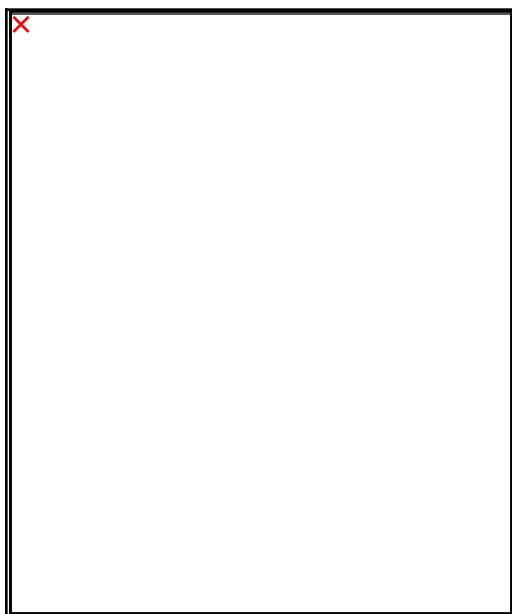


Vision: *The City of Greater Sudbury is a growing, world-class community bringing talent, technology and a great northern lifestyle together.*



Agenda

Hearing Committee

meeting to be held

Wednesday, March 6th, 2013

at 4:00 pm

Tom Davies Square

HEARING COMMITTEE AGENDA

Hearing Committee Meeting
Wednesday, March 6, 2013
Tom Davies Square

4:00 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 February 5, 2013 from the Executive Director, Administrative Services/City Clerk regarding Appointment of Chair and Vice-Chair - Hearing Committee. **4 - 7**
(RECOMMENDATION PREPARED)

(Deputy Clerk, Lisa Miller 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

2. Report dated February 21, 2013 from the General Manager of Growth and Development regarding Appeal of Vicious Dog Notice 413190. **8 - 19**
(RECOMMENDATION PREPARED)

(This report is in response to an Appeal of a Vicious Dog Notice issued to Skylar St. George, pursuant to By-law 2002-285, for the control and Regulation of Dogs, Cats and other Animals.)

3. Report dated February 21, 2013 from the General Manager of Growth and Development regarding Appeal of Order to Remedy - 40 Mountain Ave., Levack.

20 - 36

(RECOMMENDATION PREPARED)

(This report details the evidence in support of an Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy)

ADJOURNMENT

LISA MILLER, DEPUTY CITY CLERK

LIZ COLLIN, COMMITTEE ASSISTANT

Request for Decision

Appointment of Chair and Vice-Chair - Hearing Committee

Presented To:	Hearing Committee
Presented:	Wednesday, Mar 06, 2013
Report Date	Tuesday, Feb 05, 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 December 31, 2013.

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 December 31, 2013.

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

Lisa Miller
Deputy City Clerk
Digitally Signed Feb 5, 13

Recommended by the Department

Caroline Hallsworth
Executive Director, Administrative Services/City Clerk
Digitally Signed Feb 5, 13

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Feb 5, 13

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 Vicious Dog Notice 413190

Presented To:	Hearing Committee
Presented:	Wednesday, Mar 06, 2013
Report Date	Thursday, Feb 21, 2013
Type:	Public Hearings
File Number:	413190

Recommendation

THAT the City of Greater Sudbury uphold the Vicious Dog Notice 413190, issued to Skylar St. George, 2212 Hulda Street, Greater Sudbury.

Background

City of Greater Sudbury By-law 2002-285, as amended, became effective on January 1, 2003 and regulates the keeping of animals and the registration of dogs and cats. Part VIII of the by-law entitled "Vicious Dogs"; section 21 of the by-law, contains provisions for the issuance of a Vicious Dog Notice to owners of dogs that have attacked a person or domestic animal without provocation.

The effect of the notice is to ensure the owner of a dog deemed vicious by receipt of the notice, muzzle and leash the dog when not inside the owner's dwelling at all times.

The by-law is specific about how the process is carried out and the contents of the notice. Several provisions in the by-law for the issuance of the notice are mandatory requirements of the Registrar and of the recipient of the Notice.

This section also provides for an appeal of the notice by the owner of the dog requesting a hearing of the matter by Council or Committee of Council. The Committee may uphold the notice and its contents, exempt the owner from the muzzling or leashing requirements or from both, or may modify the conditions for muzzling or leashing.

