

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, June 27th, 2012

at 4:00 pm

Tom Davies Square

HEARING COMMITTEE AGENDA

Hearing Committee Meeting
Wednesday, June 27, 2012
Tom Davies Square

COUNCILLOR JOE CIMINO, CHAIR

Terry Kett, Vice-Chair

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.

PUBLIC HEARINGS

1. Report dated June 13, 2012 from the Chief Financial Officer/Treasurer regarding Tax Adjustment for 603 Kingsway (Roll #070.008.098.00.0000). **4 - 9**
(RECOMMENDATION PREPARED)
(This report seeks direction in dealing with a dispute regarding a tax adjustment on the building value for the property known as 603 Kingsway in the City of Greater Sudbury.)
2. Report dated June 19, 2012 from the General Manager of Growth and Development regarding Appeal of Order to Remedy - Elm Street, Sudbury. **10 - 31**
(RECOMMENDATION PREPARED)
(This item was deferred at the Hearing Committee Meeting of May 23, 2012. The report details the evidence in support of an Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy #391526 issued on April 3, 2012 - Elm Street, Sudbury.)

Adjournment

LISA OLDRIDGE, DEPUTY CITY CLERK

LIZ COLLIN, COMMITTEE ASSISTANT

Request for Decision

**Tax Adjustment for 603 Kingsway (Roll
#070.008.098.00.0000)**

Presented To:	Hearing Committee
Presented:	Wednesday, Jun 27, 2012
Report Date	Wednesday, Jun 13, 2012
Type:	Public Hearings

Recommendation

That the Committee accept the value of the building demolition as provided by the Municipal Property Assessment Corporation and that the application by Fiorina C. Raso-Howard at 603 Kingsway be processed and further that the owner be advised that in accordance with Section 357 (7) of the Municipal Act, the option exists for her to appeal the value of the former building at 603 Kingsway that was determined by the Municipal Property Assessment Corporation, to the Assessment Review Board of Ontario.

Finance Implications

There is no financial impact resulting from this report.

Signed By

Report Prepared By

Tony Derro
Manager of Taxation
Digitally Signed Jun 20, 12

Recommended by the Department

Lorella Hayes
Chief Financial Officer/Treasurer
Digitally Signed Jun 20, 12

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jun 20, 12

PURPOSE

The purpose of this report is to seek direction from the Hearing Committee of Council in dealing with a dispute regarding a tax adjustment that is required based on the building value determined by the Municipal Property Assessment Corporation for the property known as 603 Kingsway in the City of Greater Sudbury.

BACKGROUND

The property known as 603 Kingsway is legally described as McKim Township CON 4 LOT 4 Plan M42 Lot 71 Parcel 8130. The property is assessed in the residential tax class.

On March 9, 2012 an application was made by Fiorina C. Raso-Howard for a tax adjustment under Section 357 of the Municipal Act due to a fire that occurred on the property on December 22, 2011. The application was accepted for 2012 but we are unable to process a tax adjustment for the 2011 year since the deadline for 2011 was February 29, 2012. The deadline is established by the Province of Ontario.

In accordance with our usual practice, the application for tax adjustment was sent to the Municipal Property Assessment Corporation (MPAC) to provide a calculation for the value of the removed building in order for the City to adjust the taxes. This action is authorized under Section 357 of the Municipal Act which reads in part:

357. (1) Cancellation, reduction, refund of taxes - Upon application to the treasurer of a local municipality made in accordance with this section, the local municipality may cancel, reduce or refund all or part of taxes levied on land in the year in respect of which the application is made if,

(d) during the year or during the preceding year after the return of the assessment roll, a building on the land

(I) was razed by fire, demolition or otherwise, or

(II) was damaged by fire, demolition or otherwise so as to render it substantially unusable for the purposes for which it was used immediately prior to the damage;

The Municipal Property Assessment Corporation returned the owner's application placing the value of the former building at \$36,000 leaving a remaining value of the land at \$82,000 in the residential tax class. On May 4, 2012, the Tax department corresponded with the applicant advising her of the calculation provided by MPAC prior to making any tax adjustment. On May 9, 2012, the applicant served notice that she objected to the recommendation provided by MPAC thereby requesting that City Council not adjust the taxes at the building value of \$36,000.

