

**EDMONTON
COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE**

Citation: v Community Standards and Neighbourhoods (City of Edmonton), 2023 ABESLAC 10007

Date: July 7, 2023
Order Number: 391817321-003
CSLAC File Number: CSLAC-23-007

Between:

and

The City of Edmonton, Community Standards and Neighbourhoods

Committee Members

Kathy Cherniawsky, Chair
Don Fleming
Karen Munro

DECISION

[1] On June 20, 2023, the Community Standards and Licence Appeal Committee (the “Committee”) made and passed the following motion:

“The hearing of the review of the Order is postponed to July 4, 2023.”

[2] On July 4, 2023, the Committee made and passed the following motion:

“That CSLAC-23-007 be raised from the table”.

[3] On July 4, 2023, the Committee heard a request for review of an Order. The request for review was filed on May 17, 2023, and concerned the decision of Community Standards and Neighbourhoods to issue an Order pursuant to Section 546(1) of *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”). The Order was dated May 11, 2023, was mailed on May 12, 2023 and required the following action:

Remove from back yard:

Damaged, dismantled or derelict vehicles, broken cement slabs/bricks, garbage bags, wood/pallets, screen door, PVC pipe, artificial Christmas trees, cardboard, boxes, tarps, bricks, auto parts, bumper, broken tow winch, shelf, plastic lids, plastic bins, non approved waste containers, chairs, cookware, small household appliances, blankets, broken windows, broken lights, chain link fence, metal baskets, wicker baskets, sink, rope, bed frame, wires/cords, mop pail, drywall sheets, head board, shopping carts, chains, laundry detergent container, recycle bags, broken bicycle parts, guitar and vacuum.

Remove from east side yard:
Table and dresser.

Remove from front yard:
Furniture, arm chairs and artificial plants.

Including loose litter and debris and other assorted materials from the entire property and take any actions or remove any other items that are contributing to the unsightly condition of the property.

YOU MUST COMPLY WITH THIS ORDER BEFORE: May 29, 2023

- [4] The subject property is located at 6312 - 92 Avenue NW, Edmonton.
- [5] The hearing on July 4, 2023 was held through a combination of written submissions, in-person and video conference hearing. The following documents were received prior to the hearing and form part of the record:
 - Copy of the Order issued pursuant to the *Municipal Government Act*;
 - The Appellant's written request for review and submissions; and
 - The Respondent's written submissions.

Preliminary Matters

- [6] At the outset of the hearing, the Chair confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [7] The Chair outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [8] The appeal was filed on time, in accordance with Section 547 of the *Municipal Government Act*.

Summary of Hearinga) *Position of the Applicant,*

[9] is well aware that the yard is messy, disordered and not the most attractive. She does not like it either.

[10] The home is currently under renovations; however, they have run into various setbacks such as electrical and plumbing issues and \$120,000 in damage caused by a previous tenant.

[11] was not aware that building permits were required which has also caused a delay. She is a first time home owner and learning as she goes along.

[12] The neighbours on either side have malicious intentions and have not been totally truthful in what they have said.

[13] She expressed frustration at the lack of communication with the Bylaw Officer and felt the Officer was berating and threatening her. This has only been an issue for two years and the matter would have been dealt with sooner if Bylaw Enforcement had not previously made her throw out all of her renovation materials. At that time, the yard was clean and pristine and even the City crew wondered why they were there. She was billed \$1,000 for the clean-up.

[14] provided the following responses to questions from the Committee:

- a) There is currently a dumpster in front of the house and the property has been cleaned up quite a lot since May 2023. There is no more garbage on the property and everything is in the bin. They are purging what they can and do daily sweeps to gather up any loose litter.
- b) She cannot afford to lose all of her kitchen cupboards and renovation materials which are still outside the back door.
- c) The table and dresser are no longer on the east side of the yard.
- d) The only items remaining in the front yard are the artificial plants and the landscaping and gardening tools. There is no longer any furniture outside in the front yard.
- e) They have actively been trying to sell their truck but have been unsuccessful so far. Once it is sold the intention is to purchase a storage pod with the proceeds. The truck runs but is not insured, and is currently being used for storage. If the truck has not been sold by the beginning of September they plan to store it elsewhere.
- f) She is hoping the basement renovations will be complete in three to six months but the kitchen will take longer than that to finish.