By-law Procedure Vicious Dog Notice - 413190

Subsection 2.(1) of By-law 2002-285 designates the Manager of By-law Enforcement for the City as the Registrar pursuant to the By-law.

Signed By

Report Prepared By

Darlene Barker
Manager of Compliance and
Enforcement

Digitally Signed Feb 21, 13

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official

Digitally Signed Feb 21, 13

Recommended by the Department

Bill Lautenbach
General Manager of Growth and
Development

Digitally Signed Feb 21, 13

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer

Digitally Signed Feb 26, 13

Subsection 21.(2) of the by-law states "Where the Registrar is informed upon written complaint, and is satisfied that dog has attacked without provocation or bitten a person or domestic animal, and had further been provided with satisfactory evidence as to the name and address of the owner of the dog the Registrar shall serve notice on the owner of the dog that the dog is deemed to be a vicious dog and requiring the owner to comply with any or all of the requirements set out in Subsections 21(4) and 21(5)."

A written complaint was received by the Registrar from Terri Lazinski, requesting that the dog named "Chloe" kept at the address of 2212 Hulda Street be deemed vicious, based on an incident on October 26, 2012 where the dog attacked another dog, and an incident on October 8, 2012 where the dog attacked another person. This letter is attached to this report.

The letter contains information regarding the 2 attacks. On October 26, 2012 Terri Lazinski was in care of and walking a dog named Toby, on the sidewalk across from 2212 Hulda Street. The dog named Chloe proceeded down the driveway of the owner's property and across the street where she attacked the dog that Terri Lazinski was walking, without provocation. The letter describes the attack as "suddenly and aggressively...Chloe jumped on top of Toby and was growling fiercely". The attack was also witnessed by Mrs. St. George, of 2212 Hulda Street, and Ashley Gladu of 2172 Hulda Street. The letter also states that the same dog attacked Terri Lazinski's daughter without provocation on October 8, 2012 and the Sudbury and District Health Unit was notified of this attack.

A letter was also provided by Amelia Rauhanen of 2276 Dunbar Street, Sudbury. This letter describes how the dog named Chloe left the property at 2212 Hulda Street and followed her as she was walking across the street on October 8, 2012. She states in the letter that the dog growled at her as it followed her and bit her on her right leg. She also states that this is not the first incident that she experienced this dog growling at her and off the property not under the care and control of its owner. Amelia was treated for the dog bite at Health Sciences North Emergency Department and reported the incident to the Sudbury and District Health Unit and Greater Sudbury Animal Control. This letter is attached to this report.

Greater Sudbury Animal Control investigated both incidents which resulted in charges against the owner of the dog for offences pursuant to the Animal Control By-law.

The dog is registered "D-6612 2012" by the name of "Chloe", a 1 1/2 year old female Sharpei, owned by Skylar St. George, 2212 Hulda Street, Greater Sudbury.

A Vicious Dog Notice, 413190, dated February 14, 2012, was prepared and delivered to the registered owner of the dog. (See Attachment of the "Notice" to this report.) One copy of the notice was hand delivered by GSAC to the owner and another copy was delivered registered mail. The notice contains the requirements of Subsections 21(4) and 21(5) of the by-law; ensuring the dog is muzzled and leashed when not inside the owner's dwelling unit, notifying the owner of his requirement to provide a change of address, the owner's right to appeal the notices and the effective date of the notice, pursuant to subsections 21(6), 21(7) and 21(8).

Appeal Notice

A letter of appeal of the Vicious Dog Notice was received by the owner of the dog and the hearing was scheduled. A copy of the letter of appeal is attached to this report. A notice was sent to the owner of the dog advising of the date and time of the hearing. A copy of this notice is attached to this report.

Conclusion

In consideration of this report, the witness and the appellant, pursuant to subsection 21(7) the Hearing Committee may decide one of three options below;

1. Uphold the Notice;
2. Modify the Notice - exempting the owner from muzzling or leashing or modify the conditions for such muzzling or leashing; or
3. Quash the Notice - exempting the owner from all requirements to muzzle and leash.

The Registrar is confident that the Vicious Dog Notice issued to Skylar St. George of 2212 Hulda Street, Greater Sudbury, satisfies the requirements of By-law 2002-285, Part VIII, Section 21, a by-law to regulate the keeping of animals and the registration of dogs and cats. The purpose of the notice is to mitigate the recurrence of a similar incident and provide an assurance of safety for the area residents and the general public. The Registrar recommends that the Vicious Dog Notice be upheld by the Committee.