A copy of the related correspondence is appended to this report as Schedules A, B, C and D.

RECOMMENDATION

It is recommended that the Committee accept the value of the building demolition as provided by the Municipal Property Assessment Corporation and direct the Tax department to process the applicable refund as a credit against the tax account. The Tax department will then provide the necessary documentation for the applicant to appeal to the Assessment Review Board of Ontario since it is more appropriate that disputes involving current value assessment be dealt with by the Assessment Review Board.

200 Brady St.
P.O. Box 5555 Sta. A
Sudbury ON P3A 4S

APPLICATION FOR ADJUSTMENT OF TAXES FOR THE YEAR 2010

Application Number

UNDER SECTION 357 ☒ OR SECTION 358 ☐ OF THE MUNICIPAL ACT

Assessed Address 603 Kingsway	Roll Number City. 53 Mun. 07 Map Div. 070 Sub-Div. 008 Parcel 09800 Prim./Sub. 0000
Name of Assessed Person HARRISON C. RISO - HOWARD	
Mailing Address of Assessed Person 154 Bland Ave Sudbury, ON P3E 1N1	
Name of Applicant HARRISON C. RISO - HOWARD	
Mailing Address of Applicant 154 Bland Ave Sudbury, ON P3E 1N1	
REASON FOR APPLICATION: (CHECK APPROPRIATE BOX - ONE ONLY)	
<input type="checkbox"/> Ceased to be liable to be taxed at rate it was taxed - s. 357(1)(a)	<input type="checkbox"/> Mobile unit removed - s. 357(1)(e)
<input type="checkbox"/> Became exempt - s. 357(1)(c)	<input type="checkbox"/> Gross or manifest clerical error - s. 357(1)(f) or 358(1)
<input checked="" type="checkbox"/> Destruction or damage - not voluntary - s. 357(1)(d)(i)	<input type="checkbox"/> Repairs/renovations preventing normal use for a period of 3 months - s. 357(1)(g)
<input type="checkbox"/> Destruction or damage - (substantially unusable) - s. 357(1)(d)(ii)	
DETAILS OF REASON Fire occurred Dec 22/2011	
PERIOD TAX RELIEF CLAIMED: From Jan 1/12 To Dec 31/12	
Applicant's Signature [Signature] Date of Application Nov 15/2012	

CLERK'S REPORT		ASSESSMENT REPORT		
Original RTC/RTQ	Original Current Value	Revised RTC/RTQ	Revised Current Value	Assessment Reduction
RTQ	\$ 118,000			

SCHOOL BOARD: <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Other <u>Catholic</u>	EFFECTIVE DATE >
Comments 	Comments
Name of Clerk (please print) <u>Tony Denaro</u> Signature of Clerk <u>[Signature]</u> Date: <u>MARCH 9/12</u>	Name of Assessor (please print) _____ Signature of Assessor _____ Date: _____

☐ NO RECOMMENDATION FOR TAX ADJUSTMENT
☐ NO CHANGE IN ASSESSMENT ☐ SECTION 357 REQUIRED NEXT YEAR

Assessment Review Board Report	<input type="checkbox"/> Yes	Regional Registrar's Signature	Date
Has notice of Complaint been filed under the Assessment Act during year of application for previous two years?	<input type="checkbox"/> No		

TREASURER'S REPORT OF TAX LIABILITY							
RTC/RTQ	Taxable Realty Assessment Reduction	Tax Rate	Days <input type="checkbox"/>	Months <input type="checkbox"/>	Original Tax Levy	Adjusted Tax Levy	Amount of Tax Adjustment
TOTAL							

Comments

Signature Date

COUNCIL REPORT

Has application been reported to council: ☐ Yes ☐ No

Report Date: June 12/12

The information on this form is collected under the authority of the Municipal Act and will be used for the purposes stated in this application. Questions should be directed to the Municipal Clerk or the Freedom of Information and Privacy Coordinator of the municipality.

