

## Request for Decision

**Order to Remedy Appeal, ACR 729974 - 946  
Martindale Rd., Sudbury**

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

### Resolution

THAT the Property Standards Order to Remedy issued by By-Law Enforcement Officer Stephen HOLT to the owner of 946 Martindale Rd City of Greater Sudbury, be upheld.

### 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.

Facts and evidence support the order are attached in the appended documents.

### 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, #729974 dated February 8, 2017, to ensure that the owner of the property of 946 Martindale Rd, 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

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

		Case #729974
Date of Inspection: January 25, 2017	Time: 1115hrs	By-Law No.: 2011-277
Municipal address or legal description of property <span style="float: right;">Occupied X Unoccupied</span>		
946 Martindale Road Sudbury, ON		
Name of owner/occupant and mailing address		
<b>DESCRIPTION OF NON-CONFORMITY</b>	<b>LOCATION</b>	<b>BY-LAW REFERENCE</b>
All foundation walls...shall be maintained in good repair and structurally sound.	Foundation walls	3.02(1)
<b>REQUIRED ACTION</b>		
Foundation walls are buckling outwards, they do not appear to be structurally sound. A signed report from a Structural Engineer must be produced to prove foundation walls are structurally sound. If walls are repaired they must be repaired to ensure it is structurally sound and a report from a Structural Engineer must be produced indicating wall is structurally sound after any repairs.		
<input type="checkbox"/> Emergency Order - above work to be carried out immediately to terminate danger. Subsection 15.7 (1)		
<b>There must be compliance with the terms and conditions of this order before this date <u>February 23, 2017</u></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 February 22, 2017 (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).

Stephen Holt  
Property Standards Officer  
705 674-4455 ext 4322

Date Order Served: February 8, 2017

**DISTRIBUTION OF ORDER TO REMEDY\*** - The persons affected by it as the officer determines are

**REGISTRATION OF ORDER** - Where a copy of this order is acquired by any person acquiring any interest in the land, subsequent to the order on the day on which the order was served.

**OFFENCE** - A person is guilty of an offence if the person is found under the Building Code Act, 1992. A person who is found guilty of a first offence and to a fine of not more than \$50,

**REGISTERED DOMESTIC**  
CUSTOMER RECEIPT

**RECOMMANDÉ RÉGIME INTÉRIEUR**  
REÇU DU CLIENT

<p><b>À</b></p> <p>Name / Nom</p> <p>Address / Adresse</p> <p>City / Prov. / Postal Code / Ville / Prov. / Code postal</p> <p>Declared Value / Valeur déclarée \$</p>	<p><b>DESTINATAIRE</b></p> <p>Nom</p> <p>Adresse</p> <p>Ville / Prov. / Code postal</p> <p>1 888 550-6333</p> <p>RN 213 231 723 CA</p>
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FOR DELIVERY CONFIRMATION  
www.canadapost.ca or/ou

CONFIRMATION DE LA LIVRAISON  
www.postescanada.ca

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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**Appendix A**  
**Property Standards Appeal Committee Report**  
**946 Martindale Rd Sudbury, ON ACR #729974**  
**Prepared by Stephen HOLT**