VICIOUS DOG NOTICE # 413190

Pursuant to City of Greater Sudbury Animal Control By-law 2002-285

REGISTERED MAIL & HAND DELIVERED

To: Skylar St. George
2212 Hulda Street,
Greater Sudbury, ON P3E 5E7

The City of Greater Sudbury is in receipt of a written complaint that your dog, named Chloe, registration number D6612-2012, had attacked another dog without provocation on October 26, 2012 at the corner of Ester Street and Hulda Street, in the City of Greater Sudbury.

As Registrar pursuant to the Animal Control By-Law #2002-285, I deem your dog to be vicious. Therefore, you are hereby required to comply with the requirements as set out in Sections 21 (4) and 21 (5) of the by-law which states:

- 4) "Every owner of a vicious dog shall at all times when the vicious dog is not in the owner's dwelling unit but otherwise within the boundaries of the owner's premises, ensure that
 - a) the vicious dog is muzzled so as to prevent it from biting a person or domestic animal; and
 - b) the vicious dog is securely leashed on a leash which does not allow it to go beyond the property line of the owner's lands."
- 5) "Every owner of a vicious dog shall at all times when the vicious dog is not within the boundaries of the owner's premises;
 - a) keep the vicious dog under the effective control of an adult person on a leash held by the person; and
 - b) keep the vicious dog muzzled.

AND FURTHER

Page 1 of 2

- (6) Every owner of a vicious dog shall notify the Registrar within two working days of any change in ownership or residence of the vicious dog and provide the Registrar with the new address and telephone number of the owner.
- (7) Where the owner of a vicious dog is informed that his or her dog has been deemed to be a vicious dog, the owner may, within 14 days of such notice, request in writing a hearing by Council or committee established for that purpose and Council may exempt the owner from the muzzling or leashing requirement, or both such requirements or may modify the conditions for muzzling or leashing.
- (8) The notification that a dog is a vicious dog is effective from the date it is served, even if a hearing before Council is requested by the owner of the dog affected.

Failure to comply with this notice will result in charges pursuant to the by-law and Provincial Offences Act, which upon conviction may result in a fine to a maximum of \$5,000.

Dated this 14th day of January 2013

Darlene Barker, Registrar
Manager of Compliance and Enforcement
City of Greater Sudbury

C: Greater Sudbury Animal Control

October 26, 2012

Animal Control
Greater City of Sudbury

File number: 37769

To whom it may concern:

On Friday, October 26, 2012 at approximately 5:20 p.m., a dark brown Shar-pei identified by name as “Chloe”, by its female owner, Mrs. St. George, aggressively attacked the white Havanese dog, Toby, whom I (Terri Lazinski) was entrusted care of by his owners, Chris and Lise Bamber of Sudbury, Ontario.

Toby was on a leash held by me approximately two houses away—at the street corner of Ester Street and Hulda Street, on the opposite side of the road from Chloe’s home—where I observed Chloe and another dog (small white heavyset dog—Bulldog like in appearance) loose in their driveway with Mrs. St. George. Chloe started coming down the driveway of her home and the owner called out “Chloe” two to three times but the dog proceeded down the driveway onto Hulda Street to where I was standing with Toby. The owner quickly came down to the street from her driveway. I identified myself as the mother of young woman who had been attacked, unprovoked, by Chloe on Thanksgiving Day at approximately 2:30 p.m. Mrs. St. George stated she “apologizes profusely” for the attack on my daughter. This conversation lasted approximately 1 to 2 minutes when Chloe, who was standing quietly unleashed with the other white dog belonging to Mrs. St. George, suddenly and aggressively attacked Toby who was standing quietly beside me. Chloe jumped on top of Toby and was growling fiercely in front of Mrs. St. George and I. Toby yelped loudly, catching the attention of a Hulda Street neighbour, Ashley Gladu, and her parents, who witnessed the entire attack. Ashley Gladu witnessed Mrs. St. George immediately pull Chloe off Toby and proceed to hit Chloe with her hands, using strong force on the side of Chloe’s body.

