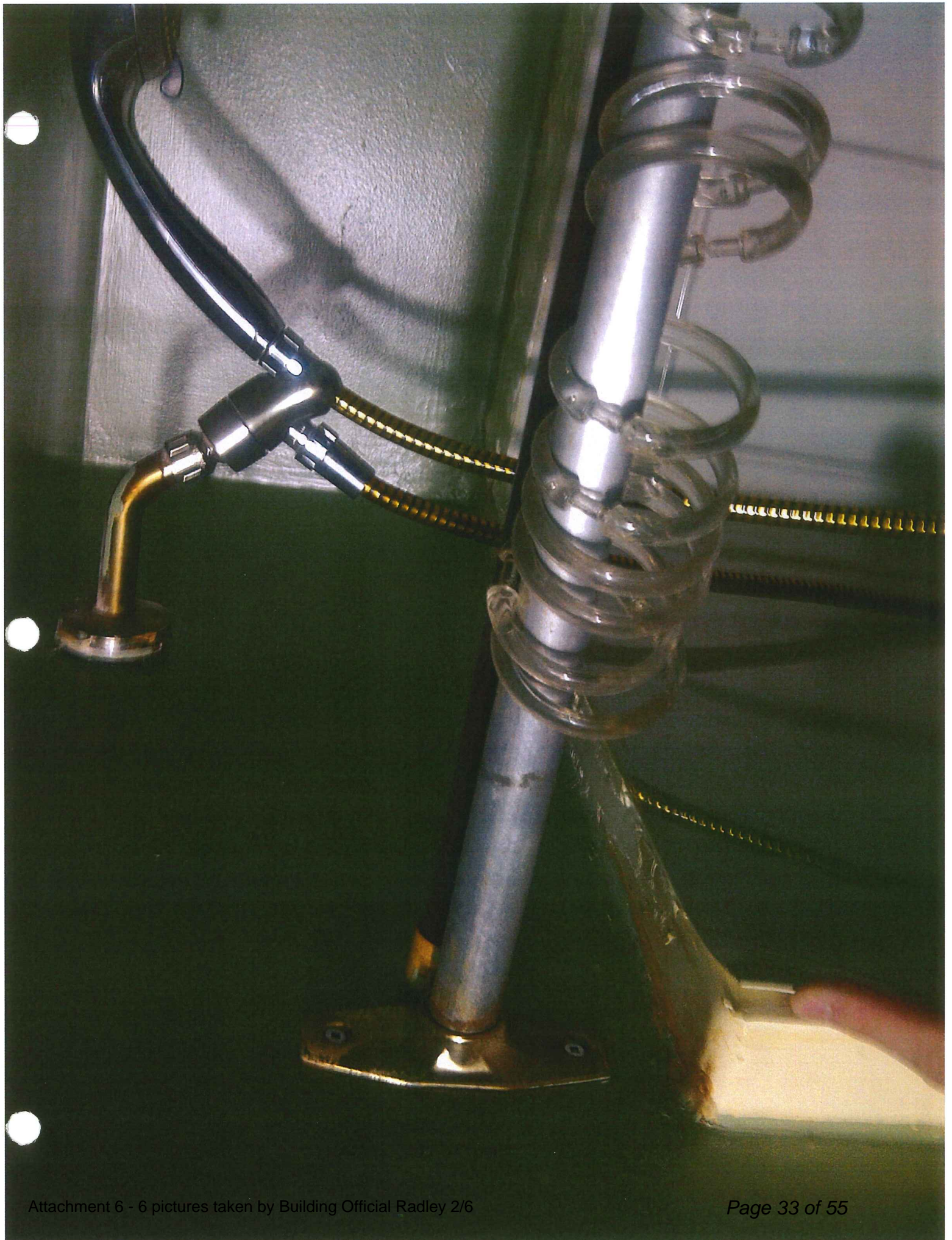
I conducted my inspection on Thursday, December 19, 2013, where it was observed that the existing one-piece enamel tub/shower fixture, has been retrofitted with a new fibreglass surround. Based on my observations, it is my suggestion that this new surround does not adequately fit the existing tub. There are apparent gaps and lifting of the new surround where it has been attached to the existing tub curvatures and large amounts of caulking where capping should be applied. Refer to OBC Div. B Part 7.2.2.1.(1) - ***Except for the area designed to be slip proof in such fixtures, every exposed area of a fixture shall have a smooth, hard corrosion-resistant surface that is free from flaws and blemishes that may interfere with cleaning.***