Application made under Sec 357/358/359 of the Municipal Act, 2001

MPAC'S RESPONSE

Mun: City of Greater Sudbury	Application #:
Roll #: 5307 070 008 09800	Application Reason: 357(1)d(i)
Address: 603 Kingway	Tax Year: 2012
<div style="border: 2px solid black; padding: 5px; display: inline-block;"> RECEIVED APR 19 2012 TAX DEPT. </div>	
Claimed Relief Period: From 2012-01-01 To 2012-12-31	

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
Property Class	2008 CVA as returned or most recently revised for taxation year noted in application	2012 Assmt as returned or most recently revised	CVA as revised (Sec 40 or Sec 39.1) if applicable OR after the correction of a factual error	Notional CVA of Structure damaged, demolished, razed or removed OR undergoing repairs or renovations	Notional CVA of Property (land and any remaining bldgs.) after damage, demolition, razing or removal OR undergoing repairs or renovations	Assessment		
						2005 CVA (not applicable for 2012 taxation)	2008 CVA*	2012 Assmt (same as 2008 CVA)
FROM						N/A		
RT	118,000	118,000				N/A	118,000	118,000
						N/A		
						N/A		
						N/A		
						N/A		
TO						N/A		
RT				36,000	82,000	N/A	82,000	82,000

* This is the CVA and classification, that would have been returned for the taxation year of the application in order to reflect the physical circumstances and use set out in the application provided that those circumstances had existed at roll return.

MPAC's Remarks:

2012 357(1)(d)(i) - damage due to house fire, filed by Fiorina C Raso-Howard effective 2012-01-01. -\$36,000 RT. Conversation at length with issues regarding what is there and what is not there with owner 2012-03-21. Basically the building will be a shell for remainder of the year.

MPAC Representative Name: Andrew Rossanese
MPAC Representative Signature:
Date: 2012-03-21

May 04, 2012

RASO-HOWARD FIORINA
139 BOLAND AVE
SUDBURY ON
P3E 1Y1

ROLL NUMBER / NUMÉRO DE RÔLE: 070.008.09800.0000

LOCATION / ENDROIT: 603 KINGSWAY

Notice pursuant to Sections 357 & 358 of the Municipal Act
Avis donné aux termes des articles 357 et 358 de la Loi sur les municipalités

A review of our records indicates that the above noted property is subject to an application for a reduction of taxes pursuant to Sections 357 & 358 of the Municipal Act for the following reasons:
'Destruction or damage – not voluntary'

The Municipal Property Assessment Corporation has previously reviewed your application and has the following recommendation:
RTEP 118,000 TO RTEP 82,000
January 01, 2012 – December 31, 2012

Please be advised that the application will be addressed by City Council on **June 12, 2012 at 6:00p.m..**

If you have no objection to the recommendation then City Council will dispense with the application by ratifying the recommendations of the Municipal Property Assessment Corporation.

If you object, you may speak to the application by attending a meeting of the Hearing Committee of City Council.

If you wish to attend the Hearing Committee meeting, you must provide your intention to do so **in writing**, by notifying Lisa Oldridge, Deputy Clerk, within fourteen (14) days of the date of this letter. If you have an objection to the recommendation of the Municipal Property Assessment Corporation, your written intention will result in the application being removed from the City Council agenda and you will be notified of the date when the Hearing Committee will review the application.

Lisa Oldridge can be contacted as follows:

CITY OF GREATER SUDBURY
c/o Lisa Oldridge, Deputy Clerk
200 Brady Street
P.O. Box 5000, Station AA@
Sudbury ON P3A 5P3

Yours truly,



Tony Derro
Manager of Taxation

Par suite d'une évaluation de nos dossiers, nous concluons que l'on peut faire une demande de réduction d'impôt pour la propriété susmentionnée, en vertu des articles 357 et 358 de la *Loi sur les municipalités*, et ce, pour les raisons suivantes :
'Destruction or damage – not voluntary'

La Société d'évaluation foncière des municipalités a d'abord évalué votre demande, puis formulé la recommandation suivante :
RTEP 118,000 TO RTEP 82,000
January 01, 2012 – December 31, 2012

Veuillez noter que le Conseil municipal se penchera sur la demande **le 12 Juin 2012 à 18h00**

Si vous n'avez aucune objection à l'égard de la recommandation, le Conseil municipal traitera la demande en ratifiant les recommandations de la Société d'évaluation foncière des municipalités.

