

Request for Decision

By-Law Clearing of Lands Notice of Non-Conformity Appeal, ACR 731681

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 the Notice of Non-Conformity #731681, issued to 357 Marion Street, City of Greater Sudbury.

Finance Implications

No financial implications

Background

The Notice of Non-Conformity (herein referred to as "the Notice") was issued pursuant to the Municipal Act, 2001, S.O. 2001, c. 25, as amended (herein referred to as "the Act").

The Council of the City of Greater Sudbury enacted By-law 2009-101, cited as the "Clearing of Yards and Vacant Lots By-law" (herein referred to as "the By-law"). This By-law has been passed under the authority of the Act and requires owners and occupants of land to clean and clear the land and to remove refuse and debris from the land, to include but not limited to the trimming of any trees growing on their yard that constitute an obstruction of view for vehicular traffic. 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.

This By-law provides for the enforcement and appeal provisions for the Notice of Non-Conformities issued pursuant of this By-law. It provides for inspection powers of the officer, the issuance of a Notice, the establishment of a Property Standards Committee, and the procedures for an appeal of the Notice. Specific time frames and methods of notification are established in the By-law and the powers of the Property Standards Committee are also set out in the By-law.

Facts and evidence supporting the order is appended to this report.

Conclusion

Section 23 of the Clearing of Yards and Vacant Lots By-law of the City of Greater Sudbury sets out the

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

powers of the committee for an appeal of a Notice of Non-Conformity. 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 yards and vacant land can lead to the degradation of a neighbourhood and of a community and can represent a hazard to the health and safety of the residents of a community."

It is for these reasons that the recommendation in this report is to uphold the Notice, #731681 dated October 20, 2016, to ensure that the owner of the property of 357 Marion Street, complies with the clearing of lands standards as set out in the CGS By-law, 2009-101.

Appendix A
Property Standards Appeal Committee Report
357 Marion Street, Sudbury, ON ACR #731681
Prepared by Carmen SOLOWONIUK

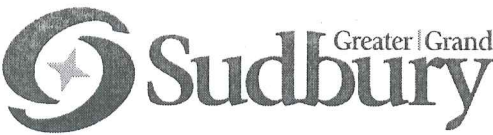
On October 19, 2016 at 1455hrs Officer SOLOWONIUK attended the property at 357 Marion Street in Sudbury for an inspection of the trees or bushes along the front lot line of the property. Also inspecting were By-Law Enforcement Officer Stephen HOLT and Officer Craig MOXAM, By-Law Services.

It was observed that the lilac bushes at the residence in question were overgrown causing a sightline issue from the neighbouring driveway and required to be trimmed back to the property line. SOLOWONIUK and HOLT approached the front of the house and SOLOWONIUK knocked on the door, but no one was home.

Based on the inspection Officer SOLOWONIUK issued a Notice of Non-Conformity to have the trees and bushes at 357 Marion Street be trimmed back to allow for safe passage of vehicular traffic.

Following the issuing of the Notice of Non-Conformity, the homeowner [REDACTED] submitted a Letter of Appeal, where we were notified on November 01, 2016. On November 02, 2016, Officer SOLOWONIUK attended the subject property at 357 Marion and observed the lilac bushes were cut at the base and trimmed back as per the Notice of Non-Conformity. Consequently, the Notice of Non-Conformity was complied with and the file as closed.

Mitigation of the matter was attempted by the Manager of By-Law Services Brendan ADAIR. However, the property owner insisted on bringing the matter to the Hearing Committee.



PO BOX 5000 STN A
200 BRADY STREET
SUDBURY ON P3A 5P3

CP 5000 SUCC A
200 RUE BRADY
SUDBURY ON P3A 5P3

NOTICE OF NON-CONFORMITY

Issued pursuant to section 20(1) of
City of Greater Sudbury By-Law #2009-101.

		File #731681
Date of Inspection: October 19, 2016	Time: 1455 hrs	By-Law No.:2009-101
Municipal address or legal description of property X Occupied Unoccupied		
357 Marion St Sudbury ON P3E 3H3		
Name of owner/occupant and mailing address		
[REDACTED] 357 Marion St Sudbury ON P3E 3H3		
DESCRIPTION OF NON-CONFORMITY	LOCATION	BY-LAW REFERENCE
1) No owner shall fail to ensure that any trees...growing on his or her yard do not...constitute an obstruction of view for vehicular traffic.	Trees in front of yard	Ss 6(1)(c)
REQUIRED ACTION		
Trim suckers and growth at base of tree to allow for clear sightlines for traffic emerging from neighbouring driveway.		
There must be compliance with the terms and conditions of this order before this date: November 8, 2016.		

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. Section 22 (1)

APPEAL FROM NOTICE Section 23 (2) – A person served with a Notice who disagrees with all or any part of its content, may contact the General Manager within five business days of his or her deemed receipt of the Notice, and the General Manager may confirm or alter all or any part of the Notice.

Section 23 (4) – Where a person served with a Notice has appealed the Notice, the person continues to disagree with all or any part of the content of a Notice, or the person is submitting an appeal in writing addressed to the City Clerk within the time specified in the appeal fee in the amount of \$100.