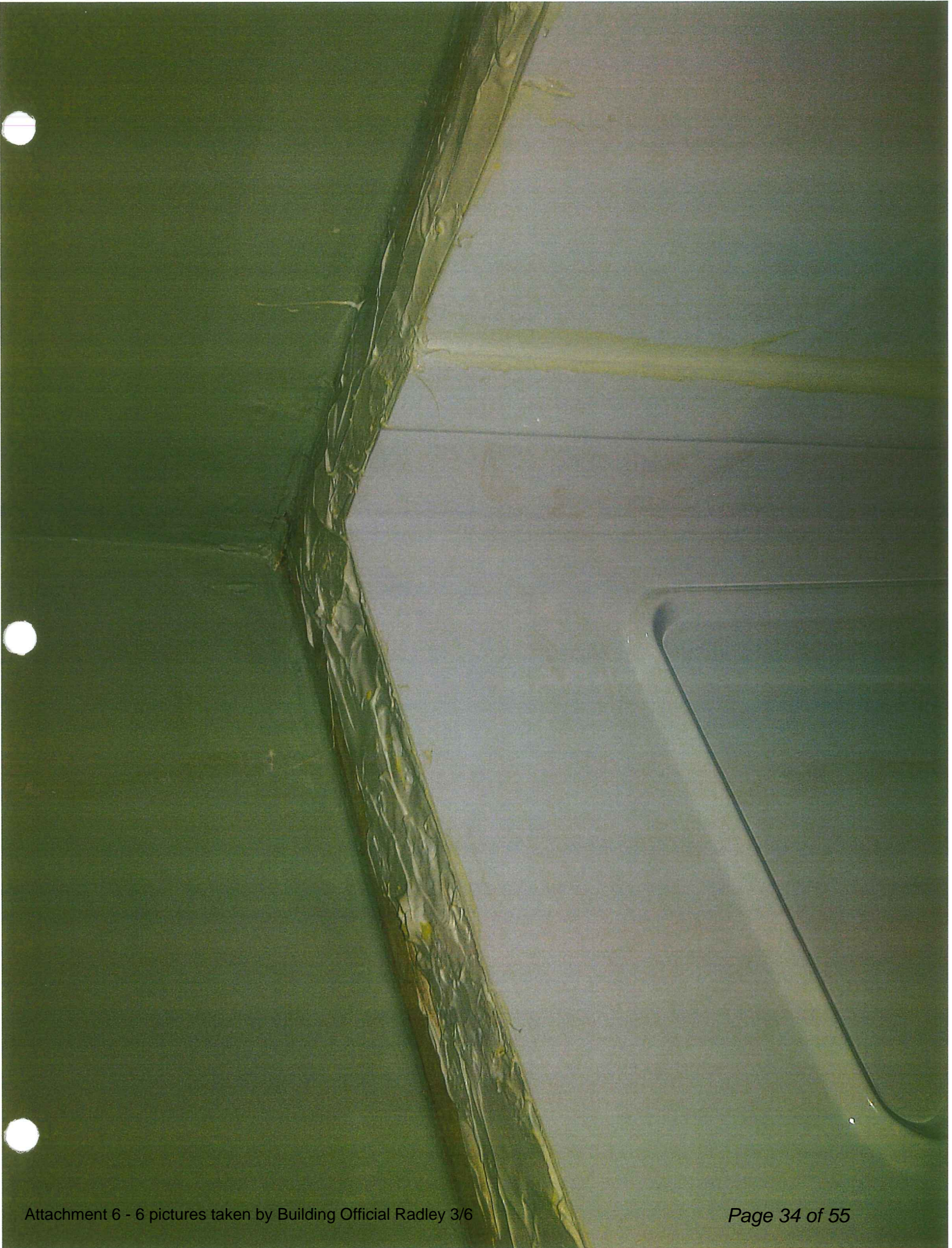
I trust this information should suffice, but should you have any others questions or concerns, please do not hesitate to contact me.

