

Request for Decision

Order to Remedy Appeal, ACR #641305 - Sandra Cartledge

Presented To:	Hearing Committee
Presented:	Monday, Jun 29, 2015
Report Date	Wednesday, Jun 17, 2015
Type:	Public Hearings
File Number:	ACR #641305

Recommendation

THAT the City of Greater Sudbury upholds the Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy #641305 issued to Sandra Cartledge, owner of 264 Whittaker Street Sudbury.

Background

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

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

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

Facts and Evidence Supporting the Order

On July 25, 2014 the City of Greater Sudbury Compliance and Enforcement office received a complaint from a resident about the discharge of water from the downspouts of the neighbouring property at 264 Whittaker St, specifically that the water was draining onto the complainant's property.

Signed By

Report Prepared By

Stephen Holt
By-law Enforcement Officer
Digitally Signed Jun 17, 15

Division Review

Brendan Adair
Manager of Security, By-Law and Court Services
Digitally Signed Jun 17, 15

Recommended by the Department

Caroline Hallsworth
Executive Director, Administrative Services/City Clerk
Digitally Signed Jun 17, 15

Recommended by the C.A.O.

Bob Johnston
Interim Chief Administrative Officer
Digitally Signed Jun 17, 15

On July 29, 2014 By-Law Enforcement Officer Holt attended the location and inspected the property. Photographs were taken showing the downspouts directing water towards the complainant's property. In Officer Holt's opinion this was in violation of the City of Greater Sudbury By-Law 2011-277 Property Standards By-Law Ss 2.06(3) which states:

a) Lot drainage shall be contained within the limits of the premises from which it originated until absorbed by the soil or drained to an approved swale or ditch.

On July 30, 2014 an Order to Remedy was issued to Sandra Cartledge the registered owner of 264 Whittaker Street requiring the downspouts be re-routed so the water does not drain onto adjoining property.

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.

It is the recommendation of this report to uphold the Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy, #641305 issued July 30, 2014 requiring the redirection of discharge water to minimize the risk of water damage to the property neighbouring 264 Whittaker Street.

Case ID 641305

Caller Information

Known Callers: 1 Anonymous Callers: 0

Name: [REDACTED]

Address: [REDACTED]
[REDACTED]
[REDACTED]

Home Phone: [REDACTED]

Mobile Phone: [REDACTED]

Case Information

Case Type: By-Law Water Infraction Category: Property Maintenance
Status: Postponed Priority: Normal
Expected Completion: 05-May-2016 08:00:00 AM Reactivation Date: 24-Jul-2015 12:00:00 AM
Last Updated: 04-Jun-2015 03:39:23 PM
Submitted By: Chris St. Onge On 25-Jul-2014 02:31:44 PM
Assigned To: Stephen Holt (By-Law Ward 1-2 Officer) On 25-Jul-2014 02:31:45 PM
Access Code: 113783
Subject: Drainage
Description: Complainant upset over problem location draining water on thier property via eavestrough.
The case was created as: Re-Active

Inspection Complete	Yes	Re-Inspection Complete	No
2nd Re-Inspection	No	3rd Re-Inspection	No
4th Re-Inspection	No		

Location

Location: 264 WHITTAKER STREET, SUDBURY, ON, (Verified with GIS)
CANADA
MAILING1 264 WHITTAKER ST MAILING4 SUDBURY ON
MAILING5 P3C 3X8 LEGALDESCRIP TION MCKIM CON 3 LOT 7 PLAN 4S LOT
179 REG 6250.00SF 50.00FR
125.00D
WARD 1 ZONING R6
OWNER1NAME CARTLEDGE SANDRA APRIL

Contacts

Work	Staff Member	Phone [Public]	Email	Fax
By-Law Water Infraction Case	Stephen Holt (By-Law Ward 1-2 Officer)	(705) 674-4455 x4322	Stephen.Holt@greatersudbury.ca	

