

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



Agenda

Property Standards Appeal Committee

meeting to be held

Wednesday, November 16th, 2011

at 4:30 pm

Committee Room C-12, Tom Davies Square

PROPERTY STANDARDS APPEAL COMMITTEE AGENDA

For the Property Standards Appeal Committee Meeting
to be held on **Wednesday, November 16, 2011**
Committee Room C-12, Tom Davies Square at 4:30 pm

(Please ensure that cell phones and pagers are turned off)

Copies of Agendas can be viewed at www.greatersudbury.ca/agendas/.

DECLARATIONS OF PECUINARY INTEREST AND THE GENERAL NATURE THEREOF

PUBLIC HEARINGS

1. Report dated November 8, 2011 from the General Manager of Growth and Development regarding Appeal of Order to Remedy - 12 Main Street, West, Chelmsford. **3 - 33**

(RECOMMENDATION PREPARED)

(This report details the evidence in support of an Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy #11-369743 issued on September 9, 2011, to the owner of 12 Main Street West, Chelmsford, in response to an Appeal of the Order by the owner.)

BRIGITTE SOBUSH, DEPUTY CITY CLERK

FRANCA BORTOLUSSI, COUNCIL SECRETARY

Request for Decision

Appeal of Order to Remedy - 12 Main Street, West, Chelmsford

Presented To: Property Standards Appeal Committee

Presented: Wednesday, Nov 16, 2011

Report Date Tuesday, Nov 08, 2011

Type: Public Hearings

Recommendation

That the Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy #11-369743 issued to 1011077 Ontario Inc., c/o Maurice Armstrong, owner of 12 Main Street West, former Town of Chelmsford, City of Greater Sudbury, be upheld.

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

A request for enforcement was received by Compliance and Enforcement via fax on September 6, 2011. This request included a number of letters and correspondence from the tenant of 12 Main Street West, Unit

Signed By

Report Prepared By

Darlene Barker
Manager of Compliance and Enforcement
Digitally Signed Nov 8, 11

Division Review

Guido Mazza
Director of Building Services/Chief Building Official
Digitally Signed Nov 9, 11

Recommended by the Department

Bill Lautenbach
General Manager of Growth and Development
Digitally Signed Nov 9, 11

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Nov 8, 11

3, Chelmsford through a representative of the tenant at Sudbury Community Legal Clinic. The request was for a property standards inspection of the premises and follow up enforcement of the by-law to address outstanding issues of water leaks, the plaster in the kitchen ceiling, parking blocking the entrance, bathtub taps, and "other secondary repair issues".

The request was assigned Case #11-369743 and the area By-law Officer, Gregory Bergeron for inspection and enforcement follow-up.

On September 8, 2011, Officer Bergeron attended 12 Main Street West, Unit 3, and conducted an inspection. The building is a triplex with one dwelling unit on the main floor and 2 units on the second floor. Unit 3 is located on the second floor. Deficiencies of the By-law were noted and ten (10) pictures were taken. He met with the tenant and the person holding himself out to be in charge of the property at the time of his inspection. Items of non-conformity with the By-law are as noted;

1. Worn, defective flooring in the kitchen (1 picture) - Section 22
2. Ceiling defects in the kitchen, and bathroom (3 pictures) - Section 23
3. Bath tub hot water tap not in good working order (2 pictures) - Section 24
4. Loose soffit and chimney bricks (1 picture) - Section 18
5. Exposed fascia (1 picture) - Section 18
6. Water leaking through roof - (1 picture) - Section 18
7. Litter and pot holes in parking lot (1 picture) - Section 13

On September 9, 2011, Officer Bergeron prepared an Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy #11-369743, 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 September 30, 2011. 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; 1011077 Ontario Inc c/o Maurice Armstrong, 3576 Errington Ave., Chelmsford, ON. The Order was received by the owner on September 13, 2011, as shown on the Track Status record of Canada Post.

