



Hearing Committee Agenda

Wednesday, June 23, 2021

Tom Davies Square

Councillor Signoretti, Chair

6:00 p.m. Open Session Council Chamber / Electronic Participation

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1.	Call to Order	
2.	Roll Call	
3.	Declarations of Pecuniary Interest and the General Nature Thereof	
4.	Public Hearings	
4.1.	Cancellation, Reduction or Refund of Taxes under Sections 357 and 358 of the Municipal Act, 2001	3
	This report provides a recommendation to authorize the Manager of Taxation to adjust the Collector's Roll under Sections 357 and 358 of the Municipal Act, 2001, which authorizes the cancellation, reduction and/or refund of property taxes under certain circumstances.	
4.2.	Hearing Committee Report for File 1076589 – Property Standards By-Law 2011-277	10
	This report provides a recommendation regarding an Order to Remedy issued for repairs to a retaining wall.	
4.3.	Hearing Committee Report for File 1086619 – Prohibited or Restricted Animals By-Law 2017-22	23
	This report provides a recommendation regarding the Order to Comply issued to the owner of a snake in violation of the City of Greater Sudbury's Animal Care and Control By-Law 2017-22, and the Registrar's recommendation to the Hearing Committee to uphold the Order.	
5.	Members' Motions	
6.	Addendum	
7.	Civic Petitions	
8.	Question Period	
9.	Adjournment	

Cancellation, Reduction or Refund of Taxes under Sections 357 and 358 of the Municipal Act, 2001

Presented To: Hearing Committee

Meeting Date: June 23, 2021

Type: Public Hearing

Prepared by: Kyla Bell
Taxation

Recommended by: General Manager of
Corporate Services

Report Summary

This report provides a recommendation to authorize the Manager of Taxation to adjust the Collector's Roll under Section 357 and 358 of the Municipal Act, 2001, which authorizes the cancellation, reduction and/or refund of property taxes under certain circumstances.

Resolution

THAT taxes totaling \$114,862.19 be adjusted under Sections 357 and 358 of the Municipal Act, 2001, of which the City's (municipal portion) is estimated to be \$100,151.34, as outlined in the report entitled "Cancellation, Reduction or Refund of Taxes under Sections 357 and 358 of the Municipal Act, 2001", from the General Manager of Corporate Services presented at the Hearing Committee meeting on June 23, 2021;

AND THAT the associated interest be cancelled in proportion to the tax adjustments;

AND THAT the Manager of Taxation be directed to adjust the Collector's Roll accordingly;

AND THAT staff be authorized and directed to take appropriate action.

Relationship to the Strategic Plan / Health Impact Assessment

This report refers to operational matters.

Financial Implications

Of the total taxes to be struck from the tax roll, the City's portion is estimated to be \$100,151.34 and the adjustment will be recorded in the 2021 financial records.

Figure 1 – Tax Adjustment by Levy Body
Tax Adjustments under Sections 357/358 of the Municipal Act, 2001

City (Municipal Portion)	\$100,151.34
Education Portion	\$ 14,710.85
Total	\$114,862.19

Background

Sections 357 and 358 of the Municipal Act, 2001, provide the authority for the cancellation, reduction or refund of property taxes under certain circumstances. In the Municipal Act, 2001, provides for Council to hold a hearing at which applicants can make submissions regarding their applications. In accordance with the mandate of the Hearing Committee, this matter is before the Committee to hear any concerned applicants and to consider the recommendations arising out of the applications identified in this report.

Section 357:

Subsection 357(1) of the Municipal Act, 2001 (the "Act") identifies permitted grounds for an application for cancellation, reduction or refund of taxes as set out below:

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,

- (a) as a result of a change event, as defined in clause (a) of the definition of "change event" in subsection 34(2.2) of the Assessment Act, during the taxation year, the property or portion of the property is eligible to be reclassified in a different class of real property, as defined in regulations made under that Act, and that class has a lower tax ratio for the taxation year than the class the property or portion of the property is in before the change event, and no supplementary assessment is made in respect of the change event under subsection 34(2) of the Assessment Act;
- (b) the land has become vacant land or excess land during the year or during the preceding year after the return of the assessment roll for the preceding year;
- (c) the land has become exempt from taxation during the year or during the preceding year after the return of the assessment roll for the preceding year;
- (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;
- (d.1) the applicant is unable to pay taxes because of sickness or extreme poverty;
- (e) a mobile unit on the land was removed during the year or during the preceding year after the return of the assessment roll for the preceding year;
- (f) a person was overcharged due to a gross or manifest error that is clerical or factual in nature, including the transposition of figures, a typographical error or similar error but not an error in judgment in assessing the property; or
- (g) repairs or renovations to the land prevented the normal use of the land for a period of at least three months during the year.

The time line for filing an application for cancellation, reduction or refund of taxes is found in Subsection 357(3) of the Act as set out below:

An application under this section must be filed with the treasurer on or before the last day of February of the year following the year in respect of which the application is made.