OFFENCE

Section 24 (1) - Every owner who contravenes any of the provisions of this By-law under Section 20, (or as amended or confirmed by the General Manager) and on conviction is liable to a maximum fine of \$5,000.00 as provided in the By-law.

Section 24 (2) - For the purposes of this Section, each day on which a person contravenes any of the provisions of this By-law shall be deemed to constitute a separate offence.


C. Solowoniuk
Municipal Law Enforcement Officer
705 674-4455 ext. 2540

Date Notice Served: October 20, 2016

CANADA POSTES POST CANADA		REGISTERED DOMESTIC CUSTOMER RECEIPT	RECOMMANDÉ RÉGIME INTÉRIEUR REÇU DU CLIENT	R
To Name	Destinataire Nom	FOR DELIVERY CONFIRMATION CONFIRMATION DE LA LIVRAISON		
Address	Adresse	www.canadapost.ca or/ou www.postescanada.ca		
City / Prov. / Postal Code	Ville / Prov. / Code postal	1 888 550-6333		
Declared Value Valeur déclarée	\$	CPC Tracking Number Numéro de repérage de la SCP		
33-086-584 (14-06)		RN 189 369 097 CA		

Original - CONTRAVENOR*	Copy - OFFICE	Copy – Municipal Law Enforcement Officer	Copy - FIELD
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Carmen Solowoniuk - Re: Inquiry- 98 Edmund Complaints

From: Brendan Adair
To: [REDACTED]
Date: 11/3/2016 8:28 AM
Subject: Re: Inquiry- 98 Edmund Complaints
Cc: Carmen Solowoniuk; Tanya Thompson

Good Morning [REDACTED],

With a re-inspection completed yesterday afternoon shortly after 1330hrs, I can advise that the work completed on the bushes meets requirements of the Notice of Non Conformity and as such the case will be closed. With that, with no basis for an appeal to the Hearing Committee, arrangements will be made to return your \$100.00 cheque via mail.

Should you have any questions or concerns, please contact me.

Thank you,

Brendan Adair
Manager of Security and By-Law Services
City of Greater Sudbury
tel: 705-674-4455 ext: 2295

>>> Brendan Adair 11/2/2016 10:11 AM >>>
Hello [REDACTED]

On behalf of Officer Solowoniuk, it is confirmed that she did not meet with you.

Thank you,

Brendan Adair
Manager of Security and By-Law Services
City of Greater Sudbury
tel: 705-674-4455 ext: 2295

>>> [REDACTED] 11/2/2016 9:33 AM >>>
I continue with the appeal to the Hearing Committee.

As for By-law Officer, C. Solowoniuk, the question was posed in my email of November 1, 2016 was:

" Did you [By-law Officer C. Solowoniuk] meet me on October 19, 2016 at 1455 hours?"

Could I please have an answer to the question.

Thank you.

On Wed, Nov 2, 2016 at 8:51 AM, Brendan Adair <Brendan.Adair@greatersudbury.ca> wrote:

Good Morning [REDACTED]

I appreciate your desire to bring this to Hearing Committee, but ultimately in my role as Manager, upon receipt of an appeal I will look further into the matter to determine if a resolution can be achieved. I'd like to do the same in this case and would appreciate any information you can provide that can assist.

I will be working to obtain the communication sent to Officer Solowoniuk on November 1st in hopes that it can provide some clarity on the issue(s).

Would you be willing to contact me by phone to discuss this further?

Respectfully,

Brendan Adair
Manager of Security and By-Law Services
City of Greater Sudbury
tel: 705-674-4455 ext: 2295

>>> <[REDACTED]> 11/1/2016 6:25 PM >>>

Proceed to the Hearing Committee.

I am awaiting the By-Law Officer's response to my e-mail dated November 1, 2016.

Please have By-Law Officer C. Solowoniuk respond.

The matter is not resolved.

Thank you.

[REDACTED]
357 Marion Street
Sudbury ON P3E 3H3

Sent from my BlackBerry 10 smartphone on the Bell network.

From: Brendan Adair
Sent: Tuesday, November 1, 2016 4:39 PM
To: [REDACTED]
Cc: Fern Cormier; Mayor
Subject: Re: Inquiry- 98 Edmund Complaints

Good Afternoon [REDACTED],

In receipt of an Appeal Letter and \$100 cheque for Case 731681 I was hoping to discuss the matter with you.

Sudbury ON P3E 3H3

Sent from my BlackBerry 10 smartphone on the Bell network.

From: Brendan Adair

Sent: Friday, October 28, 2016 5:39 PM

To: [REDACTED]

Cc: Fern Cormier; Mayor

Subject: Re: Inquiry- 98 Edmund Complaints

Good Afternoon [REDACTED]

To ensure the protection of all parties, I unfortunately unable to provide these details in this form. Outside of a generic email address where you've concluded the email as "[REDACTED]", I cannot confirm this and therefore would direct you towards a formal process to retrieve this information as held within the Clerks department.