Regards,

Jason Radley
Building Inspector
 City of Greater Sudbury
 Growth & Development Department
 tel: 705.674.4455 ext. 4320











Sent by registered mail

October 16, 2013

1277897 Ontario Limited
453 Lake Point Crt
Sudbury, ON
P3E 6J3

Greater Sudbury
200 Brady Street
Sudbury, ON
P3A 5P3

Attention: Secretary of Property Standards Committee

Dear Sir or Madam: Re: Order to remedy case No 453037
Apt. 201, 634 Lasalle Blvd, Sudbury

This is formal appeal to the described items included in above order to remedy, (copy enclosed).

We do not know why the request is made to change the bathtub, as there is nothing wrong with the bathtub.

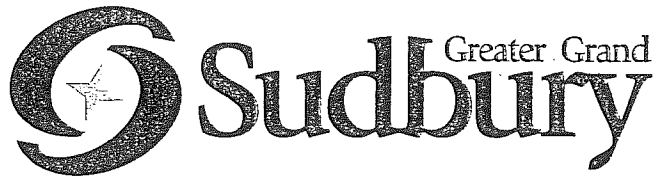
The bathtub surround is made of material that is manufactured and intended for that purpose and it is installed properly under existing conditions.

Copy of the picture is enclosed for the reference.

The above order is made maliciously by the inspector and has no merits.

Yours Truly

M. Hulec



October 23, 2013

1277897 Ontario Limited
453 Lake Point Court
Sudbury, ON P3E 6J3

Dear Sir:

Re: Appeal to Order to Comply – Apartment 201, 634 Lasalle Boulevard, Sudbury,
Case #453037

This will acknowledge receipt of your letter received October 22, 2013 appealing the Order to Remedy issued under the City of Greater Sudbury's Maintenance and Occupancy Standards By-law #2011-277.

The Hearing Committee of the City of Greater Sudbury has been appointed to hear Property Standards Appeals. You will be notified of the date and time of the hearing. Please bring any information you feel relevant in presenting your position to the Hearing Committee.

Please be advised that this hearing is a public process; the agenda will be made available on the City's website and the hearing is open to the public to attend.

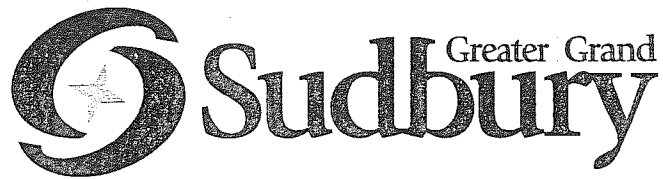
If you have any concerns or require any further information, do not hesitate to contact the undersigned at 705-674-4455, ext. 2010.

Yours truly,

A handwritten signature in cursive script, appearing to read 'Brigitte Sobush'.

Brigitte Sobush
Deputy City Clerk

cc: D. Barker, Manager of Compliance & Enforcement Services
K. Anderson, Property Standards Officer



December 20, 2013

1277897 Ontario Limited
453 Lake Point Court
Sudbury, ON P3E 6J3

Dear Sir:

Re: Appeal to Order to Comply – Apartment 201, 634 Lasalle Boulevard,
Sudbury - Case # 453037

The Hearing Committee of the City of Greater Sudbury has been appointed to hear Property Standards Appeals. The Committee Meeting will begin at **4:30 p.m.** on **January 15, 2014** in Committee Room C-12 at Tom Davies Square. Please bring any information you feel relevant in presenting your position to the Hearing Committee.

I am enclosing a copy of the City of Greater Sudbury's Maintenance and Occupancy Standards By-law 2011-277, Part 4 - S4.12(1); Part 4 - S4.12(3) and Part 2 - S2.01(3), for your convenience. If you require any further information, do not hesitate to contact me at 674-4455, ext. 2010.