Si vous vous y opposez, vous pouvez vous exprimer sur la demande en assistant à une réunion du Comité d'audition du Conseil municipal.

Si vous desirez assister à la réunion du Comité d'audition, vous devez en aviser Lisa Oldridge, la greffière municipale adjointe, **par écrit**, dans un délai de quatorze (14) jours suivant la date de la présente lettre. Si vous vous opposez à la recommandation de la Société d'évaluation foncière des municipalités, votre avis par écrit entraînera le retrait de votre demande de l'ordre du jour de la réunion du Conseil municipal, et on vous avisera de la date de révision de votre demande par le Comité d'audition.

On peut joindre Lisa Oldridge, à l'adresse suivante :

Lisa Oldridge, greffière municipale adjointe
VILLE DU GRAND SUDBURY
200, rue Brady
C. P. 5000, succursale A
Sudbury ON P3A 5P3



Veuillez agréer, Madame, Monsieur, mes salutations distinguées.

Gestionnaire des taxes foncières,



Tony Derro

Christina Raso
139 Boland Avenue
Sudbury, ON
P3E 1Y1

May 9, 2012

City of Greater Sudbury
200 Brady Street
P.O Box 5000, Station A
Sudbury, ON

Dear Lisa Oldridge,

This letter is written for the purpose of providing you notice that I will be attending the City Council meeting on June 12, 2012 at 6:00pm to discuss my application for reduction of taxes. I am happy that you have acknowledged that I qualify for such a reduction but am not satisfied with the amount rendered. The property has been vacant since December 22, 2011 with extensive damage resulting in over \$288 000. I will speak to my concerns in more detail that evening. Please confirm receipt of this letter.
I look forward to hearing from you soon.

Sincerely,



Christina Raso

7-8-98

Request for Decision

Appeal of Order to Remedy - Elm Street, Sudbury

Presented To:	Hearing Committee
Presented:	Wednesday, Jun 27, 2012
Report Date	Tuesday, Jun 19, 2012
Type:	Public Hearings

Recommendation

THAT the City of Greater Sudbury uphold the Order to Remedy Non-Comformity with Standards for Maintenance and Occupancy #391526 issued to the Estate of Minnie Lee C/O Peter Lee, 1254 McIntyre Street W, North Bay, ON., owner of 154 Elm St, Sudbury.

Background

At the Hearing Committee Meeting of May 23, 2012, through the Deputy City Clerk, Peter Lee, the appellant, had requested the matter be deferred to the next Hearing Committee Meeting.

Update

On 23 May 2012 at approximately 14:55 hrs, Officer Bergeron attended the property for re-inspection after learning from the Clerks Department that Mr. Peter Lee had verbally withdrawn his property standards appeal which was scheduled to be heard on this date.

Upon attending, the Officer observed that the front porch had been demolished and removed. Work on the roof had not been completed. Mr. Lee, who was claiming to be confused with the Orders, indicated that the withdrawal of appeal was for the Unsafe Order (Building Services) and not the Order to Remedy issued by Officer Bergeron. Mr. Lee was advised that the appeal hearing was going forward as the Clerk's Department had not received written confirmation of the withdrawal. Mr. Lee was unsure of how to proceed. He inquired as to how much time he had before the Order was registered on title and asked what the ramifications would be if he failed to comply with the Order to Remedy. Officer Bergeron suggested that he contact the Clerk's Department to advise them of his intentions.

On 24 May 2012, the Officer learned that Mr. Lee's appeal had been adjourned to an undetermined date in June 2012.

On 29 May 2012, the Officer spoke to Mr. Lee after he initiated contact. Mr. Lee was informed that the Order to Remedy would be deemed to be complete if the exposed roof line was boarded up. Mr. Lee indicated that the work would be completed on or about Tuesday, 5 June 2012.

Signed By

Report Prepared By

Darlene Barker
Manager of Compliance and
Enforcement
Digitally Signed Jun 20, 12

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official
Digitally Signed Jun 20, 12

Recommended by the Department

Bill Lautenbach
General Manager of Growth and
Development
Digitally Signed Jun 20, 12

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jun 20, 12

On 11 June 2012, the Officer attended 154 Elm Street and confirmed that the work had not been completed. He subsequently called Mr. Lee and left him a voice mail message requesting a return call in relation to the status of the repairs.