On October 3, 2011, Officer Bergeron attended to conduct a re-inspection of 12 Main Street West, Unit 3, Chelmsford, to determine if the items in the Order had been corrected. He met with the tenant. He noted the items that had been corrected and those on the Order that had not. He took seven (6) pictures of those items during his inspection. Items 3, 4 and 7 detailed in the Order had been complied with and 1, 2, 5 and 6 were still deficient. The following is a result of his inspection as related to the items on the Order;

1. Flooring in kitchen not repaired - (1 picture)
2. Ceiling defects in the kitchen and bathroom not repaired - (2 pictures)
3. Hot water tap in bath tub repaired.
4. Loose soffit and chimney bricks secured (1 picture)
5. Fascia still exposed not repaired
6. Leak in roof not repaired - (1 picture)
7. Parking area clean of litter and pot holes repaired - (1 picture)

On October 6, 2011, Officer Bergeron received information from the Clerk's department, Secretary of the Committee that an appeal to the Order had been received by the owner of the property. Officer Bergeron was copied on the letter sent to the appellant and a copy of the letter of the appeal was obtained. Both letters are attached to this report.

On October 20, 2011 Officer Bergeron received a request from the tenant of 12 Main Street West, Unit 3, Chelmsford, to conduct an inspection of water leaking into the unit from the ceiling. He attended and confirmed that due to a prolonged steady rain on the day of inspection, water was entering into the unit through the ceiling and causing the finish on the ceiling and walls to bubble full of water. This confirms item

6 on the Order had not been complied with on this date. Four pictures were taken during this inspection.

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

1. 10 pictures dated September 9, 2011
2. Copy of Roll Information - confirming property owner
3. Copy of Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy, #11-36973, dated 9 September 2011
4. Canada Post Tracking record 79613681034 - Delivery Receipt for Order
5. 6 pictures dated October 3, 2011
6. Letter from Maurice Armstrong requesting Appeal of the Order, dated September 8, 2011
7. Letter to Maurice Armstrong from the Deputy City Clerk, dated October 13, 2011.
8. 4 pictures dated October 20, 2011

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, #11-36973, dated 9 September 2011, to ensure that the owner of the property of 12 Main Street, West, complies with the maintenance and occupancy standards as set out in the CGS By-law, 2009-100.

Floors, Stairs, Porches, Decks and Balconies

22. No person being the owner of property on which a dwelling is situate shall fail to ensure that every floor, stair, porch, deck and balcony on any dwelling on the property and all supporting structural members of such are maintained so as to be free from defects which might constitute possible accident hazards, including the repairing or replacing of:

- (a) landings, treads or risers, including finishes such as linoleum and carpet, that show excessive wear or are broken, warped, loose, or otherwise defective; and
- (b) supporting structural members that are rotted or deteriorated.

Interior Walls etc.

23. No person being the owner of a property on which a dwelling is situate shall fail to ensure that every interior wall, ceiling and finishes in a dwelling are maintained so as to be free of holes, cracks, loose plaster or other coverings, or defects which may cause injury.

Water and Plumbing

24. No person being the owner of a property on which a dwelling is situate shall fail to ensure with respect to every dwelling on the property that:

- (a) all plumbing, drain pipes, water pipes, toilet and other plumbing fixtures and every connecting line to the sewage system are maintained in good working order, and free from defects including leaks and that all water pipes and appurtenances thereto are protected from freezing;
- (b) all toilets are provided with cold running water, and that all wash basins, bath, tubs, showers and kitchen sinks are provided with an adequate supply of cold and hot running water supplied at a minimum temperature of 43.5° C. (110°F.); and

(c) every dwelling unit in the building contains:

- (i) a toilet;
- (ii) a kitchen sink;
- (iii) a washbasin; and
- (iv) a bathtub or shower.

Washrooms

25. No person being the owner of a property on which a dwelling is situate shall fail to ensure that every washroom on the property is enclosed and has:

- (a) a water-resistant floor;
- (b) walls and ceilings with finished surfaces;
- (c) a door that can be secured from the inside; and
- (d) a water-resistant wall around the bathtub or shower.