Yours truly,

A handwritten signature in cursive script, appearing to read 'Brigitte Sobush'.

Brigitte Sobush
Deputy City Clerk

/ec

Enclosure

cc: D. Barker, Manager of Compliance & Enforcement Services
K. Anderson, Property Standards Officer

4.11 LIGHTING

1. Every stairway, exterior exit and entrance doorway, bathroom, toilet room, kitchen, hall, cellar, basement, laundry, furnace room and non-habitable work room in a suite, dwelling unit or building shall have a permanently installed lighting fixture that shall be maintained in a safe condition and in good working order.
2. Lighting equipment shall be installed throughout every property to provide adequate illumination for the use of each space so as to provide safe passage.

4.12 PLUMBING

1. All plumbing, drain pipes, water pipes and plumbing fixtures in every building and every connecting line to the sewage system shall be maintained in good working order and free from leaks and defects.
2. All water pipes and appurtenances thereto shall be protected from freezing.
3. Plumbing systems on a property shall be provided, installed and maintained:
 - a) in compliance with the respective requirements of any applicable Act or Bylaw;
 - b) in good working order and good repair; and
 - c) in a safe condition.
4. All plumbing fixtures shall be connected to the sewage system through water seal traps.

4.13 WATER SUPPLY

1. Every dwelling and every building to which water is available under pressure through piping shall be provided with:
 - a. adequate supply of hot water with a temperature range from 60 to 73.8 Celsius or 140 to 165 degrees Fahrenheit shall be provided and maintained in all dwelling units; and
 - b. piping for hot and cold water connected to every kitchen fixture, every washbasin, bathtub, shower, sink and laundry area; and
 - c. piping for cold water connected to every toilet and hose bib.

- 35) "Visual barrier" – shall mean a continuous, uninterrupted structure and/or fence which completely blocks lines of sight when viewed perpendicularly from either of its sides and shall consist of one or more of the following materials: wood, stone, bricks, mortar, fabricated metal or other similarly solid material approved by the Property Standards Officer or Chief Building Official.
- 36) "Waste"- means any debris, rubbish, refuse, sewage, effluent, discard, or garbage of a type arising from a residence, belonging to or associated with a house or use of a house or residential property and/or from industrial or commercial operations, or belonging to or associated with industry or commerce or industrial or commercial property, which for greater certainty includes all garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements, deteriorating or decaying on a property due to exposure or the weather
- 37) "Yard" means the land other than publicly owned land around or appurtenant to the whole or any part of a residential or non-residential property and used or capable of being used in connection with the property.

**PART 2
GENERAL STANDARDS FOR ALL PROPERTY AND USES**

2.01 SCOPE

1. No person, being the owner or occupant of a property, shall fail to maintain the property in conformity with the standards required in this Bylaw.

2. The owner of any property which does not conform to the standards in this Bylaw shall repair and maintain the property to conform to the standards or shall clear the property of all buildings, structures, garbage, rubbish, waste or accumulations of such materials that prevent access to or exit from the property in the case of emergency, or other safety or health hazard and shall leave the property in a graded and leveled condition.
3. All repairs and maintenance of property shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned.
4. All new construction or extensive repairs shall conform to the Ontario Building Code, where applicable.
5. This by-law does not apply so as to prevent a farm, meeting the definition of "agricultural operation" under the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c. 1, from carrying out a normal farm practice as provided for and defined under that Act.

2.02 GARBAGE RECEPTACLES

1. Every building shall be provided with sufficient proper receptacles to contain all garbage, ashes or waste, which accumulates on the property, and such materials
 - a. shall be placed for collection in proper receptacles in compliance with the City's waste collection by-laws; and
 - b. not allowed to accumulate for longer than fourteen (14) days.
2. Receptacles for garbage shall be:
 - a. made of watertight construction;
 - b. provided with a tight fitting cover, which may be removed only when the receptacle is empty or is being actively loaded;
 - c. maintained in good condition without holes or spillage; and
 - d. closed, or emptied, rinsed and cleaned when not in use, to prevent the escape of offensive odour or waste.