The owner, Mrs. St. George, stated to me that her dog, Chloe, had suddenly started to become “aggressive” about two months ago. She stated her dog is approximately two years old. Mrs. St. George observed me inspecting Toby—there were no injuries (i.e. cuts or bleeding) noted anywhere on his body. I strongly recommended to Mrs. St. George that she have her dog muzzled or have the appropriate actions taken in regards to this dog’s violent and aggressive behaviour. I also informed her that I cared for Toby for my friends on Sunday, October 7, 2012. On this day, I took Toby for a walk on Hulda Street when Chloe started coming down the driveway of her home. There was a man, Mr. St. George, who was standing by the vehicles in his driveway and saw his dog approaching Toby. I asked him if his dog was OK with Toby and his response was “Should be.” Chloe then followed Toby and I three houses away from her home as we proceeded on our walk. At this time, Chloe was quiet and sniffing the ground behind

.../3

Toby. I did not see or hear Chloe's owner calling his dog back to the residence (2212 Hulda Street). I informed Mrs. St. George that her dog attacked my daughter the very next day.

After the attack today, Mrs. St George returned to her home holding Chloe by the collar and was observed, by me, to be kicking her dog on her side with her hand and upper thigh in a strong manner. I continued walking two houses up the street when Ashley Gladu identified herself to me stating she and her parents had witnessed the entire attack and was enquiring about our status.

Ashley stated she has called Animal Control in the past with concerns regarding Chloe's aggressive behaviour. She attests to witnessing Chloe being at large, coming to Ashley's yard (2172 Hulda Street) and that Chloe has chased her children (ages 3 years and 7 years of age) into their home. Chloe has attempted to come into Ashley's home as Ashley stood at her doorway, blocking the dog from entering her home, yelling "Get". Mr. St. George suddenly appeared and grabbed his dog (who was on Ashley's front doorstep) and took Chloe home by the collar. Ashley informed Mr. St. George to keep his dog tied up, also informing him that Chloe also comes to her front doorstep almost every night between 8:00 p.m. and 10:00 p.m. growling. To this, Mr. St. George shrugged his head and walked away. Ashley Gladu has reported this dog's behaviour and lack of owner's responsibility to Sudbury Animal Control in the summer of 2012. Ashley fears to let her children play in their own yard due to the aggressive nature of this dog. Ashley's children have expressed they are terrified to play in their own yard.

Ashley and I immediately physically reassessed Toby and ensured there were no injuries on his body. We agreed immediately to contact Animal Control at Ashley's home regarding this unprovoked incident. The call to Sudbury Animal Control was placed at 5:27 p.m. on October 26, 2012. We informed a staff member, Lindsay, of the incident that just occurred with Toby as well as mentioned my daughter's unprovoked attack by the same dog on Thanksgiving Day. Lindsay was informed that the Sudbury and District Health Unit had investigated my daughter's incident with follow up concluding last week. Lindsay asked both Ashley and myself if we would be willing to write a statement and attend court in regards to these two reported incidents. We strongly agreed to this in view of the concern for our children and neighbourhood safety. We were provided with a file number and are sending this letter your office for your attention and necessary action.

At 6:20 p.m., I left a voice message on Toby's owner (who is out of town), Mr. Chris Bamber's cell phone, requesting him to contact me at home. At 8:02 p.m., Chris Bamber with his wife, Lise, in attendance, on speaker phone, contacted me at home. Ashley was at my home at the time of the call and Toby's owners were informed of today's incident with Chloe. Chris and Lise Bamber were informed that Toby had no physical injuries and he was calm and content at the time being. They stated that they did not feel a veterinarian assessment was necessary and requested that I contact them if there were any concerns that arose from this incident. I agreed to this.

Thank you for your time regarding this matter. If you have any questions or require any further clarification, please do not hesitate to contact us. We look forward to hearing from you regarding follow up on this matter.

To note, a signed copy of this letter will also be mailed to Greater Sudbury Animal Control.

Sincerely,

Terri Lazinski

and

Ashley Gladu

2276 Dunbar Street
Sudbury, Ontario
P3E 5E3

2172 Hulda Street
Sudbury, Ontario
P3E 5E7

Monday, October 15, 2012

Animal Control
The City of Greater Sudbury

Attention: Animal Control Registrar

I am writing this letter as a follow up to a telephone call placed on Tuesday, October 9, 2011, when I informed Animal Control that a dog in my neighbourhood was at large and bit me.

