

Request for Decision

Appeal of Order to Remedy - 634 Lasalle Boulevard, Sudbury

Presented To: Hearing Committee

Presented: Wednesday, Jan 15, 2014

Report Date: Friday, Jan 10, 2014

Type: Public Hearings

File Number: 453037

Recommendation

THAT the City of Greater Sudbury uphold the Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy #453037 issued to 1277897 Ontario Ltd, owner of 634 Lasalle Blvd, City of Greater 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 - Presented by Officer Kyle Anderson

On October 7th, 2013, the City of Greater Sudbury Compliance and Enforcement Division received a complaint by telephone which stated that a bathtub surround was installed at 634 Lasalle Blvd apartment

Signed By

Report Prepared By

Darlene Barker
Manager of Compliance and
Enforcement
Digitally Signed Jan 10, 14

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official
Digitally Signed Jan 10, 14

Recommended by the Department

Paul Baskcomb
Acting General Manager of Growth &
Development
Digitally Signed Jan 10, 14

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jan 10, 14

201 and is considered by the caller to be unsafe.

Case #453037 was generated and assigned to the area By-law Officer, Kyle Anderson for inspection and enforcement follow-up.

On October 8th, 2013, at approximately 11:01 am, Officer Anderson attended 634 Lasalle Blvd, apartment 201, Sudbury and conducted an inspection of the unit. During the inspection Officer Anderson observed that a new bathtub surround was installed over top of the existing bathtub. He noted that this work was done recently as he had last visited that particular unit for a previous case on September 16, 2013, and at that time this work had not yet been done. He further observed that the new bathtub surround did not appear to be properly installed. Lumber was attached to the wall on top of the existing surround and the new surround was attached to the lumber likely with an adhesive. This left large gaps at the top and bottom of the surround between the new materials and the existing wall, the approximate thickness of 2"x4" lumber. A large amount of white silicon was used at the top of the surround to attempt to seal this gap; however some wood was left exposed. This area also causes some pooling of water from the shower, and allows for water to penetrate between the new and old tub surround. Officer Anderson also observed that the new tub surround felt very pliable over most of its surface due to the void between the new and existing materials, and that this felt unsafe. Also due to much of the surface being very pliable, he observed that much of the silicon applied to seal the transition from the new materials to the old bathtub along the bottom of the tub surround had already become cracked and loose. As a result, he observed that water would likely easily penetrate in these areas. The corners of the new surround were also found to be sharp and already peeling off from the lumber to which the surround is attached. In his notes, Officer Anderson observed that "overall the new surround was not properly installed, is not of the proper dimensions to fit the space, not water tight or structurally sound, and poses a safety and health hazard".

Deficiencies of the By-law were noted and seventeen (17) photographs were taken. Items of Non-Conformity with the Property Standards By-law 2011-277 are as noted;

- 1) *Fail to maintain all plumbing, drain pipes and plumbing fixtures in every building and every connecting line to the sewage system in good working order and free from leaks and defects. Section 4.12(1)*
- 2) *Fail to provide, install and maintain all plumbing systems:*
 - a) *In compliance with the respective requirements of any applicable act or By-Law;*
 - b) *In good working order and good repair; and*
 - c) *In a safe condition. Section 4.12(3)*
- 3) *Fail to carry out repairs and maintenance of property with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned. Section 2.01(3)*

On October 9th, 2013, Officer Anderson 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 November 1, 2013. 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; 1277897 Ontario Ltd, 1016 Arthur Street, Unit 101, Sudbury, ON P3A 5N1. The Order was received by C. Sgouros on October 10, 2013, 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) *Replace the bathtub and surround with materials which are suitable for their intended purpose,*

properly installed, water tight, free from defects, structurally sound, easily cleaned, and provide a smooth and continuous surface.

On October 22, 2013, Officer Anderson received letter from 1277897 Ontario Limited requesting an appeal.

