

Request for Decision

Appeal of Order to Remedy - 40 Mountain Ave., Levack

Presented To:	Hearing Committee
Presented:	Wednesday, Jul 03, 2013
Report Date	Wednesday, Jun 26, 2013
Type:	Public Hearings

Recommendation

THAT the City of Greater Sudbury uphold the Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy #412705 issued to Eva and Arthur Embrack, owners of 40 Mountain Avenue, Levack.

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 Gregory Bergeron

On 23 October 2012, Municipal Law Enforcement Officer Bergeron received a complaint in relation to 40 Mountain Avenue, Levack, claiming that there were electrical issues, holes in walls and that the garage was not structurally sound.

Signed By

Report Prepared By

Darlene Barker
Manager of Compliance and
Enforcement
Digitally Signed Jun 26, 13

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official
Digitally Signed Jun 26, 13

Recommended by the Department

Bill Lautenbach
General Manager of Growth and
Development
Digitally Signed Jun 26, 13

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jun 26, 13

On 25 October 2012, Officer Bergeron left a message for the complainant.

On 14 November 2012, the Officer attended 40 Mountain Avenue for the purpose of inspection.

During the inspection of the garage, the Officer observed that the exposed roof trusses overhanging the side walls were in an advanced state of decay. He also observed that the trusses were notched.

The wooden fascia boards were also bowed and rotting. The roof itself was also obviously warped.

Based on his observations, the Officer submitted an Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy as per sections 3.01, 3.03 and 3.07 of the City of Greater Sudbury Property Standards By-Law 2011-277:

1. *“Every part of a building or structure on a property shall be maintained in good repair and in a structurally sound condition so as:*
 - a. *to be capable of sustaining safely its own weight, and any additional load to which it may normally be subjected;*
 - b. *to be capable of safely accommodating all normal structural movements without damage, decay or deterioration;”*
2. *“All exterior walls and surfaces of every building or structure shall be:*
 - b. *free from cracked or broken masonry units, defective or deteriorated wood or metal siding or trim, cracked, broken or loose stucco, loose or unsecured objects;”*
3. *“Every roof and all of its components shall be maintained in good repair and in a safe and structurally sound condition.”*

The Order included the following repairs to be conducted to be in compliance with the By-Law.

“Demolish garage or conduct necessary repairs to garage roof to be in good repair and in a structurally sound condition, free from deteriorated wood.”

The compliance date on the Order was set to 6 December 2012.

On 6 December 2012, Officer Bergeron received notice that The Order to Remedy had been appealed on the grounds that there were no problems with the garage roof.

On 15 February 2013, Officer Bergeron returned to the property as a matter of follow up. His inspection revealed that repairs to the roof had not been completed. He noted that the property was vacant, for sale, and that the garage roof was heavily snow covered.

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

1. 9 pictures dated 14 November 2012.
2. Copies of the tax roll Information - confirming the property owners.
3. Copy of Order to Remedy Non-Conformity with Standards for Maintenance and Occupancy, #412705 dated 15 November 2012.
4. Letter of appeal from Peter L. McMullen, C.A., LL.B.
5. CGS appeal confirmation letter.
6. CGS appeal date letter.
7. 6 pictures dated 15 February 2013.

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, #412705, dated 15 November 2012, to ensure that the owners of the property of 40 Mountain Avenue, Levack, comply with the maintenance and occupancy standards as set out in the CGS By-law, 2011-277.