(2) No person being the owner of a property on which a dwelling is situate shall fail to ensure that a toilet or urinal used by the occupants of more than one dwelling unit is accessible only from a common hall.

(3) No person being the owner of a property on which a dwelling is situate shall fail to ensure that there are no facilities for sleeping, or for the preparation, cooking, storage or consumption of food contained within a room in a building on that property that contains a toilet or urinal.

Cooking Space

26. No person being the owner of a property on which a dwelling is situate shall fail to ensure that each dwelling unit in a building on the property has cooking facilities:

- (a) equipped with a sink that:
 - (i) is provided with potable hot and cold water; and
 - (ii) is maintained in workable order;
- (b) equipped with electrical, fuel or utility outlets suitable for a refrigerator and cooking stove;
- (c) equipped with an impervious splashback and counter top around the kitchen sink; and

(2) Subject to Subsection 17(3), no person being the owner of a property on which a dwelling is situate shall fail to ensure that every dwelling on the property is supported by foundation walls or piers which extend below the frost line or to solid rock and all footings, foundation walls, piers, and slabs-on-grade are of masonry or other suitable material.

(3) Subsection 17(2) does not apply to:

- (a) an accessory building on the property; or
- (b) a building which is of a slab-on-grade type construction.

(4) No person being the owner of a property on which a dwelling is situate shall fail to ensure that every foundation wall of a dwelling on the property is maintained so as to prevent the entrance of moisture, insects, and rodents, which maintenance shall include shoring of the wall where necessary, installing subsoil drains at the footing, grouting masonry cracks, and waterproofing the wall and joints.

Structural Soundness

18. (1) No person being the owner of a property on which a dwelling is situate shall fail to ensure that every part of any dwelling on the property is maintained in a structurally sound condition so as to be capable of sustaining safely its own weight and any additional loads that may reasonably be expected;

(2) No person being the owner of a property on which a dwelling is situate shall fail to ensure that:

- (a) all exterior walls, roofs, and other parts of any dwelling on the property are free from loose and unsecured objects and material, which shall be removed, repaired or replaced;

- (b) all exterior exposed surfaces on any dwelling on the property which are not inherently resistant to deterioration are treated with a protective coating or paint or otherwise repaired, coated, sealed, or treated to protect them from deterioration or weathering;
- (c) the exterior walls and surfaces of a dwelling on the property and their components shall be maintained so as to prevent deterioration due to weather and dryrot, by the painting, restoring or repairing of the walls, coping or flashing, by the water-proofing of joints, water-proofing, or caulking of the wall itself;
- (d) all canopies, awnings, stairways, fire escapes, standpipes, exhaust ducts, and similar overhang extensions on the property are:
 - (i) maintained in good repair;
 - (ii) properly anchored; and
 - (iii) protected from the elements and against decay and rust by the periodic application of a weather-coating material such as paint or other protective treatment;
- (e) markings, stains, graffiti, painted slogans, smoke damage or other defacement appearing on any exterior surface are removed, and the surface of exterior surfaces are restored, resurfaced and co-ordinated to the exterior finish of the building or structure; and
- (f) roofs, including fascia boards, cornices, eaves and soffits of buildings on the property are maintained in a water-tight condition so as to prevent leakage into the dwelling, including repairing of the roof and flashing, applying waterproof coatings and installing or repairing eavestroughing and rainwater piping, and including removing dangerous accumulations of snow or ice from the roofs of any buildings on the property.

Offence

11. Every owner who is in contravention of an Order issued by a Property Standards Officer, that is final and binding is guilty of an offence and on conviction is liable to a fine as provided in the *Provincial Offences Act*, R.S.O. 1990, Chapter P. 33.

PART III

PROPERTY STANDARDS - DWELLINGS

Accessory Buildings/Fences/Retaining Walls

12. No person being the owner of a property on which a dwelling is situate shall fail to keep all accessory buildings, fences and retaining walls on that property in good repair and protected by paint, preservative or other weather resistant material.