Section 358:

Subsection 358 (1) the Act also provides for applications for cancellation, reduction or refund of taxes. Applicants under this section can apply for relief for a longer timeframe but face more restricted grounds, as set out below:

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 the taxes levied on land,

- (a) in one or both of the two years preceding the year in which the application is made for any overcharge caused by a gross or manifest error in the preparation of the assessment roll that is clerical or factual in nature, including the transposition of figures, a typographical error or similar errors, but not an error in judgment in assessing the property; or
- (b) in the year or years in respect of which an assessment is made under section 33 or 34 of the Assessment Act for any overcharge caused by a gross or manifest error in the preparation of the assessment that is clerical or factual in nature, including the transposition of figures, a typographical error or similar errors, but not an error in judgment in assessing the property.

Pursuant to Section 358 subsection (3) of the Municipal Act, 2001:

An application in respect of an error in the preparation of the assessment roll must be filed with the treasurer between March 1 and December 31 of a year and may apply to taxes levied for one or both of the two years preceding the year in which the application is made and the application shall indicate to which year or years it applies.

Options/Discussion:

The City forwards all applications for tax relief under Section 357 and Section 358 of the Act to the Municipal Property Assessment Corporation (MPAC) for consideration. MPAC conducts an internal review based on the information contained in the application against their records and recommends any necessary assessment and/or tax class changes. MPAC then issues a Response Form to the City and where applicable, makes a recommendation for a change to the assessment and/or tax class on the tax roll. This revised assessment and/or tax class provided by MPAC is what the City relies on to adjust the taxes.

In some instances, MPAC may determine that the application does not reveal any grounds to reduce assessment and/or change tax class. MPAC would provide a Response Form to the City with a notation of "No Recommendation" for these applications. Examples for MPAC to issue a "No Recommendation" may be that the assessment was already altered through some other mechanism such as a Request for Reconsideration, the situation described in the application was not significant enough to change the assessment, or it may be determined that there was no assessment relating to the change included in the roll returned roll (building was not assessed or was fully depreciated). If the assessment is unchanged, the properties identified in these applications are not eligible for a tax adjustment or reduction.

Upon the return of the Response Forms from MPAC, they are reviewed by staff and in accordance with the Act the property owners are notified of the recommendation and advised of their options to respond. Property owners have the right to appeal to Council, through the Hearing Committee process.

Of the applications included in the attachments for this report, MPAC advised there was 'No Recommendation' on 8 (eight) applications and as a result, no tax relief is being proposed. These applications are identified in Appendix 'C' and the reason for the 'No Recommendation' is included for your information. There is no tax adjustment to be made in these instances.

Of the applications on which MPAC did make recommendations, 47 applications were under Section 357 of the Act for relief of taxes. The chart contained in Appendix 'B' lists these showing the reason for and the estimated amount of the tax adjustment.

The main reason(s) for these applications was:

- Fire / Demolished - relating to the demolition or damage due to fire of a building on the property that reduced the assessed value;
- Became Exempt - representing a property that was assessed on the assessment roll as taxable, but became exempt during the year. This property was either transferred during the year from a taxable owner to the City or another non- taxable owner or tenant such as a school board, hospital or it become a place of worship;
- Class Change - a change event occurred that made the property or a portion of the property eligible to be reclassified in a different class that has a lower tax ratio/tax rate;

The remaining applications are for relief under Section 358 of the Act for:

- Gross or Manifest Error – an overcharge of taxes due to errors by the Municipal Property Assessment Corporation (MPAC) on the assessment roll that is clerical or factual in nature.

Appendix 'B' details the estimated tax changes resulting from these recommendations.

Appendix 'A' to this report sets out a breakdown of estimated total tax reductions by Municipal, Education and Business Improvement Area portions by of category of permitted reasons for the cancellation, reduction and refund.

The property owners were advised of the recommendations or no recommendations in writing on or before April 16, 2021. Staff were able to respond to all questions or concerns raised by the affected property owners. Applicants are encouraged to notify staff if they wish an opportunity to appear before the Hearing Committee to challenge the recommendations of this report. While no such requests were received, any of the applicants are entitled to attend before the Committee to make representations regarding their application.

Summary:

It is recommended that Committee approve the tax cancellations, reductions and refunds as shown for the rolls as set out on Appendix 'B' and summarized in Appendix 'A'.

Resources Cited

Municipal Act, 2001

Appendix 'A'
Tax Adjustments Report Total
Report Date: June 23, 2021

<i>Reason for Adjustment</i>	<i>Applications</i>	<i>Municipal Portion</i>	<i>Education Portion</i>	<i>BIA</i>
Fire or Demolition	33	\$ 26,967.13	\$ 2,204.38	\$ -
Class Change	8	\$ 3,143.81	\$ 1,838.19	\$ -
Gross or Manifest Error	6	\$ 40,813.44	\$ 1,141.42	\$ -
Exempt	24	\$ 29,226.96	\$ 9,526.86	\$ -
TOTAL:	71	\$ 100,151.34	\$ 14,710.85	\$ -