Request for Decision

Appeal of Order to Remedy - 326 Whittaker Street, Sudbury

Presented To: Hearing Committee

Presented: Wednesday, Jan 15, 2014

Report Date: Friday, Jan 10, 2014

Type: Public Hearings

Recommendation

THAT the City of Greater Sudbury uphold the Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy #448104 issued to Jenalee Pilatzke, owner 326 Whittaker Street, City of Greater Sudbury.

Background

The Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy (herein referred to as "the Order") was issued pursuant to the Building Code Act, S.O. 1992, Chapter 23 as amended, (herein referred to as "the Act").

The Council of the City of Greater Sudbury enacted By-law 2011-277, cited as the "Maintenance and Occupancy Standards By-law" (herein referred to as "the By-law"). This By-law has been passed under the authority of section 15 of the Act and prescribes standards for the maintenance and occupancy of properties within the City and for requiring properties not in conformance with the standards therein to be repaired and maintained to conform to the standards. This By-law was enacted to ensure the safety of residents and the upkeep of properties to prevent the degradation of the community and neighborhoods.

The enforcement and appeal provisions of this By-law are found in the Building Code Act. It provides for inspection powers of the officer, the issuance of an Order, the establishment of a Property Standards Committee, and the procedures for an appeal of the Order. Specific time frames and methods of notification are established in the Act and the powers of the Property Standards Committee are also set out in the Act. Further, the Act provides the authority for those assigned to enforce it the requirement to require owners of the subject property to produce "any thing" to prove the property is in compliance with the By-Law. This includes requiring an engineer's report be produced ensuring the structural integrity of elements of the property, including but not limited to retaining walls.

Signed By

Report Prepared By

Darlene Barker
Manager of Compliance and
Enforcement
Digitally Signed Jan 10, 14

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official
Digitally Signed Jan 10, 14

Recommended by the Department

Paul Baskcomb
Acting General Manager of Growth &
Development
Digitally Signed Jan 10, 14

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jan 10, 14

Facts and Evidence Supporting the Order-Presented by Officer Stephen Holt

A request for enforcement was received by Compliance and Enforcement via telephone on August 14, 2013. The complaint involved the structural integrity of a retaining wall separating the rear yards between 326 Whittaker Street and 318 Whittaker Street in the City of Greater Sudbury.

The complaint was assigned case #448104 and assigned to the officer responsible for that area, By-Law Enforcement Officer Stephen Holt, for inspection and follow-up.

On August 28, 2013 Officer Holt attended and inspected the wall separating the rear yards between 326 Whittaker and 318 Whittaker. Photographs of the wall were taken (included). Officer Holt noted that the wall was constructed of fieldstone and pieces of concrete. The wall appeared to have been constructed many years previous in order to allow the rear yard of 326 Whittaker to be filled in, thus raising its elevation above the level of the rear yard of 318 Whittaker. As a result of this, there appears to be a large stress load resulting from the earth on the side of the wall. The material that the wall consists of does not appear to be secured or anchored in place, it appears that only the weight of the rocks are holding the wall in place. It also appeared that the wall had begun to lean into the yard at 318 Whittaker, from the force of the earth behind it.

Officer Holt issued an Order to the owner to repair and make plumb the leaning portion of the retaining wall, and produce a engineer's report indicating that the wall is structurally sound. The requirements of requesting an engineer's report are to ensure compliance with section 2.10(1) of the Property Standards By-law, and are authorized by Section 15.8(f) of the Building Code Act as an inspection power of the Officer. "An Officer may order the owner of the property to take and supply at the owner's expense such tests and samples as are specified in the order."

The Order required the property be brought into compliance with the By-law on or before September 11, 2013. Officer Holt received a phone call from the father of the property owner on September 5, 2013 requesting an extension of the compliance date as the Order had just been received via registered mail by the owner. Officer Holt agreed to a two week extension of enforcement of the Order, to allow the owner to determine their best course of action. On September 25, 2013 Officer Holt received a letter requesting a hearing before the Committee.

