

Appendix A
Property Standards Appeal Committee Report
91 Logan Street, Sudbury ON- ACR 726860
Prepared by Tina Whitteker

On June 27, 2016, the City of Greater Sudbury Compliance and Enforcement Division received a complaint that the retaining wall was falling down between the properties 91 Logan St. and 93 Logan St., Sudbury. Cases #726860 and #721014 were generated and assigned to the area By-law Officer Tina Whitteker for inspection and enforcement follow-up.

On August 16, 2016, Officer Whitteker attended to the properties 91 Logan St., and 93 Logan St. and conducted an inspection of the retaining wall. During the inspection Officer Whitteker observed and took photographs of the retaining wall in poor repair between the properties and witnessed the fence in that area on 93 Logan St. was falling as well. Then spoke with [REDACTED], the owner of 93 Logan St. and [REDACTED] stated that [REDACTED] did not have a survey. As a result, Officer Whitteker advised that, with the wall spanning down what is believed to be the property line, both parties would have to share in the repair of the wall.

The owner of 91 Logan rented the property and physically resided in the neighboring property at 89 Logan St. [REDACTED] spoke with the owner, [REDACTED], who pointed out a survey pin from the rear and one [REDACTED] thought to be the front pin of the property, which showed that the retaining wall may in fact be located on 93 Logan St. property. As there was contest by [REDACTED], owner of 93 Logan St, on whether the pin in the front was in fact a survey pin, later there was an agreement between property owners that a survey from the owner of 91 Logan would be shared to identify the actual property boundaries.

Working with the [REDACTED] of the property owner, [REDACTED], over the course of August 2016, Officer Whitteker maintained communication about the possible existence of a survey that would assist in confirming the ownership of the retaining wall. On August 23, 2016, the [REDACTED] of the property owner confirmed possession of a survey. Officer called back same day and spoke to [REDACTED] that since there is a dispute regarding the lot line from the neighbor, will send Order to both as per our current procedure. Provided update that fence will be also included in Order on adjacent property, 93 Logan as issue noted prior.

On August 26, 2016 an Order to Remedy was issued to both owners of 91 and 93 Logan in hopes to support resolve the matter. The Order to Remedy issued to both parties outlined the description of non-conformity as per Section s.2.10(1) *"All retaining walls, screen walls and ornamental walls shall be constructed of durable material and shall be maintained in a structurally sound condition"*. The required action outlined as *"Repair/replace the retaining wall along the north* (south)** side of your property and ensure constructed of durable material and maintained in structurally sound condition."*

*Order to Remedy, north side, issued to 91 Logan

**Order to Remedy, south side, issued to 93 Logan.

This Order to 93 Logan also included repair or removal of the fence, which will be completed once settlement of retaining wall with Appeal.

On September 7, 2016, the owner, [REDACTED] of 93 Logan attended the Bylaw Office to request an Appeal of the Order to Remedy. As there was discussion on whether a survey was in existence to support ownership of the retaining wall, the Officer obtained agreement from the property owners that the matter would not be immediately referred to the Hearing Committee.

On November 17, 2017 it was noted that the owner, [REDACTED] of 91 Logan did obtain a survey and that it was believed the survey concluded that the retaining wall was located on the neighbour's property of 93 Logan.

On November 23, 2016 a physical review of the survey concluded that it was very close to/on the property line and in the center the wall has shifted and has fallen/leaning into her property at 91 Logan. A photograph was taken by Officer Whitteker. The issue was discussed with the owner of 91 Logan where final determination was made to proceed to Committee Appeal.

January 25, 2017 in afternoon, Mark Huneault, Lawyer from Weaver Simmons stated he was inquiring for the owner of 91 Logan and once Officer explained that if on property line both could be responsible and appeal to be heard, he stated that he may be sending letter to adjacent owner at 93 Logan to inform that it is to their benefit to repair the wall which is holding up their garage.

Thereafter the owner, [REDACTED] of 93 Logan contacted Officer Whitteker by phone on February 1, 2017 to discuss the letter received by [REDACTED] lawyer regarding the matter. [REDACTED] a [REDACTED] indicated [REDACTED] did not care about the garage and perhaps would have it knocked down and have slope installed as the letter from the lawyer indicated. At this point in time, Officer Whitteker advised that she would postpone the file as it appeared there was still willingness for cooperation and for there to be compliance.

Through February and March significant efforts were made by Officer Whitteker to mediate the dispute in hopes to achieve a resolution where both property owners would be in support of and where costs could possibly be shared. With talks breaking down with the owner of 93 Logan in March, the Officer provided for more time to support resolution.

As there was no clear resolution to the matter between both properties, and in receipt of correspondence on June 29, 2017 from the Lawyer representing the owner, [REDACTED] of 91 Logan where there was a claim that that they are not responsible for the repair but would like it to be repaired in a timely manner by the owner of 93 Logan, the matter was deferred to final resolution at the Hearing Committee level. Hearing Committee date confirmed for October 25, 2017 for resolution.