Appendix 'B'
Tax Adjustments Detailed Listing
Report Date: June 23, 2021

Tax Appeals: Section 357 - Residential			
Tax Year	Roll Number	Reason	Amount of Decrease
2021	020.015.10600.0000	Demolition	\$ 210.61
2021	030.039.17100.0000	Became Exempt	129.93
2021	030.040.07500.0000	Became Exempt	120.65
2020	040.002.03800.0000	Class Change	(52.98)
2021	040.002.03800.0000	Class Change	(1,675.17)
2020	040.021.00900.0000	Demolition	208.42
2021	040.021.00900.0000	Demolition	1,113.68
2021	050.023.02900.0000	Demolition	30.94
2019	050.040.05697.0000	Became Exempt	163.73
2020	050.040.05697.0000	Became Exempt	179.06
2021	050.040.05697.0000	Became Exempt	185.61
2019	050.040.05699.0000	Became Exempt	160.81
2020	050.040.05699.0000	Became Exempt	176.07
2021	050.040.05699.0000	Became Exempt	182.52
2021	060.001.05100.0000	Fire	603.25
2020	060.010.03300.0000	Class Change	(413.29)
2021	060.010.03300.0000	Class Change	(1,685.99)
2020	060.037.05600.0000	Demolition	568.82
2021	060.037.05600.0000	Demolition	6,743.97
2020	070.011.00500.0000	Demolition	2,675.59
2021	070.011.00500.0000	Demolition	6,465.55
2020	070.011.00900.0000	Demolition	626.23
2021	070.011.00900.0000	Demolition	928.07
2020	070.022.08200.0000	Fire	1,148.99
2021	070.022.08200.0000	Fire	1,191.02
2020	070.024.03900.0000	Demolition	743.16
2021	070.024.03900.0000	Demolition	2,273.77
2020	090.015.01201.0000	Demolition	159.00
2021	090.015.09703.0000	Demolition	2,010.82
2021	110.002.40919.0000	Became Exempt	120.90
2021	110.002.40920.0000	Became Exempt	110.34
2020	130.006.07600.0000	Fire	600.56
2021	130.006.07600.0000	Fire	1,596.19
2020	160.012.03100.0000	Demolition	714.61
2021	160.020.03606.0000	Demolition	742.09
2020	170.017.28402.0000	Demolition	1,092.05
2021	170.017.28402.0000	Demolition	2,255.24
Total		37 Applications	\$ 32,404.82
Tax Appeals: Section 357 - Non-Residential			
2020	040.002.03800.0000	Class Change	\$ 125.72
2021	040.002.03800.0000	Class Change	3,839.14
2020	060.010.03300.0000	Class Change	980.61
2021	060.010.03300.0000	Class Change	3,863.96
2020	060.035.02500.0000	Became Exempt	4,469.19
2021	060.035.02500.0000	Became Exempt	32,755.01
2020	070.011.00500.0000	Demolition	(3,250.13)
2021	070.011.00500.0000	Demolition	(7,586.12)
2020	130.006.11101.0000	Demolition	1,028.53
2021	130.006.11101.0000	Demolition	4,276.60
Total		10 Applications	\$ 40,502.51
Tax Appeals: Section 358 - Residential			
2019	010.001.02500.0000	Gross or Manifest Error	\$ 13,262.91
2020	010.001.02500.0000	Gross or Manifest Error	14,067.01
2021	010.001.02500.0000	Gross or Manifest Error	14,624.94
Total		3 Applications	\$ 41,954.86
TOTAL		50 Applications	\$114,862.19

Appendix 'C'
No Recommendation Changes
Report Date: June 23, 2021

Tax Year	Roll Number	Reason for Recommendation
2021	020.022.07800	2021 PRAN issued to remove value of pool
2021	090.015.01201	2021 returned roll had garage assessment removed
2021	130.002.06304	2021 returned roll had structure removed
2020	160.004.05700	Above ground ppol and 48sf decking removed. No value change assocaited with changes.
2021	160.004.05700	Above ground ppol and 48sf decking removed. No value change assocaited with changes.
2021	160.012.03100	No correction required for 2021; property updated in 2020
2021	160.013.02201	2021 PRAN issued for removal of garage
2021	160.021.07700	2021 PRAN issued for removal of deck

**Hearing Committee Report for File
1076589 – Property Standards By-Law
2011-277**

Presented To: Hearing Committee

Meeting Date: June 23, 2021

Type: Public Hearing

Prepared by: Melissa Laalo
By-Law & Security

Recommended by: General Manager of
Corporate Services

Report Summary

This report provides a recommendation regarding an Order to Remedy issued for repairs to a retaining wall.

Resolution

THAT the City of Greater Sudbury upholds the Property Standards Order to Remedy issued pursuant to Section 15.3(3.1) of the Building Code Act as outlined in the report entitled “Hearing Committee Report for File 1076589 – Property Standards By-law 2011-277”, from the General Manager of Corporate Services, presented at the Hearing Committee meeting on June 23, 2021.

Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

This report refers to operational matters and has no direct connection to the Community Energy and Emissions Plan.

Financial Implications

There are no financial implications with this report.

Background

The Property Standards Order to Remedy (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

On January 27 2021, the City of Greater Sudbury Compliance and Enforcement Division received a complaint which stated that the retaining wall located at 419 Winchester Avenue was in disrepair.

Case #1076589 was generated and assigned to the area By-Law Enforcement Officer SHERIDAN for inspection and enforcement follow-up if required.