On December 19th, 2013, at approximately 1:00 pm, City of Greater Sudbury Building Official Jason Radley attended 634 Lasalle Blvd, apartment 201, Sudbury and conducted an inspection of the bathtub. As a result a report was sent to Officer Anderson by email outlining the following observations:

"I conducted my inspection on Thursday, December 19, 2013, where it was observed that the existing one-piece enamel tub/shower fixture, has been retrofitted with a new fibreglass surround. Based on my observations, it is my suggestion that this new surround does not adequately fit the existing tub. There are apparent gaps and lifting of the new surround where it has been attached to the existing tub curvatures and large amounts of caulking where capping should be applied. Refer to OBC Div. B Part 7.2.2.1.(1) - ***Except for the area designed to be slip proof in such fixtures, every exposed area of a fixture shall have a smooth, hard corrosion-resistant surface that is free from flaws and blemishes that may interfere with cleaning.***" (Email included)

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

1. 17 pictures dated October 8, 2013.
2. Copy of Roll Information - confirming property owner.
3. Copy of Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy, #453037 dated October 9, 2013.
4. Canada Post Tracking record RW 770 765 353 CA - Delivery Receipt for Order
5. Email containing report from Building Official Radley, dated December 30, 2013.
6. 6 pictures taken by Building Official Radley on December 19, 2013.
7. Letter from 1277897 Ontario Limited requesting Appeal of the Order, dated October 16, 2013.
8. CGS appeal confirmation letter.
9. CGS notice of hearing letter.

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, #453037, dated October 9, 2013, to ensure that the owner of the property of 634 Lasalle Blvd, complies with the maintenance and occupancy

standards as set out in the CGS By-law, 2011-277.

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2013/12/16

**Roll Information**

Roll No. 030.030.00300.0000 0

Address 634 LASALLE BLVD

Owners

1277897 ONTARIO LTD

Legal Description

MCKIM CON 6 LOT 3 RP

53R10099 PARTS 1 & 2 PIN

02171-0210

Mailing Address

1016 ARTHUR ST UNIT 101

OTHER

1.04AC 160.13FR D

SUDBURY ON

P3A5N1

Mortgage Code**Mortgage Acct#****Group Code****Tax Balance**

Tax Levied Penalty Adjustment Payment Balance

Projected Balance

Total Owing:

Assessments

WTX

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 OF
ALL PROPERTY**

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

Case # 453037

Date of Inspection: OCTOBER 8, 2013.

Time: 11:01 PM

By-Law No.: 2011-277

Municipal address or legal description of property

X Occupied

Unoccupied

APT 201 – 634 LASALLE BOULEVARD, SUDBURY, ON - MCKIM CON 6 LOT 3 RP 53R10099 PARTS 1 & 2

Name of owner and mailing address

1277897 ONTARIO LTD, 1016 ARTHUR ST UNIT 101, SUDBURY, ON P3A 5N1

DESCRIPTION OF NON-CONFORMITY

LOCATION

**BY-LAW
Reference**

- | | | | |
|----|---|-------------------|-------------------------------|
| 1) | Fail to maintain all plumbing, drain pipes and plumbing fixtures in every building and every connecting line to the sewage system in good working order and free from leaks and defects. | Bathroom, Apt 201 | 2011-277, Part 4, Ss 4.12 (1) |
| 2) | Fail to provide, install and maintain all plumbing systems:
a) In compliance with the respective requirements of any applicable act or By-Law;
b) In good working order and good repair; and
c) In a safe condition. | Bathroom, Apt 201 | 2011-277, Part 4, Ss 4.12 (3) |
| 3) | Fail to carry out repairs and maintenance of property with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned. | Bathroom, Apt 201 | 2011-277, Part 2, Ss 2.01 (3) |

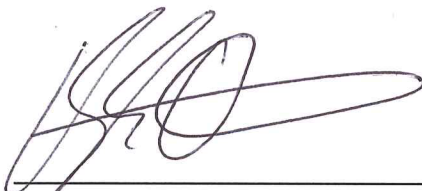
REQUIRED ACTION

- 1) Replace the bathtub and surround with materials which are suitable for their intended purpose, properly installed, water tight, free from defects, structurally sound, easily cleaned, and provide a smooth and continuous surface.