Speaking generally, I will again assure you that all complaints received by the department are documented by way of receiving the name and contact details of the complainant (which is protected under privacy legislation) and then entering a case for an Officer to investigate.

Finally, understanding you to host a concerns about a Notice of Non-Conformity that was issued for your property. I've looked into the investigation and issuance of the Notice and can confirm that both were done without issue. Should you wish to discuss this matter further, please do not hesitate to reach out to me personally.

Respectfully,

Brendan Adair
Manager of Security and By-Law Services
City of Greater Sudbury
tel: 705-674-4455 ext: 2295

>>> [REDACTED] > 10/28/2016 9:07 AM >>>

Good morning.

I have never asked the City of Sudbury to be accountable for the statement(s) of a citizen, in this case, the owner of the 98 Edmund Street property.

Indeed, the owner of the 98 Edmund Street property did state in his submissions that [REDACTED] had been calling By-Law officers repeatedly, and that's why the By-Law officers don't contact us. The Committee heard this and my neighbours heard this at the public hearing on October 19, 2016, scheduled for 5:00 p.m.

You have my expressed permission to answer the following question:

In reference to the 98 Edmund Street property, does the By-Law office have a record of complaint(s) made by me, [REDACTED]?

Thank you.

As you have noted that work cited in the Notice of Non Conformity, specifically the trimming of bushes to allow for clear sight lines, was completed on October 26, 2016, it would appear that the matter is resolved on your end.

With the work being done, an Officer can now perform a re-inspection to confirm that the matter has been addressed. If that is the case, the case will be closed.

To clarify if there is a need for this to proceed to the Hearing Committee, can you call or email me to discuss what your intentions are.

Respectfully,

Brendan Adair
Manager of Security and By-Law Services
City of Greater Sudbury
tel: 705-674-4455 ext: 2295

>>> Brendan Adair 11/1/2016 9:07 AM >>>

Hello [REDACTED],

Please be advised that the contact email for Officer Solowoniuk is carmen.solowoniuk@greatersudbury.ca.

Respectfully,

Brendan Adair
Manager of Security and By-Law Services
City of Greater Sudbury
tel: 705-674-4455 ext: 2295

>>> [REDACTED] 10/28/2016 6:24 PM >>>

Your remarks are without merit.

Fern Cormier can confirm this email address is of [REDACTED]

It is preferable and necessary to continue the matter in writing so there is no misunderstanding.

Finally, the work to be cited in the non-compliance was completed on October 26, 2016.

Please provide me with the email address of the By-Law Officer C. Solowoniuk. I want to ensure that the work has been done satisfactorily.

I will not expose myself to any more reprisals by city officials.

Thank you.

[REDACTED]
357 Marion Street

[REDACTED]
357 Marion Street
Sudbury ON P3E 3H3

On Fri, Oct 28, 2016 at 8:16 AM, Brendan Adair <Brendan.Adair@greatersudbury.ca> wrote:

Hi [REDACTED]

Thank you for your response. Respectfully, we cannot be held accountable for the statement(s) of a citizen at a meeting or otherwise and with that, I maintain that all complaints are actioned by the department.

Not able to locate what meeting you are referring to being held on October 19, 2016 in the recent meeting dates, I can advise that all public meeting minutes are posted at the following location
<http://www.greatersudbury.ca/inside-city-hall/councilcommittee-meetings/>

Respectfully

Brendan Adair
Manager of Security and By-Law Services
City of Greater Sudbury
tel: [705-674-4455](tel:705-674-4455) ext: 2295

>>> <[REDACTED] 10/27/2016 11:52 PM >>>

At the October 19, 2016 public hearing, the owner of the 98 Edmund Street property in the course of his submissions to the Committee stated that [REDACTED] has been calling By-Law Officers repeatedly, and that's why the By-Law Officers don't contact us.

Obviously there is a significant difference between your response and the statement made by the owner to the Committee, and heard by my neighbours who attended the public hearing.

Can you confirm that the statement of the owner is or is not contained in the Minutes of the October 19, 2016 public hearing?

Thank you.

Sent from my BlackBerry 10 smartphone on the Bell network.

From: Brendan Adair
Sent: Thursday, October 27, 2016 6:49 PM
To: [REDACTED]
Cc: Fern Cormier; Mayor
Subject: Inquiry- 98 Edmund Complaints

Hello [REDACTED]

I wanted to extend my thanks for your inquiry about the Bylaw Office that was sent by way of the Mayor's Office. As I understand, you were looking for confirmation that complaints with respect to 98 Edmund Street are handled.

Without outlining all complaints and resolution for matters of this property, I can assure you that regardless of address or complainant, the Bylaw Office takes all complaints seriously and investigates them with an interest to gain compliance. At no point in time would any staff within the Office ignore or disregard a complaint. Speaking generally, I can advise that there are most definitely times where complaints are received and they are unfounded, but this is determined through investigation and not beforehand.

I'm hoping the above educates on the process followed when complaints are received. If I can be of further assistance, please do not hesitate to contact me.

Respectfully,

Brendan Adair
Manager of Security and By-Law Services
City of Greater Sudbury
tel: 705-674-4455 ext: 2295