On February 4 2021 at approximately 11:12 am, Officer SHERIDAN attended the subject property to conduct an inspection of the retaining wall. During the inspection it was observed several areas where mortar had eroded and masonry had fallen. Moreover, the wall is protruding outwards from the base. Due to the inability to gauge if the wall is in structurally secure condition or not, the Officer created ACR 1078410 on February 5 2021 for the opinion of Building Services. Five (5) photos were taken of the wall and forwarded to Building Services.

On March 18 2021 at 4:36 pm a Building Inspector, Jason RADLEY emailed the Officer a synopsis of the Building Services' inspection. Building Services found that the wall is structurally sound, but noted that minor improvements would bring the wall into a good state of repair.

On March 29 2021 an Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy of All Property was issued to the property owners of the subject property. Items of Non-Conformity with Property Standards By-law 2011-277 are as noted;

- 1) All retaining walls, screen walls and ornamental walls shall be constructed of durable material and shall be maintained in a structurally sound condition. *Section 2.10*

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

- 1) 5 photos dated February 4 2021
- 2) Copy of inspection email from Building Services (J. RADLEY) dated March 18 2021
- 3) Aerial photo of property from 1946 (provided by Building Services)
- 4) Aerial photo of property from 1969 (provided by Building Services)
- 5) Copy of Property Standards Order to Remedy #1076589, dated March 29 2021

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, #1076589, dated March 29 2021, to ensure that the owner of the property complies with the maintenance and occupancy standards as set out in the CGS By-law, 2011-277.











Brittnee Sheridan - Re: Fwd: 419 Winchester Ave

From: Jason Radley
To: Andre Guillot
Date: 3/18/2021 4:36 PM
Subject: Re: Fwd: 419 Winchester Ave
Cc: Brittnee Sheridan
Attachments: 1946.pdf; 1969.pdf; 20210316_154604_resized.jpg; 20210316_154627_resized.jpg; 20210316_154731_resized.jpg

Good afternoon Andre,

As requested, I conducted an inspection of the above mentioned property retaining wall. Assuming the concern is on the north-west side of the property where an existing stone rubble retaining wall is in place, I have reviewed the wall and some of the available background aerial photographs.

It would appear that the wall was constructed sometime between 1946 and 1969, which would not have required any engineering or permits.

The current condition of the retaining wall appears to be offering the intended purpose of laterally retaining +/- 3' of earth, with some minor evidence of mortar cracking and shifting at the most forward of the property. It can be advised that the wall appears to be suitably functional and with minor improvements be repaired to a good state of repair. I do not believe that an engineer would be required to design these repairs.

Should there be any concern to these findings, please do not hesitate to contact me.

Regards,

Jason Radley

Building Inspector

City of Greater Sudbury

Growth & Development Department

tel: [705.674.4455](tel:705.674.4455) ext. 4320

cell: [705.688.8055](tel:705.688.8055)

>>> Andre Guillot 3/12/2021 10:15 AM >>>

Jason

When you have time please confirm if the wall is stable or requires an engineers report.

thanks

Andre Guillot
Manager of Building Inspection Services
CGS Building Services
674-4455, extension 4666
andre.guillot@city.greatersudbury.on.ca

>>> Brittnee Sheridan 3/8/2021 9:45 AM >>>
Hey Andre!

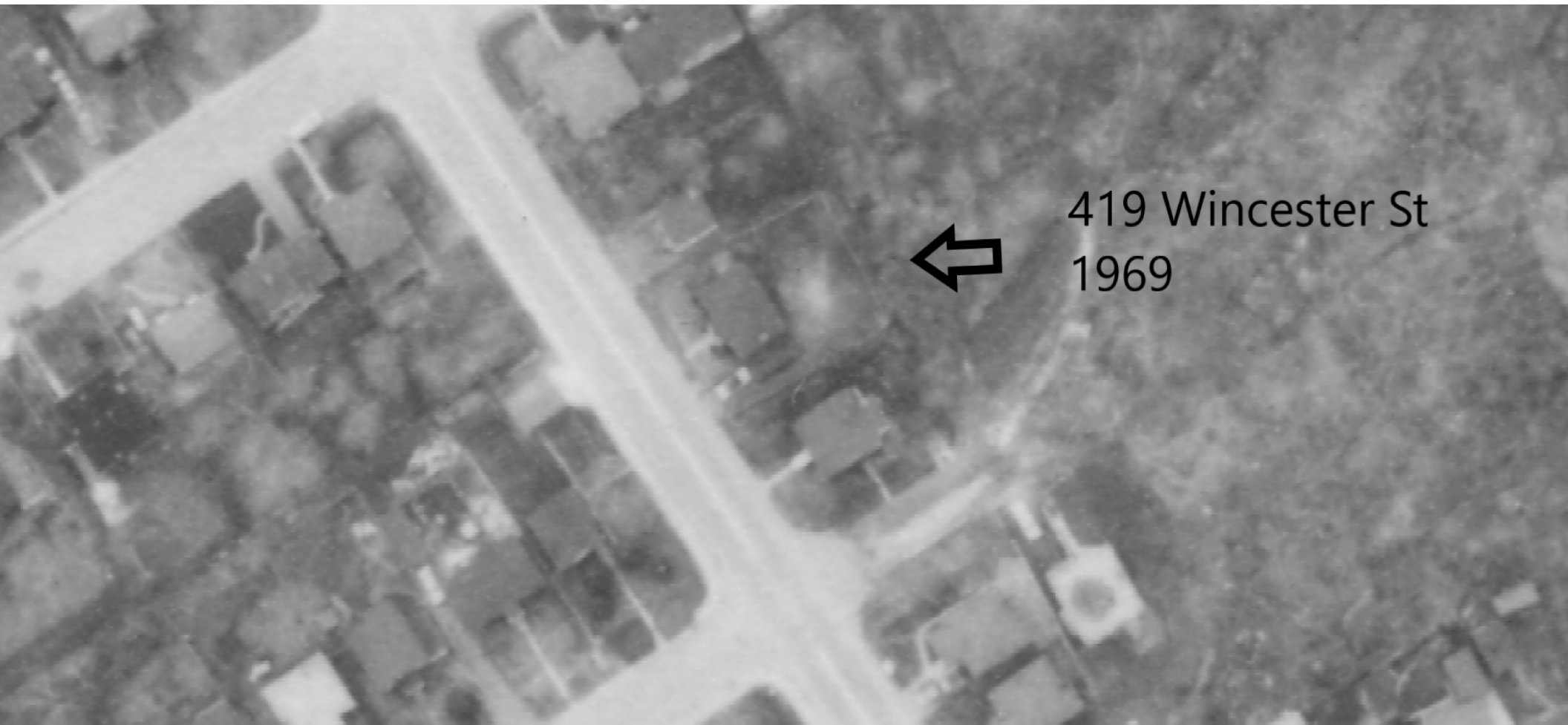
Following up for ACR 1078410 regarding retaining wall at 419 Winchester Ave. Please let me know if you think the retaining wall is in structurally sound condition.