**There must be compliance with the terms and conditions of this order
before this date: November 1, 2013.**

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 **October 30, 2013**, and in the event that the order is not appealed, it shall be deemed to be confirmed. Subsection 15.3 (2).



Kyle Anderson
Property Standards Officer,
Municipal Law Enforcement Officer
705-674-4455 ext. 2510

Date Order Served: **October 9, 2013**

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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CANADA POST
POSTES CANADA

REGISTERED DOMESTIC

RECOMMANDÉ RÉGIME INTÉRIEUR

R

CUSTOMER RECEIPT

REÇU DU CLIENT

To

Destinataire

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Nom

Address

Adresse

City / Prov. / Postal Code

Ville / Prov. / Code postal

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CONFIRMATION
DE LA LIVRAISON

www.canadapost.ca
or/ou
www.postescanada.ca

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Valeur déclarée

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Numéro de repérage de la SCP

33-086-584 (11-04)



Date: 2014/01/06

Dear Sir or Madam:

Madame, Monsieur,

Please find below the scanned delivery date and signature of the recipient of the item identified below:

Vous trouverez ci-dessous la date de la livraison et la signature de la personne qui a accepté l'envoi sous mentionné:

Item Number

Numéro d'article

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Product Name

Nom de produit

Not Available/Non disponible

Reference Number 1

Numéro de référence 1

Not Applicable/Sans objet

Reference Number 2

Numéro de référence 2

Not Applicable/Sans objet

Delivery Date (yyyy/mm/dd)

Date de livraison (aaaa/mm/jj)

2013/10/10

Signatory Name

Nom du signataire

C SGOUROS

Signature

Signature

This item has been archived. To obtain signature information please contact Customer Service at 1-888-550-6333.

Cet article a été archivé. Afin d'obtenir les renseignements relatifs à la signature, veuillez communiquer avec le Service à la clientèle en composant le 1-888-550-6333.

Yours sincerely,

Salutations distinguées,

Customer Relationship Network
1-888-550-6333

(from outside of Canada 1 416 979-8822)

Réseau des relations avec la clientèle
1 888 550-6333

(de l'extérieur du Canada 1 416 979-8822)

This copy conforms to the delivery date and signature of the individual who accepted and signed for the item in question. This information has been extracted from the Canada Post data warehouse.

Cette copie est conforme à la date de livraison et à l'image de signature de la personne qui a accepté les envois susmentionnés. Ces informations ont été extraites de la banque de données de Postes Canada.

Kyle Anderson - Courtesy Site Inspection at 634 Lasalle Blvd - Unit 221

From: Jason Radley
To: Kyle Anderson
Date: 12/30/13 4:17 PM
Subject: Courtesy Site Inspection at 634 Lasalle Blvd - Unit 221
CC: Andre Guillot
Attachments: 634 Lasalle Unit 221.pdf; IMG-20131219-01051.jpg; IMG-20131219-01052.jpg; IMG-20131219-01054.jpg; IMG-20131219-01053.jpg; IMG-20131219-01056.jpg; IMG-20131219-01057.jpg

Good afternoon Kyle,

As directed by Manager of Inspections, Andre Guillot, I have conducted a courtesy site visit to 634 Lasalle Boulevard, Unit #221, as requested by yourself, regarding concerns that measures to improve the existing shower/tub fixture are not is good workmanship and may be unsafe.