Comments

Date	Type	Entry	Relates To	Created By
04-Jun-2015 03:39:23 PM	Case Note	Notice of Appeal Hearing. Caller advised. File Attached: Notice of Hearing 264 Whittaker.pdf	By-Law Water Infraction	Stephen Holt
12-May-2015 11:16:33 AM	Case Postponed	By-Law Re-Inspect on Due Date Reactivate on: 24 Jul 2015 Awaiting appeal date	By-Law Water Infraction	Stephen Holt
12-May-2015 11:16:07 AM	Completion Date Revised	Other Expected case completion date changed from: 16 Jun 2015 08:00:00 AM to: 05 May 2016 08:00:00 AM revise	By-Law Water Infraction	Stephen Holt
05-May-2015 12:00:52 AM	Case Reactivated	System Case Reactivated	By-Law Water Infraction	SYSTEM
07-Apr-2015 10:56:47 AM	Case Postponed	By-Law Re-Inspect on Due Date Reactivate on: 05 May 2015 Awaiting appeal hearing date	By-Law Water Infraction	Stephen Holt
06-Apr-2015 12:06:59 AM	Case Reactivated	System Case Reactivated	By-Law Water Infraction	SYSTEM
10-Mar-2015 11:49:54 AM	Case Postponed	By-Law Re-Inspect on Due Date Reactivate on: 06 Apr 2015 Awaiting appeal hearing	By-Law Water Infraction	Stephen Holt
02-Mar-2015 12:02:07 AM	Case Reactivated	System Case Reactivated	By-Law Water Infraction	SYSTEM
05-Jan-2015 12:03:12 PM	Case Postponed	By-Law Re-Inspect on Due Date Reactivate on: 02 Mar 2015 Awaiting appeal hearing	By-Law Water Infraction	Stephen Holt
02-Jan-2015 12:04:59 AM	Case Reactivated	System Case Reactivated	By-Law Water Infraction	SYSTEM
01-Dec-2014 09:32:56 AM	Case Note	Still awaiting appeal hearing.	By-Law Water Infraction	Stephen Holt
01-Dec-2014 09:32:25 AM	Case Postponed	By-Law Re-Inspect on Due Date Reactivate on: 02 Jan 2015	By-Law Water Infraction	Stephen Holt
01-Dec-2014 12:02:20 AM	Case Reactivated	System Case Reactivated	By-Law Water Infraction	SYSTEM
30-Oct-2014 11:21:12 AM	Case Postponed	By-Law Re-Inspect on Due Date Reactivate on: 01 Dec 2014 Awaiting appeal date	By-Law Water Infraction	Stephen Holt
30-Oct-2014 11:20:41 AM	Completion Date Revised	Other Expected case completion date changed from: 11 Dec 2014 08:00:00 AM to: 12 Jan 2015 08:00:00 AM revise	By-Law Water Infraction	Stephen Holt
30-Oct-2014 12:02:49 AM	Case Reactivated	System Case Reactivated	By-Law Water Infraction	SYSTEM
30-Sep-2014 04:07:11 PM	Case Postponed	By-Law Re-Inspect on Due Date Reactivate on: 30 Oct 2014	By-Law Water Infraction	Stephen Holt
30-Sep-2014 04:06:51 PM	Completion Date Revised	Other Expected case completion date changed from: 10 Nov 2014 08:00:00 AM to: 30 Dec 2014 08:00:00 AM revise	By-Law Water Infraction	Stephen Holt
29-Sep-2014 12:02:20 AM	Case Reactivated	System Case Reactivated	By-Law Water Infraction	SYSTEM
16-Sep-2014 09:26:26 AM	Case Postponed	By-Law Re-Inspect on Due Date Reactivate on: 29 Sep 2014	By-Law Water Infraction	Stephen Holt