Britt

Brittnee Sheridan
Municipal Compliance and Enforcement Officer
Agent d'exécution des règlements municipaux
City of Greater Sudbury
Compliance & Enforcement
Work: [\(705\) 674-4455 ext. 2540](tel:(705)674-4455)
Cell: [\(705\) 690-9861](tel:(705)690-9861)



**419 Winchester St
1946**



419 Winchester St
1969

**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.

R RN 464 668 972 CA

File: 1076589

Date of Inspection: February 4 2021 (Building Services March 18 2021)		Time: 1121hrs	By-Law No.: 2011-277
Municipal address or legal description of property <input checked="" type="checkbox"/> Occupied <input type="checkbox"/> Unoccupied			
[REDACTED]		Legal Description: [REDACTED]	
Name of owner(s) and mailing address			
[REDACTED]			
DESCRIPTION OF NON-CONFORMITY		LOCATION	BY-LAW REFERENCE
RETAINING WALLS 1. All retaining walls, screen walls and ornamental walls shall be constructed of durable material and shall be maintained in a structurally sound condition		Retaining wall along North West property line	s. 2.10
REQUIRED ACTION			
1. Repair lose material along retaining wall. Note there are several areas where lose rock is falling/crumbling off			
There must be compliance with the terms and conditions of this order before this date: <u>May 4 2021</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).

IN ADDITION, AS PER THE 2019 USER FEES, establishes fees and charges to be applied to every By-Law Officer inspection (min 1 hour, and part thereof, \$66.00 including HST) resulting in non-compliance of an Order that is in default (past the compliance date) and during Officer attendance when an Order is being remedied.


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 (including fee as per 2019 User Fees: \$109.00 including HST) by registered mail to the Secretary of the Committee, and it must be stamped received and filed with the Clerks Department within 14 days of this notice. In the event that the order is not appealed, it shall be deemed to be confirmed as per Subsection 15.3 (2).

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.

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 \$50, 000 for a first offence and to a fine of not more than \$100,000 for a subsequent offence as per Subsections 36 (1) (b) and 36 (3).



Brittnee Sheridan
Municipal Compliance and Enforcement Officer
Agent d'exécution des règlements municipaux
City of Greater Sudbury
(705) 674-4455 ext. 2540

Date of Service: March 29 2021

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.

Hearing Committee Report for File 1086619 – Prohibited or Restricted Animals By-Law 2017-22

Presented To: Hearing Committee

Meeting Date: June 23, 2021

Type: Public Hearing

Prepared by: Melissa Laalo
By-Law & Security

Recommended by: General Manager of
Corporate Services

Report Summary

This report provides a recommendation regarding the Order to Comply issued to the owner of a snake in violation of the City of Greater Sudbury's Animal Care and Control By-Law 2017-22, and the Registrar's recommendation to the Hearing Committee to uphold the Order.

Resolution

THAT the City of Greater Sudbury upholds the Order to Comply issued to the owner of a snake in violation of the City of Greater Sudbury's Animal Care and Control By-law 2017-22 as outlined in the report entitled "Hearing Committee Report for File 1086619 – Prohibited or Restricted Animals By-law 2017-22", from the General Manager of Corporate Services, presented at the Hearing Committee meeting on June 23, 2021.

Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

This report refers to operational matters and has no direct connection to the Community Energy and Emissions Plan.