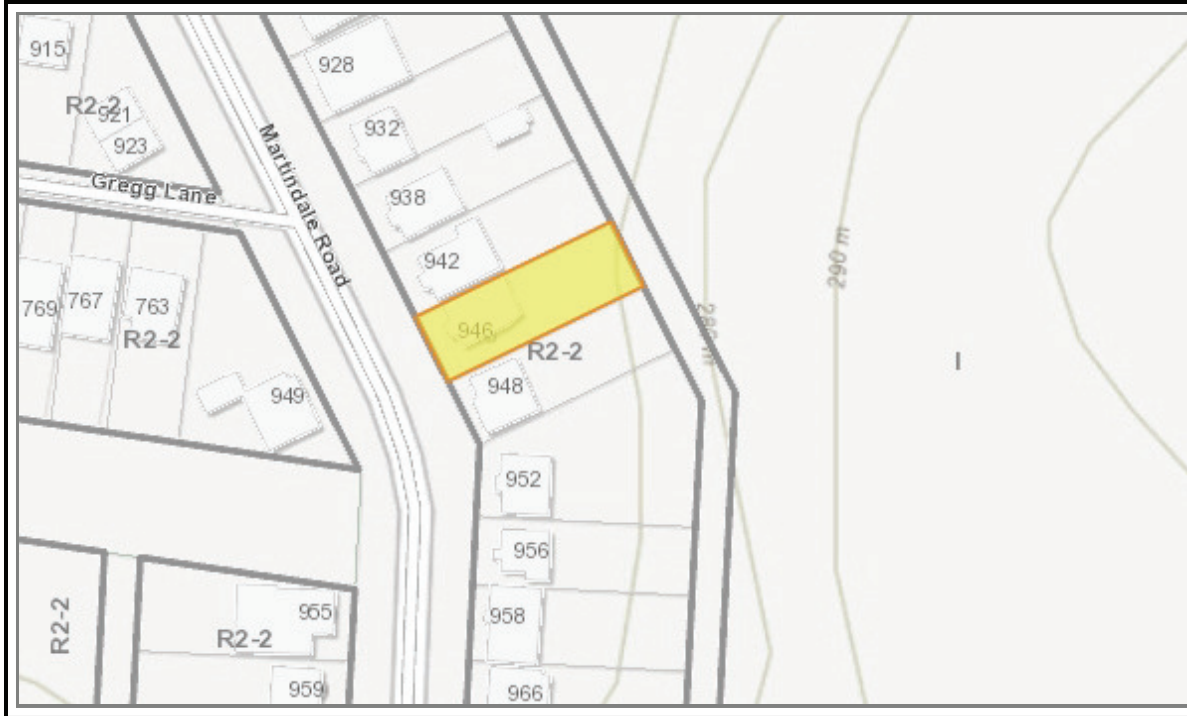
On January 25, 2017 at 1115hrs Officer HOLT attended the property at 946 Martindale Rd in Sudbury for an inspection of the condition of the building at this location. Also inspecting was Andre GUILLOT Manager of Building Inspection Services.

The foundation walls of the property were noticeably bowed out and appeared in need of repair. It was the opinion of Mr GUILLOT that the foundation was not structurally sound and needed extensive repair to make the foundation safe. It was the opinion of Mr GUILLOT that, due to the extensive nature of the damage and the structural integrity of the building being in question, a signed report by a Structural Engineer should be produced attesting the foundation is structurally sound, or, following repairs, has been made structurally sound.

Based on the inspection and Mr GUILLOT's opinion Officer HOLT issued an Order to Remedy requiring a signed engineer's report be produced attesting the foundation at 946 Martindale Rd is structurally safe or the foundation walls be repaired and a signed engineer's report be produced attesting the foundation was made structurally sound following repairs.

Following the issuing of the Order to Remedy, the homeowner of 946 Martindale Rd submitted two handwritten letters to Officer HOLT agreeing that the foundation walls are buckling and in need of repair. The property owner then submitted an Appeal to the Order to Remedy.

# CGS Parcel Detail Report



## Parcel Details

Roll : 530705001900900

Local Address : 946 MARTINDALE RD

Mailing Address :

Owner 1 :

Owner 2 :

Owner 3 :

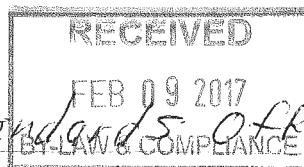
**Not for Distribution**

**Legal Description :**

*MCKIM CON 2 LOT 7 PLAN M99 LOT 479 PCL 11912 REG 4800.00SF 40.00FR 120.00D*

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To Stephen Holt - Property Standards Officer

