

## Request for Decision

### Order to Remedy Appeal, ACR 729525 - 633 Lavoie St., Sudbury

Presented To:	Hearing Committee
Presented:	Wednesday, Apr 05, 2017
Report Date	Monday, Mar 13, 2017
Type:	Public Hearings

### Resolution

THAT the City of Greater Sudbury upholds Property Standards Order to Remedy ACR 729525 issued to the owner of 633 Lavoie Street, City of Greater Sudbury.

### Finance Implications

No financial implications

### Background

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.

The facts and evidence supporting the order are attached as appendices to this report.

### 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

#### Signed By

##### **Report Prepared By**

Brendan Adair  
Manager of Security and By-Law  
*Digitally Signed Mar 13, 17*

##### **Division Review**

Caroline Hallsworth  
Executive Director, Legislative  
Services/City Clerk  
*Digitally Signed Mar 14, 17*

##### **Recommended by the Department**

Kevin Fowke  
General Manager of Corporate  
Services  
*Digitally Signed Mar 21, 17*

##### **Recommended by the C.A.O.**

Ed Archer  
Chief Administrative Officer  
*Digitally Signed Mar 21, 17*

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, #729525 dated September 22, 2016, to ensure that the owner of the property of 633 Lavoie St, complies with the maintenance and occupancy standards as set out in the CGS By-law, 2011-277.