Attached to this report for the Committee's review and in support of the recommendation in this report are the following:

1. Four photographs dated August 28, 2013.
2. Certified true copy of the tax roll confirming property owner
3. Copy of Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy Case# 448104
4. Letter from Robert and Rae-Ann Timony requesting a hearing before the Committee.
5. Signed letter from Jenalee PILATZKE authorizing Robert and Rae-Ann Timony, to act on her behalf regarding the Order and the appeal.
6. Letter to Robert and Rae-Ann Timony from Deputy City Clerk dated December 20, 2013.

Conclusion

Section 15.3(3.1) of the Building Code Act sets out the power of the committee on an appeal of an Order. It provides to the committee the same powers and functions of the officer who made the order, and can confirm, modify or rescind the Order, and can also extend the time for complying with the Order, if in the committee's opinion doing so would maintain the general intent and purpose of the by-law and of the official plan or policy statement.











Journals

Date According To:

2014/01/03

**Roll Information**

Roll No. 0570065400000 0

Address 326 WHITTAKER ST

Owners

PILATZKE JENALEE

Legal Description

MCKIM CON 3 LOT 7 PLAN 4S

LOT 272

REG

Mailing Address

326 WHITTAKER ST

6250.00SF 50.00FR 125.00D

SUDBURY ON

P3C 3X9

Mortgage Code

Mortgage Acct#

Group Code

Tax Balance

Tax Levied	Penalty	Adjustment	Payment	Balance
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Projected Balance

Total Owning:

Assessments

+	
-	

Appeals

Archive Trans

Assessments

Audits

Bill Detail

Capping

Collections

Detail

Correspond ☐

Installments

Local Charge

PAP

Ph-In/Def

Phone,Email... ☐

Post Dated

Receivables

Remarks ☐

Schedules

Tax Sale

Transactions

Vacancy

PO BOX 5000 STN A
200 BRADY STREET
SUDBURY ON P3A 5P3

CP 5000 SUCC A
200 RUE BRADY
SUDBURY ON P3A 5P3

ORDER TO REMEDY
NON-CONFORMITY WITH STANDARDS
FOR MAINTENANCE AND OCCUPANCY

Issued pursuant to section 15.2(2) of
The Building Code Act, S.O. 1992, chapter 23, as amended.

		Case #448104
Date of Inspection: August 28, 2013	Time:1125 hrs	By-Law No.:2011-277
Municipal address or legal description of property X Occupied Unoccupied		
326 Whittaker St Sudbury, ON		
Name of owner/occupant and mailing address		
Jenalee PILATZKE 326 Whittaker St Sudbury, ON P3C 3X9		
DESCRIPTION OF NON-CONFORMITY	LOCATION	BY-LAW REFERENCE
a) All retaining walls....shall be maintained in a structurally sound condition.	Leaning portion of retaining wall	2.10(1)
REQUIRED ACTION		
Repair and make plumb the leaning portion of retaining wall. Produce an engineer's report indicating the wall is structurally sound.		
<input type="checkbox"/> Emergency Order - above work to be carried out immediately to terminate danger. Subsection 15.7 (1)		
There must be compliance with the terms and conditions of this order before this date September 11, 2013		

TAKE NOTICE THAT if such repair or clearance is not done within the time specified in this order, the Municipality may carry out the repair or clearance at the expense of the owner. Clause 15.2 (2) (c).

APPEAL TO PROPERTY STANDARDS COMMITTEE - An owner or occupant upon whom this order has been served, if not satisfied with the terms or conditions of the order, may appeal to the Property Standards Committee by sending notice of appeal by registered mail to the Secretary of the Committee on or before Sept 10, 2013 (Date -within fourteen days after service of this order) and, in the event that the order is not appealed, it shall be deemed to be confirmed. Subsection 15.3 (1).