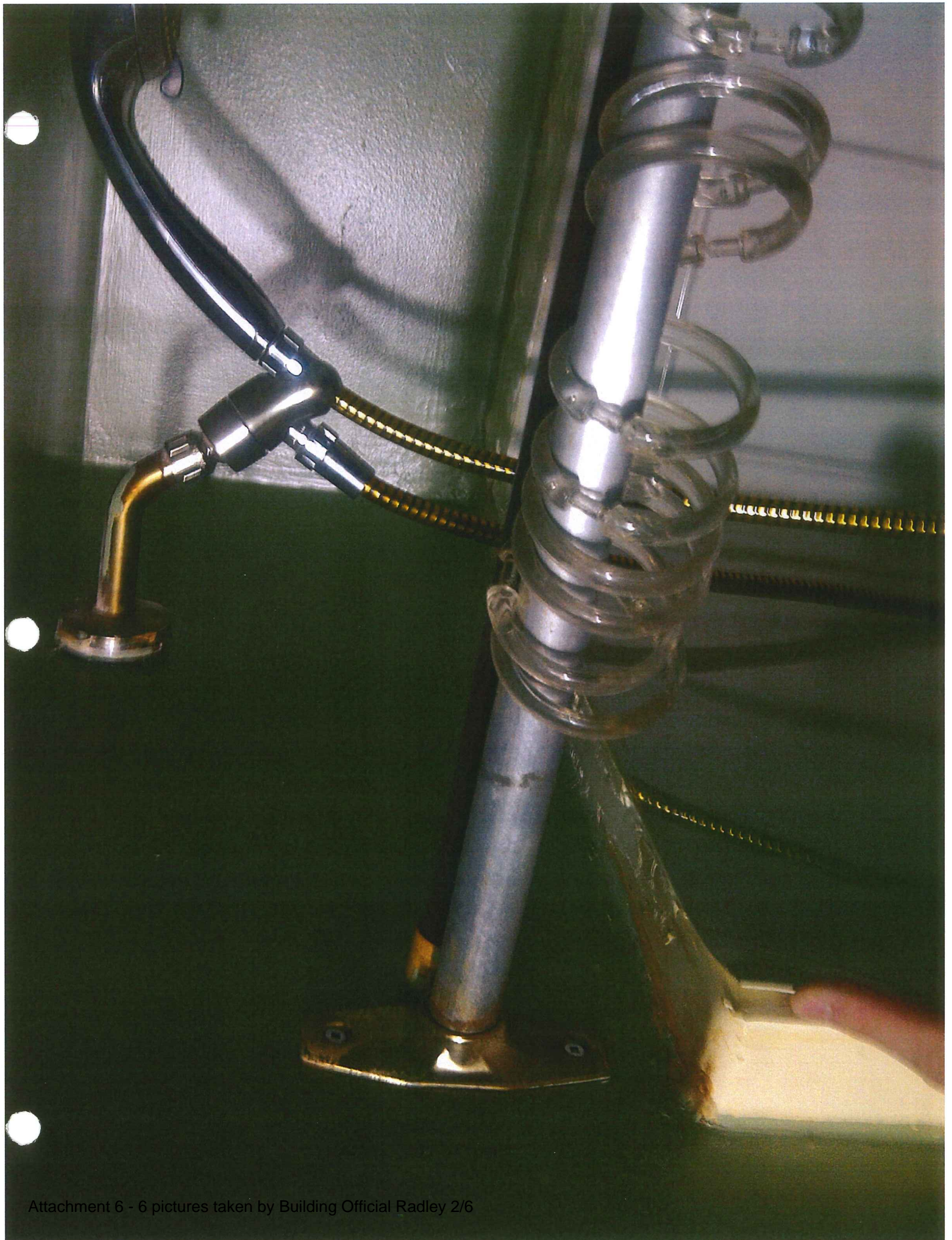
I conducted my inspection on Thursday, December 19, 2013, where it was observed that the existing one-piece enamel tub/shower fixture, has been retrofitted with a new fibreglass surround. Based on my observations, it is my suggestion that this new surround does not adequately fit the existing tub. There are apparent gaps and lifting of the new surround where it has been attached to the existing tub curvatures and large amounts of caulking where capping should be applied. Refer to OBC Div. B Part 7.2.2.1.(1) - ***Except for the area designed to be slip proof in such fixtures, every exposed area of a fixture shall have a smooth, hard corrosion-resistant surface that is free from flaws and blemishes that may interfere with cleaning.***