I am aware that My Foundation Walls are Buckling and I don't need a Structural Engineer to tell me what I already know and I know They need repairs. I agree the Municipality should carry out the Repairs but not at my expense because the structural damage was cause when they were blasting Corsi Hill to build a new subdivision. I believe the Municipality should pay For The damages caused to my house ~~because~~ because the Blasting over a period of several years caused the damage. I complained to The City, and so did some of my neighbours but nothing was done about it. Some residents had articles written in the Local Newspaper addressing their concerns and were considering putting in a class action Law Suit against the city. I didn't hear any more about that but it might be time to re-open the case because I know several of my neighbours that spent tens of thousands of dollars repairing their foundation. A class action Law Suit could cost the city millions of dollars because there was probably 100 homes that were damaged by the blasting. There was over twenty thousand dollars damage to my house alone. That is just an estimate based on the amount that some of my neighbours paid to fix the damages. Some of my neighbours covered up the damage by putting siding on their house, then sold it and the new owners were stuck paying for the damages when their basement started to buckle. The City is responsible for ~~the~~ creating damages caused by Blasting.

See other side of sheet



To City Council + Greater Sudbury Property Standards Office.

About 10-15 years ago during The Blasting of Cersi Hill To Build a New Subdivision The extensive Blasting caused a Lot of Damage To many homes around Kelly Lake Road, Copper Street and Martindale Road. Many complaint were addressed To Members Of City Council and The Staff at City Hall. Many Residents were asking For Financial Compensation For The damages and To my knowledge Nobody Received any money for damages. Some Residence asked For The Blasting To Stop but were Told The Subdivision On Cersi Hill had To Be Built to Produce Tax Revenue For The City. Since The Subdivision is over 10 years Old Now and The City Received over 10 million dollars In Property tax revenue From The Residents Living on Cersi Hill, The City Should use some of That money To pay For The damages caused To The Homes at The bottom of Hill. Damages To my House caused by The Blasting are probably more than \$20,000. My next door neighbour paid That amount to Fix The structural damage to his house a couple of years ago. and my other neighbour said she gets water in her basement because of the cracks in the Foundation. I also get water In my basement In The Spring When The snow melts, because of Cracks in the Foundation. I can be reached at [REDACTED] around 130 pm most days. [REDACTED]

946 Martindale Road  
Sudbury Ont.  
[REDACTED]

see other side of sheet.

RECEIVED

FEB 15 2017

BY-LAW &amp; COMPLIANCE

To Stephen Helt - Property Standards Officer, [Case # 729974]

During the Blasting on Corsi Hill To Build a New Subdivision The Blasting Caused some degree of Structural Damage To almost every house within a mile radius of the Blasting area. I could feel The Ground Shake when I was at Tim Hortons on The Corner of Martindale and Regent. Some homes only had minor cracks to the foundation and others had more serious problems. The house 3 houses from mine going up the hill got Shaken badly. The owner whose Name is [REDACTED] was Fed up with the damage and sold The House for \$70,000 which is basically The price of the lot. The new owner spent about \$100,000 approximately To fix all the damages and Then sold it Himself To someone else. My next door neighbour [REDACTED] Had The same problem. [REDACTED] bought [REDACTED] House About 7 years ago which was repaired by someone that had the house before [REDACTED] and it cost the previous owner about \$50,000 To repair the damage caused by the Blasting and it cost [REDACTED] an additional \$20,000 To fix other structural damage which [REDACTED] noticed Later which was hidden under the Wall Panelling. There are many more home owners in the neighbourhood that had similar problems along Martindale Road and surrounding Streets. I Fixed the Buckling on the driveway side of my house with Steel Bars on the Outside and two by fours On the inside about 10 years ago. The Buckling did not get any worse Since then. There are also about 100 two by fours between the walls of a finished Basement Apartment Holding Up The House. A Friend who worked in House Construction said the House Is Reasonably safe unless there was more Blasting or an earthquake. Had No Problems In Last 10 years.