The dog left its property at 2212 Hulda St., Sudbury, ON and followed me as I was walking across the street. The medium-sized brown dog (a Shar-pie I believe) growled as it followed, circled behind me as I kept walking and then bit me on my right leg. This is not the first time the dog has been at large—growling and following me on Hulda St. This unprovoked dog bite incident took place on Monday, October 8, 2012 at 14:30.

I informed the owner, George St. George, that his dog bit me and that my leg hurt. I inquired about the dog's vaccinations and I was told the rabies vaccination was done recently. I continued my walk home to then have my leg looked at by my mother, a registered nurse, who took me to seek medical attention at Health Sciences North's Emergency Department.

As per my telephone call on October 9, 2012, I understand that an investigation was to be launched by Animal Control regarding this matter. Do I have a role in this investigation (i.e. will my wound be looked at/documented by an investigator)? I am also inquiring as to whether I will receive any feedback regarding this investigation and if I can receive a copy of documents pertaining to the investigation.

If you should have any questions, please do not hesitate to contact me.

Thank you for your time and assistance.

Regards,

Amelia Rauhanen

2276 Dunbar St.
Sudbury, ON P3E 5E3

RECEIVED

JAN 18 2012

BY-LAW DEPT

January 18/13

I am appealing the Village
DOC Notice # 413/10. This notice
was delivered by registered mail
on January 16/13.

I am disputing the incident
described in the letter for October
26, 12. My wife Pamela St. George
was present for this incident.

She stated that this was nothing
more than normal dog interaction
which resulted in no injuries
by either dog. The woman putting
forward this complaint is
not a dog owner and was
~~bravely~~ taking her friends
dog for a walk. This
woman does not understand
how dogs interact with each
other. There is more to this
case which I explain at
the hearing.

PAUL ST. GEORGE
J

February 14, 2013

(sent by e-mail)

Dear Mr. St. George:

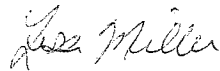
Re: Vicious Dog Notice #413190

This will acknowledge receipt of your letter on January 18, 2013 appealing Vicious Dog Notice #413190 pursuant to the City of Greater Sudbury Animal Control By-law 2002-285.

This matter will be heard by the Hearing Committee at **4:00 p.m. on Wednesday March 6, 2013** in Committee Room C-12 at Tom Davies Square. Bring any information you feel relevant in presenting your position. 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.

I am enclosing a copy of the City of Greater Sudbury's by-law to regulate the keeping of animals and the registration of dogs and cats, By-law 2002-285, for your convenience. If you require any further information, do not hesitate to contact the undersigned at 705-674-4455, ext. 4206.

Yours truly,

A handwritten signature in cursive script that reads 'Lisa Miller'.

Lisa Miller
Deputy City Clerk

Enclosure

cc: ✓ D. Barker, Manager of Compliance & Enforcement Services
Skylar St. George

Liz Collin - Dog at 2212 Hulda St

From: cassiegagne
To: <Lisa.Miller@greatersudbury.ca>
Date: 2/24/2013 11:00 PM
Subject: Dog at 2212 Hulda St
CC: <darlene.barker@greatersudbury.ca>,

Lisa,

I am sending this letter to you in regards to the dog at 2212 Hulda St.

My children deliver the Northern Life, and this house is on our route. In the Summer my daughter took the paper up to the mail box and as she was walking back down to the road was chased by this dog that attempted to bite the back of her leg. He narrowly missed and scared her so much that I called the Northern Life and left a message in regards to this incident and said we will hold off on the paper deliveries for the time being.

A little while passed but every time we would go by the house the dog would come down the drive way and would follow us quite a ways up the road. This dog had never a leash on and was quite aggressive. I did not see the dog for a little while and decided to deliver the paper to them myself and out from nowhere that dog took after me and as I turned away it tried to bite the back of my leg. I felt the dogs teeth a little but lucky for me no marks left. The owner's son was trying to get the dog and did ask if I was Al right.

When I got home I did call Northern Life and say that we will no longer deliver the newspaper to this residence from that point on. This was in the beginning of October.

This dog should definitely be tied up, and when out muzzled. This is an issue that needs to be dealt with. I would not want any one to get hurt by this dog.