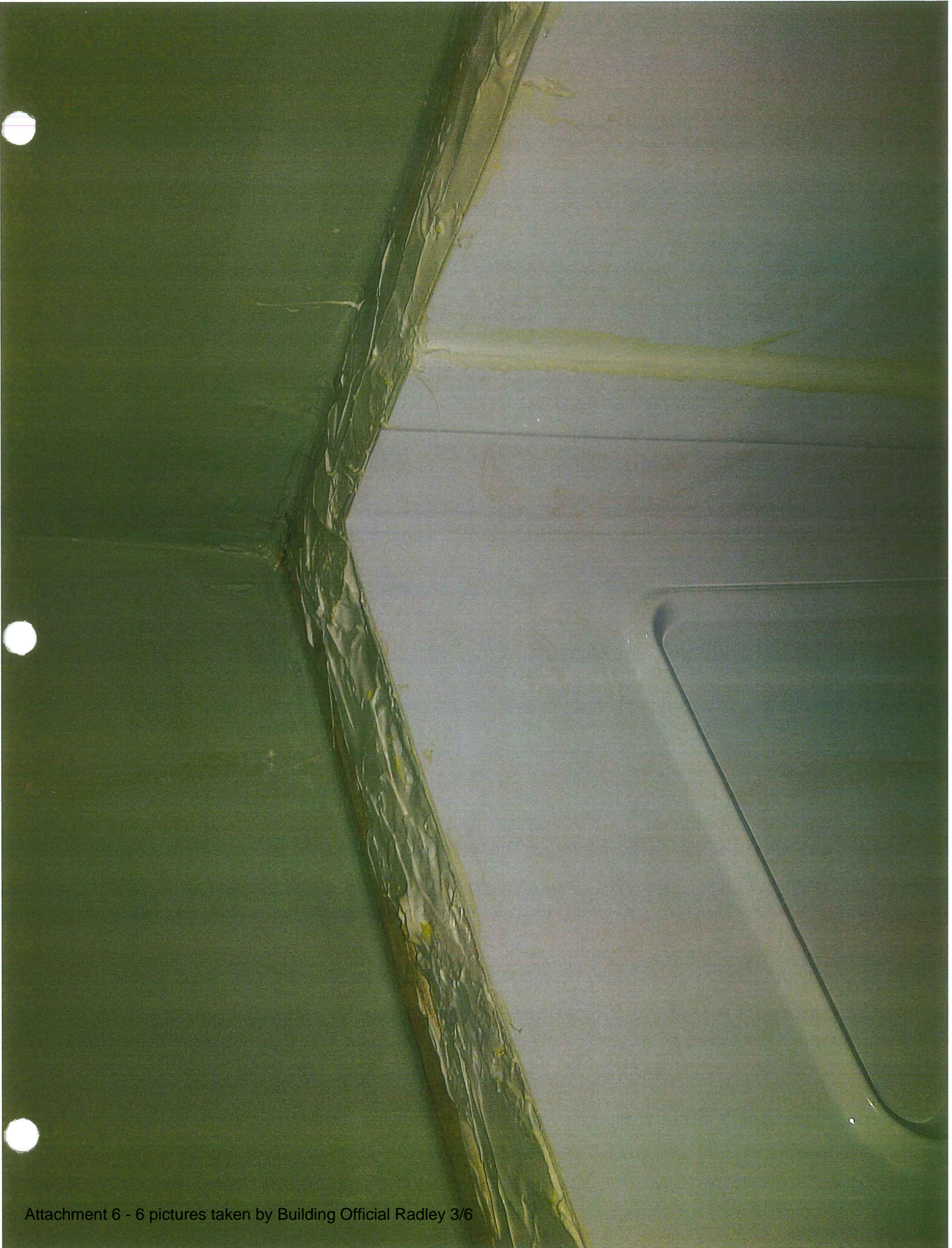
I trust this information should suffice, but should you have any others questions or concerns, please do not hesitate to contact me.