Financial Implications

There are no financial implications with this report.

Background

City of Greater Sudbury By-Law 2017-22, as amended, became effective on March 1, 2017 and regulates the keeping of animals, including but not limited to snakes. Part 7 of the By-Law entitled "Domestic Animals other than Dogs and Cats"; Section 51 of the By-Law contains provisions for the keeping of non-venomous snakes. Specifically Section 51(1)(c) states, no person shall keep more than two non-venomous snakes, neither of which shall exceed 4 feet in length.

The effect of the Order is to ensure the owner of the snake which is deemed in contravention this By-Law be

removed from the residence on or before April 13 2021. The By-Law is specific about how the process is carried out and the contents of the Order. Several provisions in the By-Law for the issuance of the Order are mandatory requirements of the Registrar and of the recipient of the Order.

This section also provides for an appeal of the Order by the owner of the snake requesting a hearing of the matter by Council or Committee of Council. The Committee may reverse the Order, uphold the Order and its contents or may modify any or all of the conditions of the Order. The onus is on the applicant for the hearing to provide evidence satisfactory to the Hearing Committee that the relief being sought should be granted.

Upon the Hearing Committee reaching a decision, the City Clerk shall give notice of the decision in writing to the applicant for the hearing at the address for the applicant set out in the application. Service shall be effective in accordance with Section 34. The decision of the Hearing Committee is final.

By-Law Procedure Order to Comply – ACR 1086619 / CRM 210501-004932

Part 1 of By-Law 2017-22 designates the Manager of Security and By-Law Services for the City of Greater Sudbury as the License Issuer pursuant to the By-Law, and By-Law Officers in Compliance and Enforcement have been appointed by the License Issuer to perform the task of issuing Order to Comply pursuant to the By-Law.

Subsection 4(1) of the By-Law also indicates By-Law Officers shall conduct inspections or investigations and where violations of the By-Law are observed, issue Orders under this By-law, obtain Court Orders or Warrants as required, and direct remedial action if necessary.

A complaint was received by the License Issuer from Greater Sudbury Housing, employee Luis GARCIA, on March 25 2021 regarding a snake belonging to the tenant being of such a size that exceeding the permitted length in the By-Law.

On March 25 2021 at approximately 12:35 pm, Officers attended the location and were provided access to the unit by the tenant. It was confirmed by the tenant that the snake was a female python and was approximately six (6) to eight (8) feet in length.

Subsequently, the tenant was served with an Order to Comply on March 26, 2021 requiring the owner to remove the snake (identified as a Python) from the premise. The Order was posted on the door of the unit as no one answered the door upon service.

On April 07 2021 By-Law Services was notified that the Order was being appealed to the Hearing Committee as provided for in Section 57 of the Animal Care and Control By-Law 2017-22.

Appeal Notice

A letter of appeal of the Order to Comply was received by the owner of the snake and the hearing was scheduled (Notice of Appeal is attached to this report). A notice was sent to the owner of the snake advising of the date and time of the hearing.

Conclusion

In consideration of this report, the witnesses and the appellant, pursuant to subsection 33(1) the Hearing Committee may decide one of three options below;

1. Uphold the Notice;
2. Modify the Notice;

3. Quash the Notice

The License Issuer is confident that the Order to Comply issued satisfies the requirements of By-Law 2017-22, Part 7, Section 51, a By-Law to regulate the keeping of animals. The purpose of the Order 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 Order to Comply be upheld by the Committee.

Case ID 1086619

Caller Information

Known Callers: 1 Anonymous Callers: 0

Name: Luis Garcia
 Address: 200 BRADY STREET
 SUDBURY, ON
 CANADA
 Organization: City of Greater Sudbury
 Home Phone: (705) 670-7929
 Call Taker Notes (F -Any- Issued Vicious Dog -Any-
 Issued Trespass O -Any- P.O. Box # -Any-

Case Information

Case Type: Prohibited or Restricted Animals Category: Animal Control
 Status: Postponed Priority: Normal
 Expected Completion: 07-May-2021 08:30:00 AM Reactivation Date: 16-Jun-2021 12:00:00 AM
 Last Updated: 21-Apr-2021 09:37:52 AM
 Submitted By: Gisele Gemus On 24-Mar-2021 08:18:27 PM
 Assigned To: Jerome Waroux (By-Law Junior Enforcement Officer 3) On 25-Mar-2021 03:06:52 PM
 Access Code: 738688
 Subject: Bylaw
 Description: Giant python in tenant apartment. [REDACTED] and the door to the aquarium was open. Caller said he was going to call 311 and they were going to help him find a solution
 The case was created as: Re-Active
 Animal Type? Snake longer than 4 feet
 This request was received by Phone Did resident request a callback from department? (IN SUBJECT LINE ADD "CALLBACK REQUESTED") No
 Is this Covid-19 related? No

Location

Location: [REDACTED] (Verified with GIS)
 CANADA

Contacts

Work	Staff Member	Phone [Public]	Email	Fax
Prohibited or Restricted Animals Case	Jerome Waroux (By-Law Junior Enforcement Officer 3)	(705) 674-4455	jerome.waroux@greatersudbury.ca	