Stephen Holt
Property Standards Officer
705 674-4455 ext 4322
Date Order Served: August 28, 2013

DISTRIBUTION OF ORDER TO REMEDY:
persons affected by it as the officer determ

REGISTRATION OF ORDER - Where a cc
acquiring any interest in the land, subsequ
the order on the day on which the order wa

OFFENCE - A person is guilty of an offence
under the Building Code Act, 1992. A pers
a first offence and to a fine of not more tha

CANADA POST POSTES CANADA		REGISTERED DOMESTIC	RECOMMANDÉ RÉGIME INTÉRIEUR	R
CUSTOMER RECEIPT		REÇU DU CLIENT		
To Name	Destinataire Nom	FOR DELIVERY CONFIRMATION CONFIRMATION DE LA LIVRAISON		
Address	Adresse	www.canadapost.ca or/ou www.postescanada.ca		
City / Prov. / Postal Code	Ville / Prov. / Code postal	1 888 550-6333		
Declared Value	Valeur déclarée \$	CPC Tracking Number Numéro de repérage de la SCP		
33-086-584 (11-04)				

Personal information contained on this form, collected pursuant to a by-law passed under the Building Code Act, 1992 will be used for the purposes of that by-law. Questions should be directed to the Municipal Freedom of Information and Privacy Coordinator at the institution responsible for the procedures under that Act.

Original - CONTRAVENOR*	Copy - OFFICE	Copy - PROPERTY STANDARDS OFFICER	Copy - BUILDING CONTROLS	Copy- FIELD
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Robert & Rae-Anne Timony



September 18, 2013

Stephen Holt
Property Standards Officer
City of Greater Sudbury
200 Brady Street, Box 5000, Stn. A
Sudbury, Ontario
P3A 5P3

VIA REGISTERED MAIL

Re: Jenalee Pilatzke – 326 Whittaker St., Sudbury, ON – Case 448104

We are [REDACTED] of the above mentioned owner of the above mentioned property who was served with an Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy on or about September 4, 2012 with respect to the condition of a retaining wall.

We are appealing the order to your Property Standards Committee as in our opinion there is no actual retaining wall in place along the full left side of the property. We have attached signed authorization from [REDACTED] to act on her behalf.

Please advise us as to the time and date of the appeal hearing on this matter or if a meeting to discuss this issue further is necessary. We can be reached at the telephone number or at the email address stated above.

Sincerely,


Robert & Rae-Anne Timony

Written Authorization From Owner

AUTHORIZATION REQUIRED BY AGENT WHEN ACTING
ON BEHALF OF THE REGISTERED OWNER
of 326 Whittaker Street, Sudbury, Ontario

DECLARATION BY REGISTERED OWNER

I hereby authorize [REDACTED] ROBERT and RAE-ANNE TIMONY to act as my official agents respecting the ORDER TO REMEDY from the City of Greater Sudbury.

The City of Sudbury is hereby authorized to release and accept any information or a Notice of Appeal respecting the subject property to the said agent.

DATED AT: Sudbury THIS 19th DAY OF September, 20 13.


Jenalee Pilatzke

Jenalee Pilatzke, Owner

City of Greater Sudbury
Ville de Grand Sudbury



December 20, 2013

Robert & Rae-Anne Timony


Dear Mr. & Mrs. Timony:

Re: Appeal to Order to Comply - 326 Whittaker Street, Sudbury, Jenalee
Pilatzke – Case # 448104

The Hearing Committee of the City of Greater Sudbury has been appointed to hear Property Standards Appeals. The Committee Meeting will begin at **4:30 p.m.** on **January 15, 2014** in Committee Room C-12 at Tom Davies Square. Please bring any information you feel relevant in presenting your position to the Hearing Committee.

I am enclosing a copy of the City of Greater Sudbury's Maintenance and Occupancy Standards By-law 2011-277, Section 2.10(1), for your convenience. If you require any further information, do not hesitate to contact me at 674-4455, ext. 2010.

Yours truly,

A handwritten signature in cursive script, appearing to read 'BSobush'.

Brigitte Sobush
Deputy City Clerk

/ec

Enclosure

cc: Jenalee Pilatzke
D. Barker, Manager of Compliance & Enforcement Services
S. Holt, Property Standards Officer