2012.06.11



Request for Decision

Appeal of Order to Remedy - Elm Street, Sudbury

Presented To:	Hearing Committee
Presented:	Wednesday, May 23, 2012
Report Date	Tuesday, May 15, 2012
Type:	Public Hearings

Recommendation

THAT the City of Greater Sudbury uphold the Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy #391526 issued to the Estate of Minnie Lee C/O Peter Lee, 1254 McIntyre Street W, North Bay, ON., owner of 154 Elm St, 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 2009-100, 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 residential property within the City and for requiring property not in conformance with the standards therein to be repaired and maintained to conform with the standards. This by-law was enacted to ensure the safety of residents and the upkeep of residential properties does not lead to the degradation of a neighbourhood and of the community.

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 March 30, 2012 the City of Greater Sudbury By-Law department received a copy of a letter of correspondence addressed to the owner of 154 Elm Street from a neighboring property regarding the pigeon population and holes and opening in the roof at 154 Elm Street, Sudbury.

Signed By

Report Prepared By

Troy Rosignol
By-law Enforcement Officer
Digitally Signed May 15, 12

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official
Digitally Signed May 15, 12

Recommended by the Department

Bill Lautenbach
General Manager of Growth and
Development
Digitally Signed May 15, 12

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed May 15, 12

Case #391526 was generated and assigned to the area By-law Officer, Gregory Bergeron for inspection and enforcement follow-up.

On April 3, 2012, at approximately 12:45 pm, Officer Bergeron attended 154 Elm Street, Sudbury and conducted an inspection of the property. The building, which is currently for sale, is a vacant single family dwelling which was constructed in approximately 1920.

During the inspection Bergeron observed that the southwest section of the roof no longer had any shingles. He observed holes and openings in the roof leading into the attic. He observed pigeons entering and exiting from the holes and openings in question. He observed that the shingles on the roof were in an advanced state of deterioration. He also observed that the roof of the front porch was also in a state of decay and bowed in the centre.

Deficiencies of the By-law were noted and seven (7) photographs were taken. Items of Non-Conformity with the By-law are as noted;

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 which it may normally be subjected;*
 - b. *To be capable of safely accommodating all normal structural movements without damage, decay or deterioration.*
 - c. *To prevent the entry of moisture that would contribute to damage, fungus growth, decay or deterioration; and*
 - d. *To be capable of safely and adequately performing its functions subject to all reasonable serviceability requirements.*
2. *Every roof and all of its components shall be maintained in good repair and in a safe and structurally sound condition.*
3. *Without limiting the generality of this Section, such maintenance includes:*
 - c. *Keeping roofs and chimneys in a water-tight condition so as to prevent leakage of water into the building;*
4. *If any building is unoccupied, the owner or the agent shall protect every such building against the risk of fire, accident, or other hazard and shall effectively prevent the entrance thereto of all unauthorized persons.*
5. *The owner or agent of a vacant building shall board up the building to the satisfaction of the Property Standards Officer by covering all openings which entry may be obtained with at least 12.7 mm (0.5 inch) waterproof sheet of plywood securely fastened to the building and painted a colour compatible with the surrounding walls.*

On April 11, 2012, Officer Bergeron 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 May 11, 2012. 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; Estate of Minnie Lee C/O Peter Lee, 1254 McIntyre Street W, North Bay, ON. The Order was received by the Peter Lee on April 13, 2012, 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. *Conduct necessary repairs to roof to be in a state of good repair and structurally sound – Sections 3.01-1, 3.07-1, 3.07-2, 7.01-1, 7.01-2.*
2. *Conduct necessary repairs to porch roof to be in state of good repair and structurally sound – Sections 3.01-1, 3.07-1, 3.07-2, 7.01-1.*
3. *Conduct necessary repairs to roof to prevent the entry of moisture and to be in a water tight condition. Section - 3.07-2.*

On April 23, 2012, Officer Bergeron received a (2) page letter from Mr. Peter Lee requesting an appeal.