Parking

13. No person being the owner of a property on which a dwelling is situate shall fail to ensure that:

- (a) all areas on that property used for vehicular traffic or parking are
 - (i) kept free of potholes, dirt, dust and litter;
 - (i) adequately drained,
 - (ii) in good repair;
 - (iii) maintained so as to afford safe passage under normal use and weather conditions; and
- (b) steps, walks and similar areas of the property are maintained so as to afford safe passage under normal use and weather conditions.

Sewage and Drainage

14. No person being the owner of a property on which a dwelling is situate shall fail to ensure that:

- (a) all sanitary sewage is discharged from that dwelling into an approved sanitary sewage system;
- (b) no roof drainage is directly discharged onto sidewalks or stairs; and
- (c) no roof drainage is directly discharged onto neighbouring property.



2011.09.08 14:06



2011.09.08 14:07

2011.09.08 14:08

2011.09.08 14:09

2011.09.08 14:12



2011.09.08 14:12

2011.09.08 14:13





2011.09.08 14:21

2011.09.08 14:21



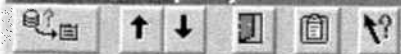


2011.09.08 14:24



2011.10.03 14:02

Roll Inquiry



Journals Date According To:
2011/10/27

Roll Information

Roll No. 160.009.10400.0000 0

Address 12 MAIN ST W

Owners

1011077 ONTARIO INC

Legal Description

BALFOUR CON 3 LOT 2 PCL 4868

REG

3876.00SF 64.60FR D

Mailing Address

C/O MAURICE ARMSTRONG

3576 ERRINGTON AVE

CHELMSFORD ON

POM 1LO

Mortgage Code

Mortgage Acct#

Group Code

Tax Balance

Tax Levied	Penalty	Adjustment	Payment	Balance

Projected Balance

Total Owing:

Assessments

RTEP	116,667
RTES	58,333

- 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

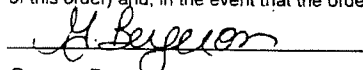
Issued pursuant to section 15.2(2) of
The Building Code Act, S.O. 1992, chapter 23, as amended.

Date of Inspection: 8 September 2011		Time: 14:00 hrs.	File #11-369743
Municipal address or legal description of property		<input checked="" type="checkbox"/> Occupied <input type="checkbox"/> Unoccupied	
12 Main Street W, Chelmsford, ON. P0M 1L0			
Name of owner/occupant and mailing address			
1011077 Ontario Inc. C/O Maurice Armstrong, 3576 Errington Avenue, Chelmsford, ON. P0M 1L0			
DESCRIPTION OF NON-CONFORMITY	LOCATION	BY-LAW REFERENCE	
1) No person being the owner of a property on which a dwelling is situate shall fail to ensure that every floor, stair, porch, deck and balcony on any dwelling on the property and all supporting structural members of such are maintained as so to be free from defects which might constitute a possible accident hazards, including the repairing or replacing of: (a) landings, treads or risers, <u>including finishes such as linoleum and carpet that show excessive wear</u> or are broken, warped, loose, or otherwise defective;	Kitchen	22	
2) No person being the owner of a property on which a dwelling is situate shall fail to ensure that every interior wall, ceiling and finishes in a dwelling are maintained as to be free of holes, cracks, loose plaster or other coverings, or defects which may cause injury.	Kitchen & bathroom ceiling	23	
3) No person being the owner of a property on which a dwelling is situate shall fail to ensure with respect to every dwelling on the property that: (a) all plumbing, drain pipes, water pipes, toilets and other plumbing fixtures and every connecting line to the sewage system <u>are maintained in good working order</u> , and free from defects including leaks and that all water pipes and apputenances thereto are protected from freezing.	Bath tub hot water tap	24	
4) No person being the owner of a property on which a dwelling is situate shall fail to ensure that: (a) all exterior walls, roofs, and other parts of any dwelling are free from <u>loose and unsecured objects and materials</u> , which shall be removed, repaired or replaced;	Loose soffit and chimney bricks	18	
5) No person being the owner of a property on which a dwelling is situate shall fail to ensure that: (b) all exterior exposed surfaces on any dwelling on the property which are not inherently resistant to deterioration are treated with a protective coating or paint or otherwise repaired, coated, sealed or treated to protect them from deterioration or weathering;	Exposed facia	18	