- g) She estimates it will take another two to four weeks to have the remaining items listed on the Order (other than the vehicles) removed from the property.
- h) They are currently sorting through everything and getting rid of more than just garbage. Items that are no longer being used and doubles of items are being disposed of. Broken toys and toys that their child no longer plays with are also being removed. Clean up is taking longer than they had hoped due to medical issues.
- i) The majority of the bicycles and related items have been removed or are being donated. They only have a few child bikes left as well as two adult bikes.
- j) By next spring everything will be up to par and the yard will be pristine and beautiful.

ii) Position of the Respondent, C. Perizzolo

[15] The Respondent did not attend the hearing; however, C. Perizzolo, manager of the General Enforcement Unit provided her written submissions and a series of photos, including several taken in May, 2023 at the date of the inspection which led to the issuance of the Order under review.

[16] C. Perizzolo provided a timeline of events:

October 27, 2021	A previous <i>Municipal Government Act</i> (“MGA”) Order had expired and the nuisance property was remedied by the City. Landscaping and renovation materials were not removed as work was underway.
April 8, 2022	Appliances and furniture were observed in the yard in addition to the materials left from the previous cleanup.
April 28, 2022	An inspection; however, an <i>MGA</i> Order could not be issued at this time as there was a “pending registration queue” on the property at Land Titles
April 26, 2023	A Notice of Entry was issued.
May 9, 2023	An inspection of the property was conducted and 24 photographs were taken.
May 11, 2023	A 546 <i>MGA</i> Order was issued as a result of the May 9, 2023 inspection.

[17] In the opinion of the Bylaw Enforcement Officer, there was a potential safety concern to the residents of the property due to the limited egress. The Officer reported that the door

and walkways throughout were either blocked or only had a small opening to get through. The Officer also reported concerns with fire safety.

[18] In addition to the Officer's findings, there have been six separate complainants since September 2022 regarding the condition of the property.

Decision

[19] The appeal is **ALLOWED IN PART** and the Order is **AMENDED** so that it requires removal of the following specific items from _____ property within the time specified as follows:

Remove from back yard:

Broken cement slabs/bricks, garbage bags, wood/pallets, screen door, PVC pipe, artificial Christmas trees, cardboard, boxes, tarps, bricks, auto parts, bumper, broken tow winch, shelf, plastic lids, plastic bins, non approved waste containers, chairs, cookware, small household appliances, blankets, broken windows, broken lights, chain link fence, metal baskets, wicker baskets, sink, rope, bed frame, wires/cords, mop pail, drywall sheets, head board, shopping carts, chains, laundry detergent container, recycle bags, broken bicycle parts, guitar and vacuum.

Remove from east side yard:

Table and dresser.

Remove from front yard:

Furniture and arm chairs.

Including loose litter and debris and other assorted materials from the entire property and take any actions or remove any other items that are contributing to the unsightly condition of the property.

YOU MUST COMPLY WITH THIS PORTION OF THE ORDER BEFORE: August 1, 2023.

Remove from back yard:

Damaged, dismantled or derelict vehicles (including the truck and the silver car).

YOU MUST COMPLY WITH THIS PORTION OF THE ORDER BEFORE: September 1, 2023.

Reasons for Decision

- [20] This is an application for a review of a written Order issued by the City of Edmonton pursuant to Section 546(1)(c) of the *Municipal Government Act*.
- [21] Community Standards and Investigations Section, Community Standards and Neighbourhood Branch, Community Standards (“Community Standards”) issued the Order, requiring the Applicant to remove specified items from her yard by a specified date. appealed that Order.

Section 546(1)(c) of the *Municipal Government Act*

- [22] Section 546(1)(c) of the *Municipal Government Act* authorizes the City of Edmonton to issue an Order requiring an owner of land within the city, when the property is “in an unsightly condition” to improve the appearance of the property in the manner specified. This section says:
 - (1) If, in the opinion of a designated officer, a structure, excavation or hole is dangerous to public safety or property, because of its unsightly condition, is detrimental to the surrounding area, the designated officer may by written order
 - (c) require the owner of the property that is in an unsightly condition to
 - (i) improve the appearance of the property in the manner specified, or
 - (ii) if the property is a structure, remove or demolish the structure and level the site.

Before making an Order under section 546(1)(c), the City’s designated officer (here, the Enforcement Officer with Community Standards) must form the opinion that the state of the property is “dangerous to public safety or property, because of its unsightly condition”.