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

1. Correspondence letter of complaint dated March 27, 2012.

2. 7 pictures dated April 3, 2012.
3. Copy of Roll Information - confirming property owner.
4. Copy of Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy, #391526 dated 11 April 2012.
5. Canada Post Tracking record RW 696 437 560 CA - Delivery Receipt for Order
6. Letter from Peter Lee requesting Appeal of the Order, dated April 23, 2012.
7. CGS appeal confirmation letter.
8. Order to Remedy Unsafe Building.

On May 4, 2012, Building Inspector Tony Pigeggi issued an Order to Remedy Unsafe Building pursuant to Subsection 5.15.9-(4) of the Building Code Act with respect to the unsafe condition of the covered front porch.

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, #391526, dated 11 April 2012, to ensure that the owner of the property of 154 Elm Street, complies with the maintenance and occupancy standards as set out in the CGS By-law, 2009-100.



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 # 391526

Date of Inspection: 3 April 2012		Time: 12:50 hrs.	By-Law No.: 2011-277
Municipal address or legal description of property		Occupied <input type="checkbox"/> X Unoccupied	
154 Elm Street, Sudbury, ON.			
Name of owner and mailing address			
Estate of Minnie Lee, C/O Peter Lee,			
DESCRIPTION OF NON-CONFORMITY		LOCATION	BY-LAW Reference
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 which it may normally be subjected; b. To be capable of safely accommodating all normal structural movements without damage, decay or deterioration c. To prevent the entry of moisture that would contribute to damage, fungus growth, decay or deterioration; and d. To be capable of safely and adequately performing its functions subject to all reasonable serviceability requirements.	Roof and porch roof	3.01- 1
2.	Every roof and all of its components shall be maintained in good repair and in a safe and structurally sound condition.	Roof and porch roof	3.07 - 1
3.	Without limiting the generality of this Section, such maintenance includes: c. Keeping roofs and chimneys in a water-tight condition so as to prevent leakage of water into the building;	Roof	3.07- 2
4.	If any building is unoccupied, the owner or the agent shall protect every such building against the risk of fire, accident, or other hazard and shall effectively prevent the entrance thereto of all unauthorized persons.	Roof and porch roof	7.01 - 1
5.	The owner or agent of a vacant building shall board up the building to the satisfaction of the Property Standards Officer by covering all openings which entry may be obtained with at least 12.7 mm (0.5 inch) waterproof sheet of plywood securely fastened to the building and painted a colour compatible with the surrounding walls.	Roof	7.01 - 2

REQUIRED ACTION

- Conduct necessary repairs to roof to be state of good repair and structurally sound.
- Conduct necessary repairs to porch roof to be in state of good repair and structurally sound.
- Conduct necessary repairs to roof to prevent the entry of moisture and to be in a water-tight condition.

There must be compliance with the terms and conditions of this order
before this date: **11 May 2012**.

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 **1 May 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: **11 April 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 CUSTOMER RECEIPT		RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT		
To Name		Destinataire Nom		FOR DELIVERY CONFIRMATION		CONFIRMATION DE LA LIVRAISON
Address		Adresse		www.canadapost.ca or/ou www.postescanada.ca		1 888 550-6333
City / Prov. / Postal Code		Ville / Prov. / Code postal		CPC Tracking Number Numéro de repérage de la SCP		RW 696 437 560 CA
Declared Value Valeur déclarée		\$				

33-086-584 (11-04)



2011.04.03 12:40



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TED & LEE
ASSOCIATE BROKERS
673-9900

154



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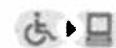
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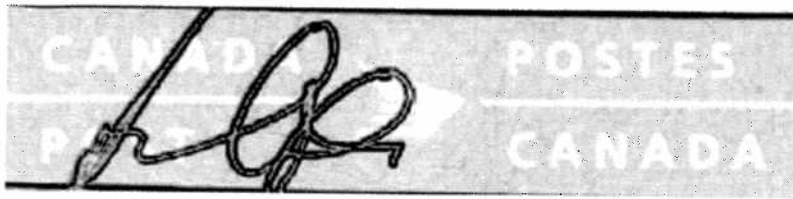
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April 23, 2012

Secretary of Committee
Property Standards Committee
City of Greater Sudbury
Box 5000, 200 Brady Street
Sudbury, Ontario
P3A 5P3

Dear Sir:

Re: Non-Conformity # 391526
Estate of Minnie Lee
154 Elm West

This is to inform you that the Estate of Minnie Lee is appealing the decision of non-conformity as expressed by your Mr. Greg Bergeron, Property Standards Officer. I am the estate trustee as probated December 3, 2010 by the Ontario Superior Court of Justice. I am responsible for the integrity of the property and assets. The unoccupied house has been up for sale "as is" for nearly a year and is registered with the realty firm of Royal LePage as posted in the front and back of the property.