15-Sep-2014 12:01:16 AM	Case Reactivated	System Case Reactivated	By-Law Water Infraction	SYSTEM
25-Aug-2014 11:08:04 AM	Case Note	Appeal to Order to Comply File Attached: 201408251115.pdf	By-Law Water Infraction	Jane Lewis
15-Aug-2014 11:25:50 AM	Case Postponed	By-Law Re-Inspect on Due Date Reactivate on: 15 Sep 2014 Appeal submittd. Awaiting date for hearing.	By-Law Water Infraction	Stephen Holt
15-Aug-2014 12:00:29 AM	Case Reactivated	System Case Reactivated	By-Law Water Infraction	SYSTEM
11-Aug-2014 12:24:25 PM	Case Note	Writer spoke with caller this date as she requested update-advised. Writer spoke with homeowner and reiterated advice given her by Darlene Barker that at this point an appeal needed to be filed in order for her to amend Order. Owner was not happy, writer gave her directions on how to file appeal.	By-Law Water Infraction	Stephen Holt
11-Aug-2014 11:01:29 AM	Case Note	Caller from said location called 3 separate times in which I spoke with and transferred her once to D. Barker and 2x to S. Holt.	By-Law Water Infraction	Jennifer Dimmel
11-Aug-2014 10:12:50 AM	Case Note	Caller indicated that she would like Officer to attend property for inspection.	By-Law Water Infraction	Chris St. Onge
08-Aug-2014 10:30:43 AM	Case Note	8 August 2014 - 10:25 hrs - Recipient of Order called in requesting information for appeal. Also indicated that she would like Officer to attend property for inspection.	By-Law Water Infraction	Greg Bergeron
06-Aug-2014 03:26:29 PM	Case Note	I called the owner back and advised her that if she was not in agreement with the order, she should appeal the order. She needs to send a request in writing before the date on the order. I also advised her that Officer Holt would inspect when he returns from holidays. She advises that she has a survey to show that the downspouts are not on her neighbour's property. Would like the officer to witness that the water does not run onto her neighbour's property.	By-Law Water Infraction	Darlene Barker
06-Aug-2014 03:04:33 PM	Case Note	Called again, want an officer to attend (knows Steve is on vacation) to witness that the water is not flowing onto the neighbouring property.	By-Law Water Infraction	Gilles Lefebvre
05-Aug-2014 09:56:30 AM	Case Note	Complainant came to the office on August 5 2014 stating that she had a survey done and the drainage is in fact going onto her property. Would like the officer to contact her so she can provide the survey evidence. [REDACTED]	By-Law Water Infraction	Brittnee Sheridan
30-Jul-2014 11:03:46 AM	Case Postponed	By-Law Re-Inspect on Due Date Reactivate on: 15 Aug 2014	By-Law Water Infraction	Stephen Holt
30-Jul-2014 11:03:06 AM	Case Note	OTR File Attached: OTR 264 Whittaker downspouts.doc	By-Law Water Infraction	Stephen Holt
30-Jul-2014 11:02:36 AM	Case Note	pic File Attached: 004.JPG	By-Law Water Infraction	Stephen Holt
30-Jul-2014 11:02:20 AM	Case Note	pic File Attached: 003.JPG	By-Law Water Infraction	Stephen Holt
30-Jul-2014 11:02:04 AM	Case Note	pic File Attached: 002.JPG	By-Law Water Infraction	Stephen Holt
30-Jul-2014 11:01:45 AM	Case Note	pic File Attached: 001.JPG	By-Law Water Infraction	Stephen Holt

User: off03byl

28-Jul-2014 08:34:52 AM	Case Note	Complainant sent in photo. File Attached: rocks removed again.jpg	By-Law Water Infraction	Chris St. Onge
28-Jul-2014 08:33:37 AM	Case Note	Complainant sent in photo. File Attached: photo 2.JPG	By-Law Water Infraction	Chris St. Onge
28-Jul-2014 08:33:07 AM	Case Note	Complainant sent in photo. File Attached: photo.JPG	By-Law Water Infraction	Chris St. Onge
25-Jul-2014 02:31:44 PM	Case Assignment	System Case ID: 641305 has been assigned to By-Law Ward 1-2 Officer (Holt, Stephen).	By-Law Water Infraction	Chris St. Onge
25-Jul-2014 02:31:44 PM	Case Submission	System Case was submitted by Chris St. Onge.	By-Law Water Infraction	Chris St. Onge



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

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

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

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

		Case #641305
Date of Inspection: July 29, 2014	Time:1520 hrs	By-Law No.:2011-277
Municipal address or legal description of property X Occupied Unoccupied		
264 Whittaker St Sudbury, ON		
Name of owner/occupant and mailing address		
Sandra CARTLEDGE 264 Whittaker St Sudbury, ON P3C 3X8		
DESCRIPTION OF NON-CONFORMITY	LOCATION	BY-LAW REFERENCE
a) Lot drainage shall be contained within the limits of the premises from which it originated until absorbed by the soil or drained to an approved swale or ditch.	Downspouts along property line	2.06(3)
REQUIRED ACTION		
Reroute downspouts so water does not drain onto adjoining property.		
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>August 15, 2014</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 August 14, 2014 (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).

Date Order Served: July 30, 2014

Stephen Holt
Property Standards Officer
705 674-4455 ext 4322

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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29.07.2014 15:12



29.07.2014 15:12



29.07.2014 15:12



29.07.2014 15:12