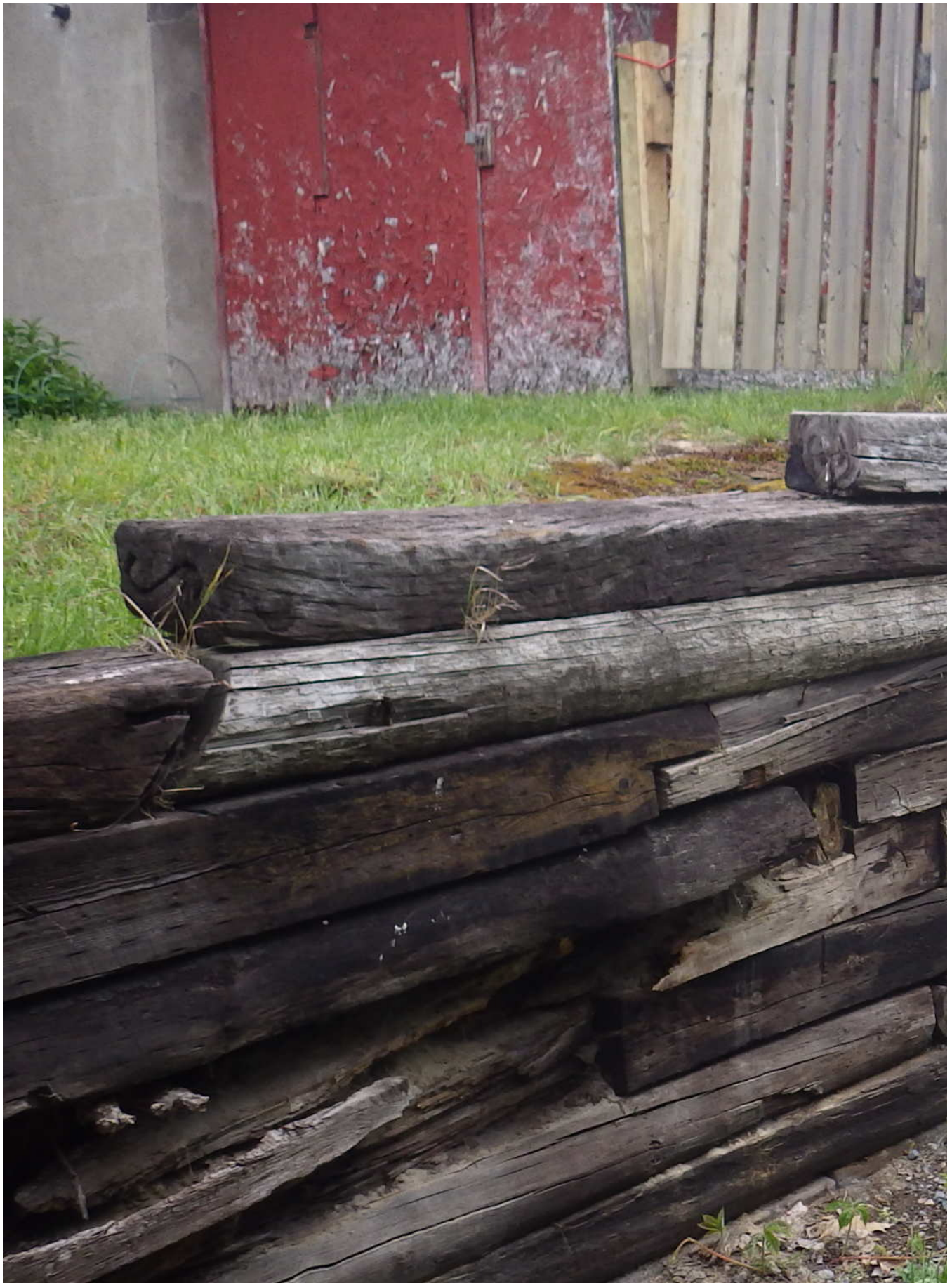














PO BOX 5000 STN A

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 # 729525

Date of Inspection: September 16, 2016		Time: 9:30 AM	By-Law No.: 2011-277
Municipal address or legal description of property		X Occupied    Unoccupied	
633 LAVOIE ST, SUDBURY, ON - MCKIM CON 6 LOT 3 PCL 13514 RP 53R5044 PART 2 PIN 02171-0203			
Name of owner and mailing address			
[REDACTED]			
DESCRIPTION OF NON-CONFORMITY		LOCATION	BY-LAW Reference
1)	Owner, fail to ensure that all retaining walls, screen walls and ornamental walls are constructed of durable materials and maintained in a structurally sound condition.	Back yard.	By-Law 2011-77, Part 2, Ss 2.10(1)
REQUIRED ACTION			
1) Remove and replace the retaining wall located in back yard at the south side of the property along the lot line shared with 1198 Rideau St.			
There must be compliance with the terms and conditions of this order before this date: <b>NOVEMBER 4<sup>TH</sup>, 2016.</b>			

**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 12<sup>TH</sup>, 2016**, 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: **SEPTEMBER 22, 2016.**



**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.

CANADA POSTES POSTES CANADA		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R						
To Name	Destinataire Nom	<table border="1"><thead><tr><th>FOR DELIVERY CONFIRMATION</th><th>CONFIRMATION DE LA LIVRAISON</th></tr></thead><tbody><tr><td colspan="2"><a href="http://www.canadapost.ca">www.canadapost.ca</a> or/ou <a href="http://www.postescanada.ca">www.postescanada.ca</a></td></tr><tr><td colspan="2">1 888 550-6333</td></tr></tbody></table>			FOR DELIVERY CONFIRMATION	CONFIRMATION DE LA LIVRAISON	<a href="http://www.canadapost.ca">www.canadapost.ca</a> or/ou <a href="http://www.postescanada.ca">www.postescanada.ca</a>		1 888 550-6333	
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1 888 550-6333										
Address	Adresse									
City / Prov. / Postal Code	Ville / Prov. / Code postal	CPC Tracking Number    Numéro de repérage de la SCP <b>RN 189 369 675 CA</b>								
Declared Value Valeur déclarée	\$	33-086-584 (14-06)								