Let me address the Order of Non-conformity in the order your Mr. Bergeron presented it that is the main concern is the roof, porch and the "board up the building".

The main roof or the peak roof has a small hole about six inches in the extreme northwest corner. The hole is on the overhang of the roof therefore any water does not drain into the house and consequently does not affect the structure as eluded to in your document. Upon inspection of the roof from the attic the integrity of the wood is sound. Roof boards are made from rough lumber planks as in the days of old and not plywood which would deteriorate more readily. The hole in the roof was a result of the guano from feral pigeons that frequent the area. These birds are unwanted and are not encouraged to stay in the area. Our contractor, Mr. Patrick Diotte of Barne Building and Construction Inc., stated the house structure is solid; there is no movement what so ever.

The open air front porch which I assume your order pertains to is in need of repairs. On the other hand the porch was used all year as a staging area. Last summer several vagrants lived on the porch; they were evicted. The roof does not leak but it is an eye sore and in need of repair if it were to be used in the future. Consideration to remove the porch was given over a year ago but it was decided to sale "as is". The new owner will decide the future of the porch. The foundation has not moved since I was a child well over sixty years ago.

All the lower windows and doors were boarded up to prevent unwanted entry. Additional locks were placed on all the doors. The yellow plywood used matches the yellow brick of the house. Last summer the covers were removed for saleability of the property but will remain in place for the future.

Based on the synopsis of your non-conformity charge the main thread of your case is the structure of the house is in jeopardy. Based on our contractor at the time, the structure is sound. It is an eye sore but your order does not address that issue. The property is up for sale and to show our willingness to move a sale, the price has dropped forty thousand dollars. The next owner may want the house removed and for the Estate to spend money for repair at this time is premature. For the reasons stated above I am requesting that the Order to Remedy Non-conformity be quashed.

To show you that we are operating in good faith the Estate has carried out the following since being probated in December of 2010:

- The Estate has removed four derelict motor vehicles along with a metal shed and garage.
- Employed someone to maintain the property, pick up litter, cut the grass and monitor weekly.

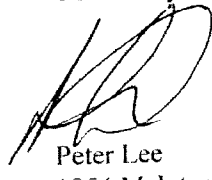
- The property has been placarded with no trespassing and private property signs front and back
- The yard is restricted to unauthorized individuals by barricading the walk way, pad locking the yard gate to discourage trespassers. Front yard is totally fenced to prevent trespassers.
- The taxes in excess of two thousand dollars, the utilities of sewer, water and hydro along with property insurance of two thousand dollars a year are paid up to date even though the property has been unoccupied for over two years. The water service has been officially shut off at the curb box.
- All the lower windows and doors have been covered over with plywood to prevent unauthorized entry. The doors have been given extra pad locks to prevent forced entry.
- It has taken nine, forty yard NIM containers to clean out the house. Through this process we have recycled all the metals such as boilers, dryers, washers, ironing presses, stoves and open and closed water tanks. Over a dozen trailer loads of paper and card board has been recycled through your facilities. Large quantities of antifreeze, paint, oils and washer fluids have been recycled through your hazardous waste depot verses landfilled; your hazardous waste truck made two pickups.
- The furnace oil tank has been drained of its contents to prevent potential spills from occurring.
- Property perimeter has been marked off with iron T bars and further tagged with florescent ribbons.

As you have read the Estate has been diligently trying to recycle and clean at the same time adhere to your orders of non-conformity.