Regards,

Jason Radley
Building Inspector
City of Greater Sudbury
Growth & Development Department
tel: 705.674.4455 ext. 4320











Sent by registered mail

October 16, 2013

1277897 Ontario Limited
453 Lake Point Crt
Sudbury, ON
P3E 6J3

Greater Sudbury
200 Brady Street
Sudbury, ON
P3A 5P3

Attention: Secretary of Property Standards Committee

Dear Sir or Madam: Re: Order to remedy case No 453037
Apt. 201, 634 Lasalle Blvd, Sudbury

This is formal appeal to the described items included in above order to remedy, (copy enclosed).

We do not know why the request is made to change the bathtub, as there is nothing wrong with the bathtub.

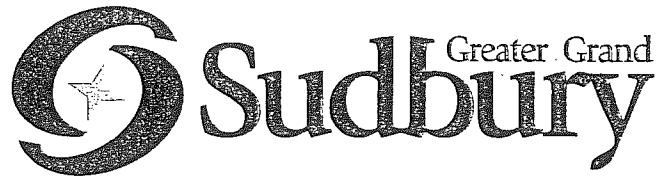
The bathtub surround is made of material that is manufactured and intended for that purpose and it is installed properly under existing conditions.

Copy of the picture is enclosed for the reference.

The above order is made maliciously by the inspector and has no merits.

Yours Truly

M. Hulec



October 23, 2013

1277897 Ontario Limited
453 Lake Point Court
Sudbury, ON P3E 6J3

Dear Sir:

Re: Appeal to Order to Comply – Apartment 201, 634 Lasalle Boulevard, Sudbury,
Case #453037

This will acknowledge receipt of your letter received October 22, 2013 appealing the Order to Remedy issued under the City of Greater Sudbury's Maintenance and Occupancy Standards By-law #2011-277.

The Hearing Committee of the City of Greater Sudbury has been appointed to hear Property Standards Appeals. You will be notified of the date and time of the hearing. Please bring any information you feel relevant in presenting your position to the Hearing Committee.

Please be advised that this hearing is a public process; the agenda will be made available on the City's website and the hearing is open to the public to attend.

If you have any concerns or require any further information, do not hesitate to contact the undersigned at 705-674-4455, ext. 2010.

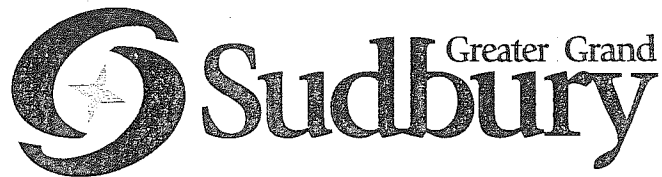
Yours truly,

A handwritten signature in cursive script, appearing to read 'Brigitte Sobush'.

Brigitte Sobush
Deputy City Clerk

cc: D. Barker, Manager of Compliance & Enforcement Services
K. Anderson, Property Standards Officer

City of Greater Sudbury
Vill. de Grand Sudbury



December 20, 2013

1277897 Ontario Limited
453 Lake Point Court
Sudbury, ON P3E 6J3

Dear Sir:

Re: Appeal to Order to Comply – Apartment 201, 634 Lasalle Boulevard,
Sudbury - Case # 453037

The Hearing Committee of the City of Greater Sudbury has been appointed to hear Property Standards Appeals. The Committee Meeting will begin at **4:30 p.m.** on **January 15, 2014** in Committee Room C-12 at Tom Davies Square. Please bring any information you feel relevant in presenting your position to the Hearing Committee.

I am enclosing a copy of the City of Greater Sudbury's Maintenance and Occupancy Standards By-law 2011-277, Part 4 - S4.12(1); Part 4 - S4.12(3) and Part 2 - S2.01(3), for your convenience. If you require any further information, do not hesitate to contact me at 674-4455, ext. 2010.

Yours truly,

A handwritten signature in cursive script, appearing to read 'Brigitte Sobush'.