Thanks

Cassandra (neighbour in the area)

Request for Decision

Appeal of Order to Remedy - 40 Mountain Ave., Levack

Presented To:	Hearing Committee
Presented:	Wednesday, Mar 06, 2013
Report Date	Thursday, Feb 21, 2013
Type:	Public Hearings

Recommendation

THAT the City of Greater Sudbury uphold the Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy #412705 issued to Eva and Arthur Embrack, owners of 40 Mountain Avenue, Levack.

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 Gregory Bergeron

On 23 October 2012, Municipal Law Enforcement Officer Bergeron received a complaint in relation to 40 Mountain Avenue, Levack, claiming that there were electrical issues, holes in walls and that the garage was not structurally sound.

Signed By

Report Prepared By

Darlene Barker
Manager of Compliance and Enforcement
Digitally Signed Feb 21, 13

Division Review

Guido Mazza
Director of Building Services/Chief Building Official
Digitally Signed Feb 21, 13

Recommended by the Department

Bill Lautenbach
General Manager of Growth and Development
Digitally Signed Feb 21, 13

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Feb 26, 13

On 25 October 2012, Officer Bergeron left a message for the complainant.

On 14 November 2012, the Officer attended 40 Mountain Avenue for the purpose of inspection.

During the inspection of the garage, the Officer observed that the exposed roof trusses overhanging the side walls were in an advanced state of decay. He also observed that the trusses were notched.

The wooden fascia boards were also bowed and rotting. The roof itself was also obviously warped.

Based on his observations, the Officer submitted an Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy as per sections 3.01, 3.03 and 3.07 of the City of Greater Sudbury Property Standards By-Law 2011-277:

1. *“Every part of a building or structure on a property shall be maintained in good repair and in a structurally sound condition so as:*
 - a. *to be capable of sustaining safely its own weight, and any additional load to which it may normally be subjected;*
 - b. *to be capable of safely accommodating all normal structural movements without damage, decay or deterioration;”*
2. *“All exterior walls and surfaces of every building or structure shall be:*
 - b. *free from cracked or broken masonry units, defective or deteriorated wood or metal siding or trim, cracked, broken or loose stucco, loose or unsecured objects;”*
3. *“Every roof and all of its components shall be maintained in good repair and in a safe and structurally sound condition.”*

The Order included the following repairs to be conducted to be in compliance with the By-Law.

“Demolish garage or conduct necessary repairs to garage roof to be in good repair and in a structurally sound condition, free from deteriorated wood.”

The compliance date on the Order was set to 6 December 2012.

On 6 December 2012, Officer Bergeron received notice that The Order to Remedy had been appealed on the grounds that there were no problems with the garage roof.

On 15 February 2013, Officer Bergeron returned to the property as a matter of follow up. His inspection revealed that repairs to the roof had not been completed. He noted that the property was vacant, for sale, and that the garage roof was heavily snow covered.

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

1. 9 pictures dated 14 November 2012.
2. Copies of the tax roll Information - confirming the property owners.
3. Copy of Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy, #412705 dated 15 November 2012.
4. Letter of appeal from Peter L. McMullen, C.A., LL.B.
5. CGS appeal confirmation letter.
6. CGS appeal date letter.
7. 6 pictures dated 15 February 2013.

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, #412705, dated 15 November 2012, to ensure that the owners of the property of 40 Mountain Avenue, Levack, comply with the maintenance and occupancy standards as set out in the CGS By-law, 2011-277.











Roll No.	158.002.13400.0000	0
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Address	40	MOUNTAIN AVE
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Legal Description

LEVACK CON 1 LOT 8 PLAN

M1009 LOT 37 PCL 24708

REG

4800.00SF 40.00FR 120.00D

Montreane Code

Montreane Code

Mortgage Acct#

Mortgage Accor

Mortgage Code

Mortgage Acct#

Group Code

Assessments

RTEP	82,000
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Total Owing:

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 # 412705
Date of Inspection: 14 November 2012	Time: 10:00 hrs.	By-Law No.: 2011-277
Municipal address or legal description of property X Occupied Unoccupied		
40 Mountain Avenue, Levack, ON.		
Name of owner and mailing address		
Eva Embrack, Arthur Embrack, PO Box 693 Azilda, ON., P0M 1B0		
DESCRIPTION OF NON-CONFORMITY		LOCATION
BY-LAW Reference		
Every part of a building or structure on a property shall be maintained in good repair and in a structurally sound condition so as:	Garage roof	3.01- 1
a. To be capable of sustaining safely its own weight, and any additional load which it may normally be subjected;		
b. To be capable of safely accommodating all normal structural movements without damage, decay or deterioration;		
All exterior walls and surfaces of every building or structure shall be:	Garage roof	3.03.1
b. Free from cracked or broken masonry units, defective or <u>deteriorated wood</u> or metal siding or trim, cracked broken or loose stucco, loose or unsecured objects:		
Every roof and all of its components shall be maintained in good repair and in a safe and structurally sound condition.	Garage roof	3.07-1
REQUIRED ACTION		
<ul style="list-style-type: none">Demolish garage or conduct necessary repairs to garage roof to be in good repair and in a structurally sound condition, free from deteriorated wood. <p>(Exterior roof joists overhanging walls are rotted. Facia boards also rotting)</p>		
There must be compliance with the terms and conditions of this order before this date: <u>6 December 2012</u> .		

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 **5 December 2012** and, in the event that the order is not appealed, it shall be deemed to be confirmed. Subsection 15.3 (2).


Gregory Bergeron
Property Standards Officer
705-674-4455 ext. 2433

Date Order Served: **15 November 2012**

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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		REGISTERED DOMESTIC	RECOMMANDÉ RÉGIME INTÉRIEUR	
		CUSTOMER RECEIPT	REÇU DU CLIENT	
To Destinataire		FOR DELIVERY CONFIRMATION CONFIRMATION DE LA LIVRAISON		
Name Nom		www.canadapost.ca www.postescanada.ca		
Address Adresse		or/ou		
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		
		RW 690 603 652 CA		
33-086-584 (11-04)				

Peter L. McMullen, C.A., LL.B.

Peter L. McMullen Professional Corporation
1630 Paris Street, Suite 505
Sudbury, Ontario
P3E 3C1
Tel: (705) 673 6218
Fax: (705) 222 6218
E-mail: peter@bobotech.on.ca

December 4, 2012

Secretary
Property Standards Committee
City of Greater Sudbury
200 Brady Street, Box 5000, Stn. A
Sudbury, ON P3A 5P3

VIA REGISTERED MAIL

Re: A. Stephen and Eva EMBRACK – 40 Mountain Street, Levack, ON – Case 412705

I am counsel for the above-mentioned owners of the above-mentioned property who were served with an Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy of all Property on or about November 15, 2012 with respect to the condition of the garage roof.

My clients are appealing the order to your Committee as in their opinion there is no problem with the garage roof.

Please advise my office as to the time and date of the appeal hearing of this matter.

Sincerely,



Peter L. McMullen, C.A., LL.B.

c.c. Clients

December 11, 2012

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

CP 5000 SUCCA
200, RUE BRADY
SUDBURY ON P3A 5P3

705.671.2489

www.greatersudbury.ca
www.grandsudbury.ca

Peter L. McMullen
1630 Paris Street, Suite 505
Sudbury ON P3E 3C1

Dear Mr. McMullen:

Re: Appeal of Order to Remedy, Case 412705 – 40 Mountain Street

This will acknowledge receipt of your letter dated December 4, 2012 appealing the Order to Remedy issued under the City of Greater Sudbury's Maintenance and Occupancy Standards By-law #2011-277.

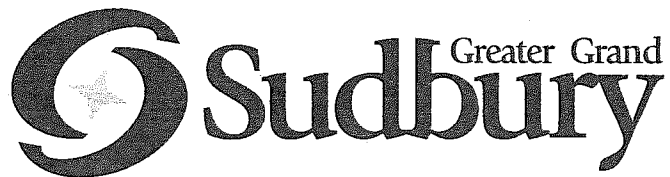
Please be advised this matter will be heard by the Hearing Committee. You will be advised by registered mail regarding the date, time and location of the public hearing.

Sincerely,

A handwritten signature in cursive script that reads 'Lisa Miller'.

Lisa Miller
Deputy City Clerk

cc. Darlene Barker, Manager of Compliance & Enforcement Services
Stephen and Eva Embrack



February 14, 2013

Peter McMullen
1630 Paris Street, Suite 505
Sudbury ON P3E 3C1

Dear Mr. McMullen:

Re: Appeal to Order to Comply – 40 Mountain Street, Levack – Case 412705

This letter is further to our acknowledgement letter dated December 11, 2012 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. The Committee Meeting will begin at **4:00 p.m.** on **March 6, 2013** 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 2012-277, Section 3, for your convenience. If you require any further information, do not hesitate to contact me at 674-4455, ext. 4206.