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Page (4)

By-Law No 2011-277 By-Law Reference 3.02(i)

Also Around 2000 → 2004 The Blasting On Corsi Hill did damage ~~to~~ the street, sidewalk and driveways and retaining walls as well as the homes. I brought these Issues Up with DeAngelo (a city official) and McIntaggart (the alderman). DeAngelo was able to get the street repaired and McIntaggart was able to get the sidewalks repaired. Some retaining walls were repaired and some driveways were partly repaired but I don't know anybody that got their House repaired. I don't believe that a structural engineer would say that most homes at the bottom of Corsi Hill are 100% Structurally sound after they were exposed to continual Blasting for several years. I can't predict the future but in the last 10 years since the Blasting Stopped and since I did some reinforcements to the foundation, my house has not gotten any worse. If the Municipality wants to carry out more repairs to my house, I'm ok with that, but I will appeal to the Property Standards Committee and you can consider this letter as my appeal. I will suggest that all future repairs to make my house 100% Structural Sound be done and paid for by the Municipality since the damage was done by the Blasting which was ordered by the Municipality and I Had No Control over. If we do not come to an agreement or a settlement a Class Action Law Suit which some of my Neighbours agree with may follow which could be more costly to the Municipality.

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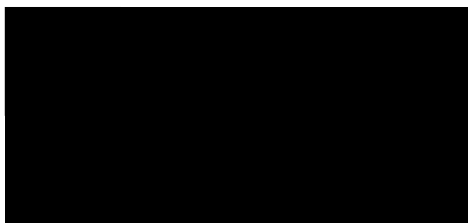
946 Martindale Rd  
Sudbury Ontario

February 15, 2017.



Hand Delivered

February 16, 2016



I am in receipt of several letters from you outlining various issues you claim to have with the City of Greater Sudbury. Please understand that these issues have nothing to do with the Order to Remedy I issued you regarding 946 Martindale Rd (ACR #729974). You are required to bring the property into compliance with the Order in the time specified, or alternatively file an appeal of the Order via the Clerk's office. They can be reached at 705 674-4455 ext 4209. This MUST be done prior to February 22, 2017 as indicated on the Order. I have tried repeatedly to call you and have been unsuccessful in reaching you. As indicated on the Order, failure to appeal or to bring the property into compliance may result in charges or the City undertaking the work with the costs added to your tax bill.

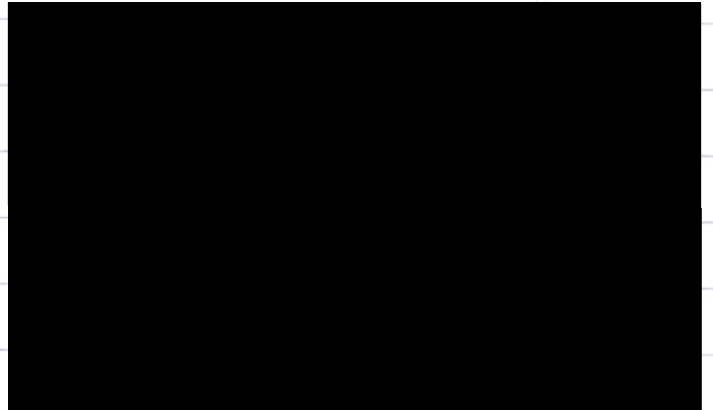
Regards,

A handwritten signature in black ink, appearing to read "Stephen HOLT", written over the printed name.

Stephen HOLT  
CGS By-Law Enforcement Officer  
705 674-4455 ext 4322

February 16, 2017.

I would like to file an appeal of  
The Order via the Clerk's Office concerning  
Issues That I Have with The Order  
to Remedy regarding 946 Martindale  
Road (ACR # 729974).

















946

















946