A year ago your Mr. Bergeron placed an order against the Estate for having waste material around the property. At that time we were in the process of cleaning the property. Forty Yard waste containers were rented from NIM Waste Disposal. NIM allows a three day grace period after which an additional rental fee is applied to the containers. To offset this we would stock pile the waste outside in the yard or on the porch until forty yards was achieved to fill a container. Mr. Bergeron claims to be acting on a complaint from our neighbours to the east, Anzil. This past winter the Coopers to the west were caught dumping their snow load from their parking lot onto the estate. The amount was at least ten feet high by twenty feet by thirty feet. I have enclosed pictures for your perusal. A letter was forward to them addressing our concerns. Shortly after, I received a letter from the Coopers; I append a copy for your information. I now receive another order from your office concerning holes in the peak roof; holes were a result of the guano from feral pigeons. We do not want the birds there nor do we encourage them. Originally during the nineteen fifties and sixties these birds frequented Coopers property as the premises was a rooming house. When the house was appraised the appraiser indicated that the Coopers and Anzil were interested in the property for parking. Anzil's group has approached the Estate to use the yard for parking.

Your agency has issued two orders on the property with in a space of a year. I don't know if your agency is over zealous in carrying out the typical "bean count". I do know every time an order is placed on a property; the value decreases somewhat. The obvious question would be that perhaps there is collusion going on between your agency and prospective purchasers. I am contemplating forwarding a copy of this letter to your Mayor asking her to investigate.

Yours truly



Peter Lee

Enclosed
cc Royal LePage Realty
cc Valin Partners Law, Mr. Gordon Prisco

Order to Remedy Unsafe Building

Pursuant to Subsection 5.15.9-(4) of the *Building Code Act, 1992*

Order Number:

Date Order issued: May 4, 2012

Address to which Order applies:

Application/Permit Number:

154 Elm Street
Sudbury, Ontario

Order issued to:

1. Estate of Minnie Lee C/O Peter Lee

An unsafe condition, as defined in subsection 15.9-(2) of the Building Code Act, is found to exist at the above-noted location by reason of the following:

Description of Unsafe Condition	Location	Section Reference
The existing exterior front covered porch and landing are in a condition which is considered to be structurally inadequate for the purpose for which it is to be used and could be hazardous to the health and safety of persons accessing it.	The existing front covered porch roof at the address listed above.	Ontario Building Code Act 15.9(2)(a)&(b)
Required Remedial Steps		
Provide temporary means of restriction to the area, and temporary shoring, cribbing and measures required to maintain safe conditions at the front covered porch roof during the completion of the proposed remedial work. Within a reasonable amount time, if not sooner, obtain a building/demolition permit and proceed with the reconstruction or demolition of the exterior front porch, to restore the structural integrity and normal use of the affected area.		

You are hereby ordered to take the remedial steps set out above or render the building safe ON OR BEFORE May 18, 2012.

Order issued by:

Name Tony Pileggi

BCIN 14557

Signature

Telephone no. 674-4455 Ext 4329

Contact name
(optional)

Contact tel. number (optional)

Prohibiting occupancy of unsafe building – If an order of an inspector under subsection 15.9-(4) is not complied within the time specified in it, or where no time is specified, within a reasonable time, the Chief Building Official may, by order, prohibit the use or occupancy of the building and may cause the building to be renovated, repaired or demolished to remove the unsafe condition. See ss. 15.9-(6) to (9).

Municipal lien – If the building is in a municipality, the municipality shall have a lien on the land for the amount spent on the renovation, repair or reconstruction of the building under subsection 15.9-(4) and the amount shall be deemed to be municipal taxes and may be added by the Clerk of the municipality to the collector's roll and collected in the same manner and with the same priorities as municipal taxes. See subsection 15.9-(10).

PENALTIES ARE PROVIDED FOR VIOLATION OF THE BUILDING CODE ACT AND BUILDING CODE

- It is illegal to obstruct the visibility of a posted Order. It is also illegal to remove a posted Order unless authorized by an inspector or Registered Code Agency. (Building Code Act, 1992 s. 36)
- Failure to comply with this order is an offence which could result in a fine. (Building Code Act, 1992 s. 36)

Information contained in this document is considered pursuant to the Building Code Act and forms part of a public record as per the Access to Information Act, R.S.C. (1990), c. A30, s. 196(1) (1990).