- [23] Section 546(0.1)(b) of the *Municipal Government Act* defines “unsightly condition” in the following manner:
 - (b) “unsightly condition”,
 - (i) in respect of a structure, includes a structure whose exterior shows signs of significant physical deterioration, and
 - (ii) in respect of land, includes land that shows signs of a serious disregard for general maintenance or upkeep.

- [24] Thus, the issue for the Committee is to determine whether the Applicant's land "shows signs of a serious disregard for general maintenance or upkeep".
- [25] does not dispute that most of the items do not belong in her yard, and stated that she intended to remove them. She does not challenge that part of the Order. Therefore, there is no dispute between the Applicant and Community Standards that the property is currently in an "unsightly condition" and that the unsightly condition must be rectified.
- [26] In addition, Community Standards provided photographs of the front, back and side yards, dated May 9, 2023.
- [27] Based on the evidence from both and Community Standards, the Committee finds that the property was in an "unsightly condition" at the time of the issuance of Order.

Request for an Extension of Time to Rectify the Unsightly Condition of the Property

- [28] requested the Committee to grant her more time to complete the removal of the specified items. That is, she did not request the Committee to cancel the Order, but instead to primarily change the compliance date.
- [29] The Committee considered that the City in its written submission did not object to an extension of time for compliance. Their submission states in part:

In the alternative, given that compliance is the most critical concern for the City and if the Committee deems appropriate, the City does not object to a variation of the Order to allow for a specific date upon which the Appellant must comply with the Order bearing in mind the potential safety concern and impact on the community detailed below.

- [30] In making its decision about what is a reasonable amount of time to comply with the Order, the Committee considered arguments made by both the Applicant and Community Standards.
- [31] stated to the Committee that the condition of the property has "only been an issue for two years". In the Committee's view, two years is a significant amount of time for property to remain in an "unsightly condition", and the Committee therefore takes this time frame into account when determining what is a reasonable extension of time for compliance with the Order.

Artificial Plants

- [32] did dispute one item on the specified list, and argued that it was not inappropriate to keep artificial plants in a yard. The Committee agrees.

- [33] Based on the photographs provided to the Committee, it appears that there are a couple of artificial plants in the front yard. The Committee does not find that their appearance results in an “unsightly condition”.
- [34] The Committee, therefore, decided that “artificial plants” ought not to have been on the list of specified items which must be removed from the front yard.

Damaged, Dismantled or Derelict Vehicles

- [35] stated that she and her husband had attempted to sell the truck, but that they had thus far been unable to do so. She said that the truck runs, but is not being driven because it is currently not insured and is being used for storage. She also said that, if the truck was not sold by the beginning of September, she and her husband plan to store it elsewhere.
- [36] The Committee finds that both the truck and the silver car are currently being used as storage. The Committee makes this finding on the basis of statements in the hearing and also on the photographs put into evidence in the application for review.
- [37] The Committee agrees that the damaged, dismantled or derelict vehicles must be removed from the property. In making this finding, the Committee’s finding is that the phrase “damaged, dismantled or derelict vehicles” includes both the truck and the silver car, each of which is currently being used for storage.
- [38] asked for an extension of the time to remove these vehicles to September 1, 2023, and the Committee grants that extension.
- [39] In the Committee’s view, this is a reasonable amount of extra time to allow to either sell the vehicles or to find an alternate location to store them.

All Other Items on the Specified List

- [40] stated that she and her husband had already begun removal of many of the specified items, namely the furniture in the front yard, the table and dresser in the side yard and the garbage bags.
- [41] She estimated it would take another two to four weeks to have the remaining items listed on the Order (other than the vehicles) removed from the property.
- [42] The Committee grants an extension of four weeks from the day of the hearing, for the removal of all remaining items (other than the vehicles). In the Committee’s view, four weeks is a reasonable amount of time to remove the remaining items listed on the Order (other than the vehicles).
- [43] The Committee therefore grants an extension of the time for removal of these items to August 1, 2023.

Summary

[44] For all of the above reasons, the Committee amends the Order as set out above.

Kathy Cherniawsky, Chair
Community Standards and Licence Appeal Committee

Important Information for the Appellant

1. A person affected by this decision may appeal to the Alberta Court of King's Bench under Section 548 of the *Municipal Government Act*, RSA 2000, c M-26 if the procedure required to be followed by this Act is not followed, or the decision is patently unreasonable.