6)	No person being the owner of a property on which a dwelling is situated shall fail to ensure that: (f) roofs, including fascia boards, cornices, eaves and soffits of buildings on the property are maintained in a water-tight condition as to prevent leakage into the dwelling, including repairing of the roof and flashing, applying waterproof coatings and installing or repairing eavestroughing and rainwater piping, and including removing dangerous accumulations of snow and ice from the roofs of any building on the property.	Soffit, fascia and area where roof is leaking	18
7)	No person being the owner of a property on which a dwelling is situated shall fail to ensure that: (a) All areas on that property used for vehicular parking are: (i) Kept free of potholes, dirt, dust and litter;	Parking lot	13
REQUIRED ACTION			
1) Repair/replace kitchen flooring areas showing excessive wear.			
2) Fill in cracks and repair loose plaster in kitchen and bathroom ceiling.			
3) Repair/replace hot water tap in bathroom.			
4) Secure loose soffit from building. Repair/replace loose bricks and mortar on chimney.			
5) Ensure that exposed fascia is protected from deterioration and weathering.			
6) Repair leak(s) in roof so that water no longer enters through ceiling in kitchen of unit #3.			
7) Clean all litter from parking area and repair holes.			
<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: <u>30 September, 2011</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 **29 September, 2011** (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).


 Gregory Bergeron
 Property Standards Officer
 674-4455 ext.4388

Date Order Served: 9 September, 2011

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. Question Privacy Coordinator at the institution responsible for it

Original - CONTRAVENOR* Copy - OFFICE Copy - PROPI



Registered
Domestic

Recommandé
Régime intérieur



To Destinataire

Name Nom

Address Adresse

City Ville Province Postal Code Code postal

FOR DELIVERY
CONFIRMATION POUR CONFIRMER
LA LIVRAISON

1 888 550-0333

www.canadapost.ca
www.postescanada.ca

Declared Value
Valeur déclarée \$

Item No. N° de l'article

79 613 681 034

CUSTOMER RECEIPT

REÇU DU CLIENT

33-086-504 (08-10)



2011.10.03 14:01

2011.10.03 14:04



2011.10.03 14:08

2011.10.03 14:02



2011.10.03 14:08

October 13, 2011

Maurice Armstrong
1011077 Ontario Inc.
3576 Errington Avenue
Chelmsford ON P0M 1L0

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

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

Dear Mr. Armstrong:

Re: Appeal to Order to Remedy - 12 Main Street West., Chelmsford

This will acknowledge receipt of your letter dated September 8, 2011, received September 30, 2011, appealing the Order to Remedy issued under the City of Greater Sudbury's Maintenance and Occupancy Standards By-law #2009-100.

The Planning Committee of the City of Greater Sudbury has been appointed as the Property Standards Appeal Committee. This matter will be heard at 4:30 p.m. on Wednesday, November 16, 2011 in Committee Room C-12 at Tom Davies Square. Please bring any information you feel relevant in presenting your position to the Property Standards Appeal Committee.

I am enclosing a copy of the City of Greater Sudbury's By-law to Prescribe Standards for the Maintenance and Occupancy of Residential Property and for the Securing of Hazardous or Vacant Buildings, By-law 2009-100, for your convenience. If you require any further information, do not hesitate to contact me at 705-674-4455, ext. 4206.

Yours truly,

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

Lisa Oldridge
Deputy City Clerk

Enclosure

cc: D. Barker, Manager of Compliance & Enforcement Services
G. Bergeron, Property Standards Officer

2011.10.20 11:50



2011.10.20 11:50

2011.10.20 11:51

2011.10.20 11:53