Comments

Date	Type	Entry	Relates To	Created By
20-Apr-2021 08:21:27 AM	Case Postponed	Other Reactivate on: 16 Jun 2021 Hearing Committee; the next meeting is scheduled for June 23rd.	Prohibited or Restricted Animals	Jerome Waroux
16-Apr-2021 03:57:58 PM	Case Note	Manager LAALO called writer Apr16.2021 and stated that Manager of housing Barb Dubois called LAALO stating that snake owner has not been seen and believes snake has not been fed/ water for quite some time now. LAALO asked writer to call PAWS. Writer did, Case@49288450. [REDACTED] from PAWS called writer Apr21.2021@0925 to get more info. Will be the Officer on the case.	Prohibited or Restricted Animals	Jerome Waroux
13-Apr-2021 08:48:43 AM	Completion Date Revised	By-Law Notice of Violation Issued Expected case completion date changed from: 29 Apr 2021 08:30:00 AM to: 07 May 2021 08:30:00 AM Case appealed, awaiting instructions from management.	Prohibited or Restricted Animals	Jerome Waroux
13-Apr-2021 12:01:46 AM	Case Reactivated	System Case Reactivated	Prohibited or Restricted Animals	SYSTEM
26-Mar-2021 03:31:00 PM	Case Note	Order to Comply. File Attached: Order to Comply Mar26.2021.pdf	Prohibited or Restricted Animals	Jerome Waroux
26-Mar-2021 03:18:06 PM	Case Postponed	By-Law Notice of Violation Issued Reactivate on: 13 Apr 2021 Case to reopen April 13.2021	Prohibited or Restricted Animals	Jerome Waroux
26-Mar-2021 11:14:01 AM	Case Note	Arrived at PL with mobile 1 #3355 & #3353 mar26.2021@1105. Posted Order to Comply on door. Unable to slide letter under door, left letter by door handle. Snake owner has until April13.2021 to comply. Writer also left contact info in envelope. File Attached: 20210326_110825.jpg	Prohibited or Restricted Animals	Jerome Waroux
25-Mar-2021 03:06:52 PM	Case Assignment	System Case ID: 1086619 has been assigned to By-Law Junior Enforcement Officer 3 (Waroux, Jerome).	Prohibited or Restricted Animals	Jerome Waroux

25-Mar-2021 03:06:36 PM	Case Notification	System Case was notified to By-Law Ward 1-2 Officer(Moxam, Craig), By-Law Ward 3-4 Officer(Demers, Kristen), By-Law Ward 5-6 Officer(Sheridan, Brittnee), By-Law Ward 7-8 Officer(Sagle, Gerald), By-Law Ward 9-10 Officer(Sheridan, Brittnee), By-Law Ward 11-12 Officer(Gauthier, Chad), By-Law Junior Enforcement Officer 2(No User), Animal Shelter Attendant 2(Zanibbi, Ashley), Animal Shelter Attendant 4(Blanchette, Natalie), By-Law Junior Enforcement Officer 3(Waroux, Jerome), By-Law Officer - Part Time 2(Tiplady, Robin), By-Law Officer - Part Time 3(Dokis, Grant), By-Law Officer - Part Time 4(No User), By-Law Officer - Part Time 5(Greenough, Scott), Animal Shelter Attendant 5(Reed, Pollyana), Animal Shelter Attendant 3(McCauley, Shawn), By-Law Junior Enforcement Officer 1(Goulet, Patrick), Animal Shelter Attendant 1(Juoksu, Hanna).	Prohibited or Restricted Animals	Gisele Gemus
25-Mar-2021 03:06:36 PM	Change Case Type	UPDATE LOCATION INFORMATION Case type changed from Prohibited or Restricted Animals to Prohibited or Restricted Animals Case location changed from [REDACTED]	Prohibited or Restricted Animals	Jerome Waroux
25-Mar-2021 01:11:15 PM	Case Note	Arrived at PL Mar25.2021@1235 with mobile 1 #3353 & #3357. Met construction coordinator Luis GARCIA 705-670-7929. Knocked on door, spoke with snake owner [REDACTED], no contact info, was not compliant, did not want to let writer in and was swearing. Finally [REDACTED] agreed to let writer in to take pictures. Female python acquired 6 years ago, snake is aprx 6 to 8 feet long. [REDACTED] was getting agitated, writer and security left after taking pictures. File Attached: 20210325_124223.jpg	Prohibited or Restricted Animals	Jerome Waroux
25-Mar-2021 12:19:39 PM	Case Note	UNIT [REDACTED] - tenant is [REDACTED]	Prohibited or Restricted Animals	Melissa Laalo
25-Mar-2021 12:17:31 PM	Create Related	System Case linked to (Case ID: 1086739)	Prohibited or Restricted Animals	Melissa Laalo
25-Mar-2021 12:17:31 PM	Create Related	System Created new related case (Case ID: 1086739)	Prohibited or Restricted Animals	Melissa Laalo
25-Mar-2021 12:11:48 PM	Case Assignment	Assigned Case to Owner Case ID: 1086619 has been assigned to By-Law Junior Enforcement Officer 3 (Waroux, Jerome).	Prohibited or Restricted Animals	Melissa Laalo