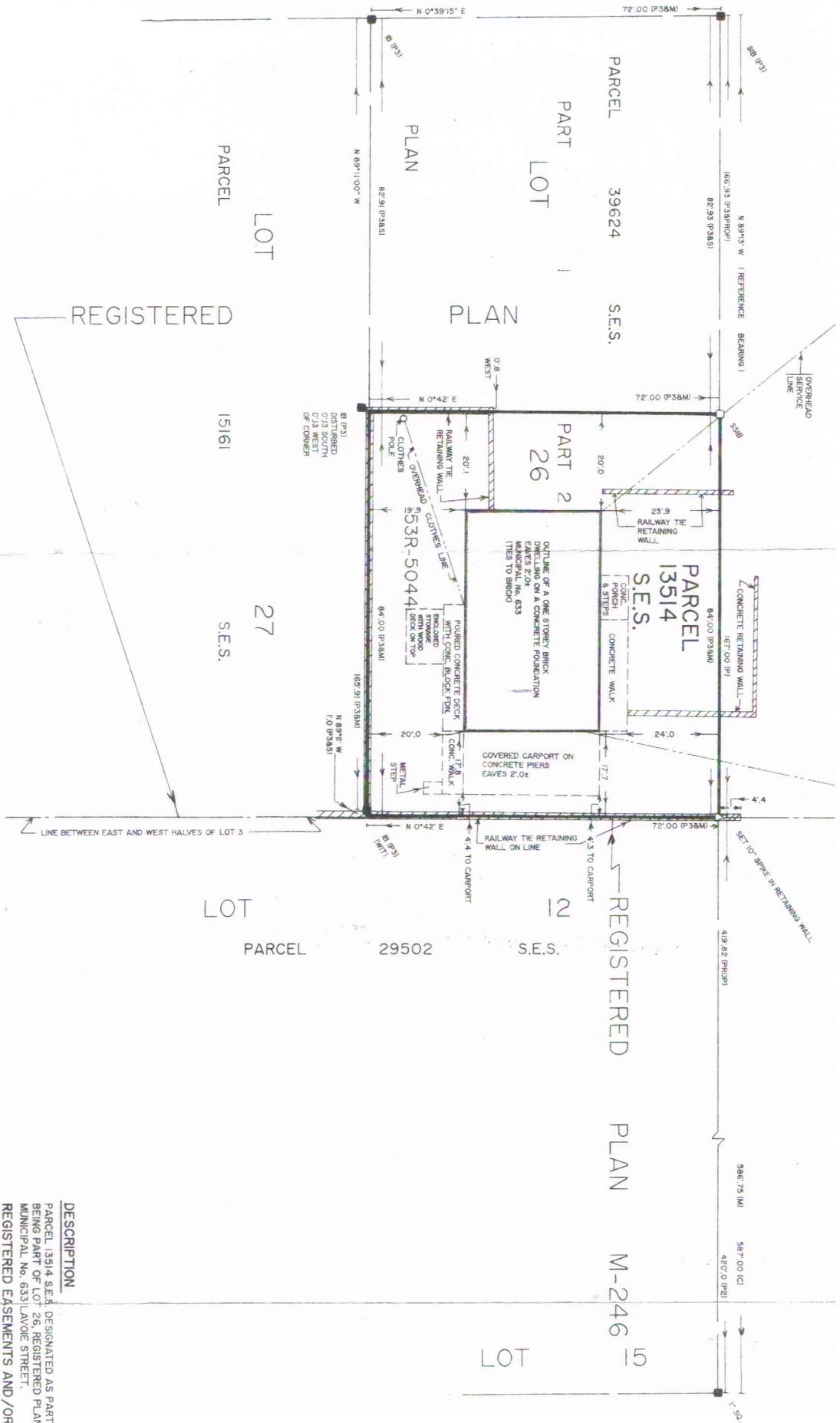
**Property Standards Appeal Committee Report  
633 Lavoie St, Sudbury, ON – ACR 729525  
Prepared by Kyle Anderson**

On September 16, 2016, at 0930 Officer Anderson attended the property at 1198 Rideau St in Sudbury for an inspection. Present at that time were the property owner of 1198 Rideau St [REDACTED] Councillor Kirwan, Brendan Adair, Melissa Laalo and Andre Guillot. He observed a retaining wall located along side lot line shared with 1198 Rideau St. The wall is constructed of wood rail road ties and was observed to be in a state of disrepair. The top of the wall was observed to be leaning out beyond the bottom of the wall and as such, the wall is no longer plumb. Loose and decayed sections were also observed.

A property survey of the property at 633 Lavoie St was received by Officer Anderson from the owner of that address. The survey indicates that the section of the retaining wall running east to west, being the same section of wall that is in a state of disrepair, is located on the lot line shared by 1198 Rideau St and 633 Lavoie St. At the time of the inspection [REDACTED] indicated that [REDACTED] did not believe [REDACTED] had any responsibility for the wall at that it is solely owned by the abutting property owner. [REDACTED] further indicated that there is a property marker/pin in the ground next to the wall that shows the wall is not on [REDACTED] property. Officer Anderson noted based on a review of the survey obtained by the abutting property owner that the pin brought to attention by [REDACTED] may have been disturbed. At that time, Mr. Guillot also indicated that for safety reasons there should be some temporary shoring installed to keep the wall from falling.