Brigitte Sobush
Deputy City Clerk

/ec

Enclosure

cc: D. Barker, Manager of Compliance & Enforcement Services
K. Anderson, Property Standards Officer

4.11 LIGHTING

1. Every stairway, exterior exit and entrance doorway, bathroom, toilet room, kitchen, hall, cellar, basement, laundry, furnace room and non-habitable work room in a suite, dwelling unit or building shall have a permanently installed lighting fixture that shall be maintained in a safe condition and in good working order.
2. Lighting equipment shall be installed throughout every property to provide adequate illumination for the use of each space so as to provide safe passage.

4.12 PLUMBING

1. All plumbing, drain pipes, water pipes and plumbing fixtures in every building and every connecting line to the sewage system shall be maintained in good working order and free from leaks and defects.
2. All water pipes and appurtenances thereto shall be protected from freezing.
3. Plumbing systems on a property shall be provided, installed and maintained:
 - a) in compliance with the respective requirements of any applicable Act or Bylaw;
 - b) in good working order and good repair; and
 - c) in a safe condition.
4. All plumbing fixtures shall be connected to the sewage system through water seal traps.

4.13 WATER SUPPLY

1. Every dwelling and every building to which water is available under pressure through piping shall be provided with:
 - a. adequate supply of hot water with a temperature range from 60 to 73.8 Celsius or 140 to 165 degrees Fahrenheit shall be provided and maintained in all dwelling units; and
 - b. piping for hot and cold water connected to every kitchen fixture, every washbasin, bathtub, shower, sink and laundry area; and
 - c. piping for cold water connected to every toilet and hose bib.

- 35) "Visual barrier" – shall mean a continuous, uninterrupted structure and/or fence which completely blocks lines of sight when viewed perpendicularly from either of its sides and shall consist of one or more of the following materials: wood, stone, bricks, mortar, fabricated metal or other similarly solid material approved by the Property Standards Officer or Chief Building Official.
- 36) "Waste"- means any debris, rubbish, refuse, sewage, effluent, discard, or garbage of a type arising from a residence, belonging to or associated with a house or use of a house or residential property and/or from industrial or commercial operations, or belonging to or associated with industry or commerce or industrial or commercial property, which for greater certainty includes all garbage, discarded material or things, broken or dismantled things, and materials or things exposed to the elements, deteriorating or decaying on a property due to exposure or the weather
- 37) "Yard" means the land other than publicly owned land around or appurtenant to the whole or any part of a residential or non-residential property and used or capable of being used in connection with the property.

PART 2
GENERAL STANDARDS FOR ALL PROPERTY AND USES

2.01 SCOPE

1. No person, being the owner or occupant of a property, shall fail to maintain the property in conformity with the standards required in this Bylaw.

2. The owner of any property which does not conform to the standards in this Bylaw shall repair and maintain the property to conform to the standards or shall clear the property of all buildings, structures, garbage, rubbish, waste or accumulations of such materials that prevent access to or exit from the property in the case of emergency, or other safety or health hazard and shall leave the property in a graded and leveled condition.
3. All repairs and maintenance of property shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned.
4. All new construction or extensive repairs shall conform to the Ontario Building Code, where applicable.
5. This by-law does not apply so as to prevent a farm, meeting the definition of "agricultural operation" under the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c. 1, from carrying out a normal farm practice as provided for and defined under that Act.

2.02 GARBAGE RECEPTACLES

1. Every building shall be provided with sufficient proper receptacles to contain all garbage, ashes or waste, which accumulates on the property, and such materials
 - a. shall be placed for collection in proper receptacles in compliance with the City's waste collection by-laws; and
 - b. not allowed to accumulate for longer than fourteen (14) days.
2. Receptacles for garbage shall be:
 - a. made of watertight construction;
 - b. provided with a tight fitting cover, which may be removed only when the receptacle is empty or is being actively loaded;
 - c. maintained in good condition without holes or spillage; and
 - d. closed, or emptied, rinsed and cleaned when not in use, to prevent the escape of offensive odour or waste.