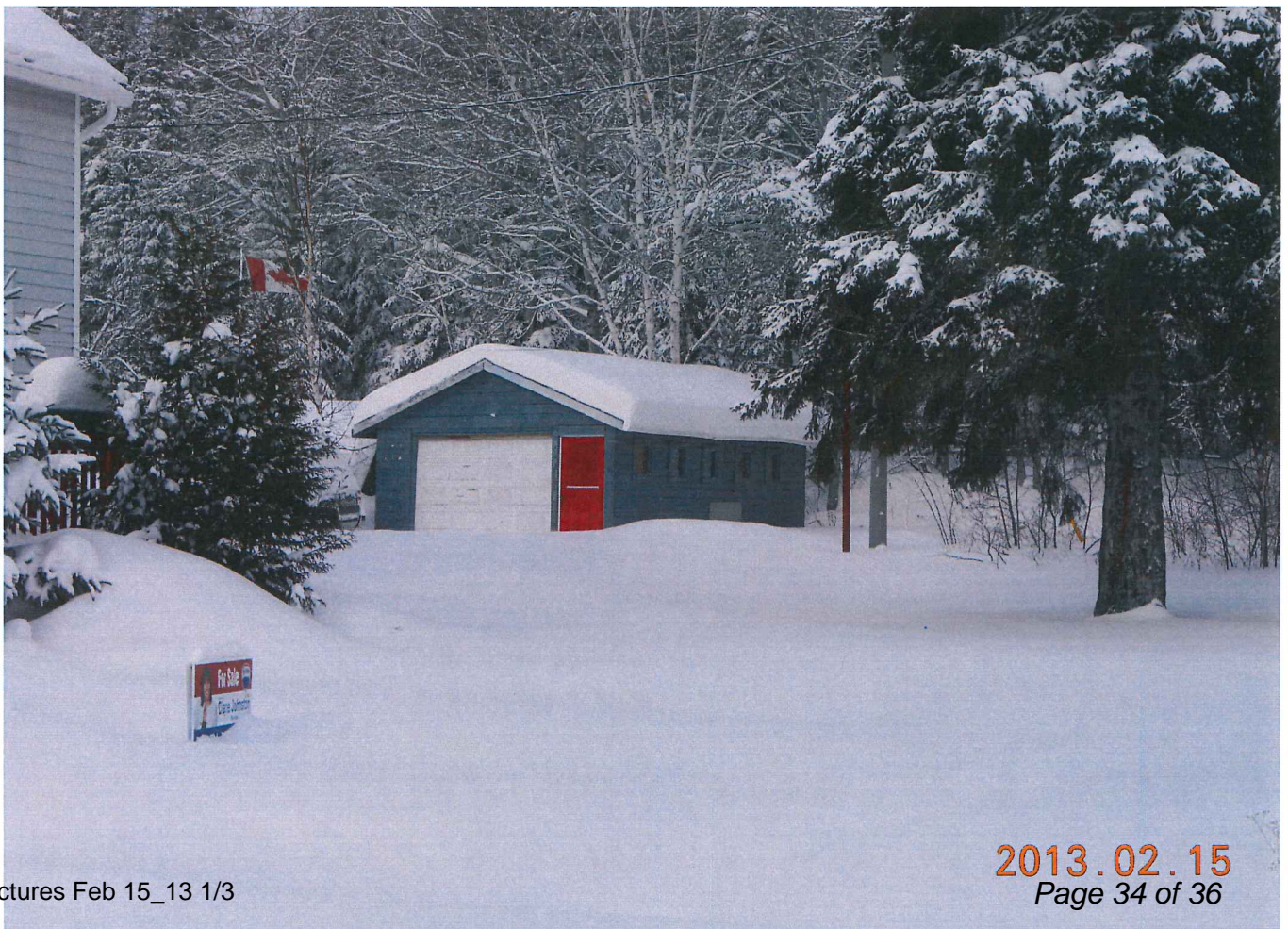
Yours truly,

A handwritten signature in cursive script that reads 'Lisa Miller'.

Lisa Miller
Deputy City Clerk

Enclosure

cc: Stephen and Eva Embrack
D. Barker, Manager of Compliance & Enforcement Services
✓ G. Bergeron, Property Standards Officer







2013.02.15



2013.02.15
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