Based on the information contained within the survey and on his observation while on site Officer Anderson issued Orders to Remedy to both property owners requiring that the wall be removed and replaced. The date of compliance was set to November 4, 2016.

(FORMERLY EMM STREET)  
(REGISTERED PLAN M-190)



## DESCRIPTION

PARCEL 13514 S.E. DESIGNATED AS PART  
BEING PART OF LOT 26, REGISTERED PLAN  
MUNICIPAL No. 633 LAYOIE STREET.

REGISTERED EASEMENTS AND/OR

THERE ARE NO REGISTERED EASEMENTS O

## ENCROACHMENTS

THERE ARE NO ENCROACHMENTS OF OTHE  
PARCEL 13514 S.E.S.

## COMPLIANCE WITH MUNICIPAL ZONING

NOT CERTIFIED BY THIS REPORT.



# PAQUETTE, CAMPBELL & LALANDE

BARRISTERS AND SOLICITORS  
AVOCATS, NOTAIRES ET PROCUREURS

NORMAN N. PAQUETTE, B.A., LL.B.

NEIL J. CAMPBELL, LL.B.

RANDALL W. LALANDE, B.A., LL.B.

218 LASALLE BLVD, AT NOTRE-DAME,  
**SUDBURY, ONTARIO.**

TELEPHONE: 560-2121

HANMER OFFICE,  
VALLEY PLAZA CENTRE,  
P. O. BOX 639,  
**HANMER, ONTARIO**  
TELEPHONE: 969-5820

IN REPLY, PLEASE REFER TO **Randall W. Lalande**  
**Sudbury Office**

June 26th, 1978

██████████  
633 Lavoie Street  
SUDBURY, Ontario  
P3A 2B6

Dear Sir:

RE: ██████████

1198 Rideau Street  
SUDBURY, Ontario

Please be advised that we are solicitors for ██████████ and as you are aware ██████████ occupies the residence partially situate behind your property.

██████████ advises that ██████████ has been having problems relating to the escape of water from your premises onto ██████████ property which is unfortunately four or five feet lower than yours.

Apparently there are eavestroughs extending from the edge of your carport in an L-shape around the back of ██████████'s home. In addition there is an eavestrough extending from the opposite corner of your house which as well leads into an area where water obviously escapes and funnels down onto ██████████'s property.

The problem is rather substantial in that the water in the spring and winter months freezes and causes damage to the pavement of the driveway. In addition the quantity of water causes flooding into ██████████'s basement which of course is very aggravating and costly.

.../2

June 26th, 1978

It would appear that without too much expense the matter can easily be corrected and the water can be directed to the ditch area in front of your property rather than to the rear of the property. [REDACTED] advises that [REDACTED] has attempted to indicate to you that [REDACTED] does have this problem however [REDACTED] has been unsuccessful in arranging something suitable to correct the situation. You will also note that the tile wall located in back of your property somewhat extends onto [REDACTED]'s property. [REDACTED] has no objection to this although legally [REDACTED] probably could urge you to move the wall and suffer this expense.

Please be advised that insofar as the law is concerned you are not entitled to use property as you wish. In fact if the use of your land causes water or any other substance to escape and this results in damage to the property of a neighbour then you will be answerable for all of the damage which is the natural consequence of the water's escape.

[REDACTED] does not wish to pursue the matter of damages at this stage. We would expect you to cooperate and to correct the existing situation without the necessity of costs and possibly civil litigation. I have advised [REDACTED] to await the expiry of 14 days from your receipt of this letter prior to becoming further involved with the matter.

If you correct the situation then the matter of course will be at an end. If you wish to dispute the situation then I would appreciate being contacted by your lawyer forthwith.

Y  
Yours very truly,

PAQUETTE, CAMPBELL & LALANDE

Randall W. Lalande

RWL/pp  
c.c. - [REDACTED]

1198 Rideau Street  
SUDBURY, Ontario  
P3A 3A4