25-Mar-2021 12:11:31 PM	Case Notification	System Case was notified to By-Law Ward 1-2 Officer(Moxam, Craig), By-Law Ward 3-4 Officer(Demers, Kristen), By-Law Ward 5-6 Officer(Sheridan, Brittnee), By-Law Ward 7-8 Officer(Sagle, Gerald), By-Law Ward 9-10 Officer(Sheridan, Brittnee), By-Law Ward 11-12 Officer(Gauthier, Chad), By-Law Junior Enforcement Officer 2(No User), Animal Shelter Attendant 2(Zanibbi, Ashley), Animal Shelter Attendant 4(Blanchette, Natalie), By-Law Junior Enforcement Officer 3(Waroux, Jerome), By-Law Officer - Part Time 2(Tiplady, Robin), By-Law Officer - Part Time 3(Dokis, Grant), By-Law Officer - Part Time 4(No User), By-Law Officer - Part Time 5(Greenough, Scott), Animal Shelter Attendant 5(Reed, Pollyana), Animal Shelter Attendant 3(McCauley, Shawn), By-Law Junior Enforcement Officer 1(Goulet, Patrick), Animal Shelter Attendant 1(Juoksu, Hanna).	Prohibited or Restricted Animals	Gisele Gemus
25-Mar-2021 12:11:31 PM	Change Case Type	Changed Case Type Case type changed from By-Law Inquiries to Prohibited or Restricted Animals	Prohibited or Restricted Animals	Melissa Laalo
25-Mar-2021 12:10:21 PM	Case Note	Spoke with Luis GARCIA (Greater Sudbury Housing Employee) on Mar 25 2021 at 12:00 pm. The snake is secured in the residence and the City still has access. Officer Jerome WAROUX to meet at the location to assist. To call Luis at 705-670-7929. Order to Comply and/or Part I to be issued if violation(s).	By-Law Inquiries	Melissa Laalo
24-Mar-2021 08:54:39 PM	Case Note	Python was saved by pest control	By-Law Inquiries	Gisele Gemus
24-Mar-2021 08:18:27 PM	Case Notification	System Case was notified to By-Law and Licensing Clerk(Szydziak, Stefany), By-Law Coordinator - Animal Care and Control(Laalo, Melissa).	By-Law Inquiries	Gisele Gemus
24-Mar-2021 08:18:27 PM	Case Submission	System Case was submitted by Gisele Gemus.	By-Law Inquiries	Gisele Gemus



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 COMPLY

Issued pursuant to section 55(1) of
City of Greater Sudbury
Animal Care and Control By-Law 2017-22

File # ACR 1086619

Date of Inspection: March 25, 2021

By-Law No.:2017-22

Municipal address or legal description of property Occupied Unoccupied

Name of owners and mailing address

DESCRIPTION OF NON-CONFORMITY

LOCATION

BY-LAW REFERENCE

No Person shall keep in any Dwelling Unit or Premises in the City more than: two non- venomous snakes, neither of which shall exceed 4 feet in length.

Unit

51(1)(c)

REQUIRED ACTION

Removal of the Snake (identified as a Python) from the premise. Subject to proof satisfactory to the Licensing Issuer that the prohibited snake has been destroyed or removed from the premise and whereby located at an appropriate facility.

There must be compliance with the terms and conditions of this notice before this date: April 13, 2021

TAKE NOTICE THAT if such removal is not done within the time specified in this Order, the Municipality may carry out the removal at the expense of the owner. Section 59.

IN ADDITION, As per the City of Greater Sudbury User Fee By-Law, non-compliance of an Order that is in default (past the compliance date) shall result in an automatic fee of \$205.00. Any requirement for remedial action shall result in an automatic fee of \$205.00. These fees shall be billed to the property owner and non-payment shall result in the amount being applied to the tax roll.

DISTRIBUTION OF ORDER TO COMPLY

Section 56(1) – Service of an Order issued under subsection 55(1) shall be given to each Person, by delivering personally to the Person, by mailing by registered mail at the address for the Person who is shown in the records of the Land Titles Office as the registered owner of the Premises on which the contravention occurred, or by posting in a visible location on the Premises in a manner likely to bring it to the attention of the Person being served.

Section 56(2) Service of the Order shall be effective upon the date that personal service is effected, or where served by mail or by posting, shall be deemed to be effective on the third day after mailing or posting as the case may be, whether or not is it actually received.

APPEAL TO HEARING COMMITTEE

Section 57(1) Every Person who is served with an order under this By-law shall comply with the requirements of the order within the time period specified in the order, unless: the order provides for work to be done by the Person served; and such Person has within the period for compliance, filed a request for a hearing before the Hearing Committee established pursuant to the City's Procedure Bylaw then in effect, and submitted the applicable Fee for administrative costs fee within 10 Business Days of the date that service of the order is effective. In the event that the order is not appealed, it shall be deemed to be confirmed.

OFFENCE

Section 53(1) – Every person who contravenes any of the provisions of this By-Law and any director or officer of a corporation who concurs in such contravention is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act.

J WARCAUX

OFFICER NAME

By-Law Enforcement Officer
705-674-4455 ext. 4193

Served on: March 26, 2021

