

EDMONTON
COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

Citation: v Community Property Safety Team (City of Edmonton), 2024 ABESLAC
10010

Date: September 4, 2024
Order Number: 437983119-001
CSLAC File Number: CSLAC-24-010

Between:

and

The City of Edmonton, Community Property Safety Team

Committee Members

Kathy Cherniawsky, Chair
Allan Bolstad
Skye Vermeulen

DECISION

[1] On August 20, 2024, the Community Standards and Licence Appeal Committee (the “Committee”) heard a request for review of an Order that was filed on July 10, 2024. The request for review concerned the decision of City of Edmonton Fire Rescue Services (FRS) 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 June 23, 2022 and required the following action:

Secure your property against unauthorized entry by:

- Secure/board/Re-secure all points of entry on all structures on both the basement and main or first floor levels, including doors, windows and any holes or openings, as well as any point of entry on any upper levels that may be accessible from any potential climbing point in a manner sufficient to prevent unauthorized entry. **Please refer to the attached “Board Up Procedure Bulletin” for the detailed requirements that must be met for compliance.**

YOU MUST COMPLY WITH THIS ORDER BEFORE: July 18, 2022

[2] The subject property is located at 10403 - 65 Avenue NW, Edmonton.

[3] The hearing on August 20, 2024 was held through a combination of written submissions and video conference. 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
- The Respondent's written submission, including a series of photographs.

[4] The following exhibits were received from the Applicant during the hearing:

- Exhibit A - Email chain July 4, 2024
- Exhibit B - Email chain July 10, 2024
- Exhibit C - Email chain July 17, 2024
- Exhibit D - Email chain July 4, 2024
- Exhibit E - Email August 20, 2024
- Exhibit F - Insurance Certificate
- Exhibit G - Screenshot July 27, 2021
- Exhibit H - Screenshot July 12, 2021
- Exhibit I - Income Tax Return

Preliminary Matters

[5] 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.

[6] The Chair outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.

[7] The Committee first heard submissions on whether or not the request for review had been filed on time, in accordance with Section 547 of the *Municipal Government Act* given the date of the Order.

LATE FILING ISSUE**Summary of Hearing**

i) Position of the Respondents, K. Hammer, Captain, Community Property Safety Team, and P. Young, Fire Prevention Captain, appeared on behalf of the City of Edmonton.

[8] The Order was physically posted to the front door of the property on June 23, 2022.

[9] The Order was also mailed to the address that was obtained by searching land titles.

- [10] An additional mailing address was obtained from the City of Edmonton Bylaw Department (Bylaw) as Bylaw has been involved with the property in the past. The mailing address obtained from Bylaw spelled the street name incorrectly as “Earclay” instead of “Barclay”.
- [11] The only requirement for notification comes from department policy and is to send the Order to the owner on the land title, which was done.
- [12] The Respondents provided the following information in response to questions by the Committee:
 - a) The direction from the City’s Law department is to send Orders to land titles addresses and it is their policy to send Orders to this address.
 - b) If the owner is a business, a corporate registry search is done to find the address but was not done in this case since the owner on title is not a business.
 - c) The authority also conducts a search for any pending registrations. There were no pending registrations for this land title.
 - d) The Order was mailed to a second address in Vancouver. Bylaw offered to share this with the Community Property Safety Team (CPST). Bylaw had been given the Applicant’s Vancouver mailing address from a person who knows the Applicant personally.
 - e) The mailing address that Bylaw provided for the Applicant incorrectly spelled the name of the street “Earclay” instead of “Barclay”.
 - f) The mailing address that Bylaw had was incorrect, but the land title mailing address on the Order was correct.
 - g) For notice, a copy of the Order was mailed to each of the two addresses at the same time on June 23, 2022 and also posted on the door of the residence on the same date.
 - h) Nobody was living at the property. The City does not board up properties with people living in them.
 - i) It was known that the notice was mailed to an uninhabited property.
 - j) The assumption from the City is that someone checks the mail or checks the property and would see the notice on the door. It is not a requirement for the City to check the property. Insurance companies require people to be checking property when they are not there.

- k) There is indication in an email that the Applicant had a property manager and they were checking the property. The email also indicated that the property manager notified the owner of the posting.
- l) An email was sent from Municipal Enforcement to the same email address that the Applicant used to contact the CPST. The email provided a bylaw Order and indicated that the property owner would be receiving an Order from the CPST.
- m) Under Section 547 of the *Municipal Government Act*, the property owner has seven days to appeal the Order.
- n) The seven day time frame begins after the property owner receives the Order.
- o) The City's Law department advised the City that once the notice has been posted, that is an indication that the seven days has started.
- p) Orders are mailed directly from the department using Canada Post to circumvent any internal mail delays.
- q) The *Interpretation Act* defines the rules of mail service that there is seven days to receive mail in Alberta, 14 days outside of Canada.
- r) The Order was mailed on June 23, 2022; the compliance date was July 18, 2022.
- s) The property owner has a reasonable responsibility to keep their property secure and the timeline also allows the opportunity for somebody to notice that there is a posting on the door.
- t) Timeliness is a factor in the Order because vacant properties that are entered illegally are a situational danger to the neighbourhood, as well as the property owner, and the people entering including first responders.
- u) The Respondent's position is that the appeal is not within the appeal timeframe.

ii) Position of the Applicant

- [13] The Applicant became aware of the situation when the City sent a notice indicating that the property tax payment was not made in full.
- [14] The Applicant began looking into the matter in late 2023. The Applicant contacted many departments in the City to find the source of the extra charges and realized that the additional amount was being charged by the CPST.
- [15] In 2024, the Applicant received an email with an official response with the Order attached from the CPST to have the property boarded up.

- [16] The Applicant does not have a property manager, but had a friend looking after the property until 2021. During this time, the Applicant was actively looking for a property manager.
- [17] The Applicant lives outside of Alberta and relies on mail and email to receive communication regarding notices and properties.
- [18] The situation was confusing as he owns a property across the street and because past tenants created a nightmare situation involving several City departments including Bylaw and the EPS.
- [19] The Applicant has received communication from Bylaw and Taxation and Assessment previously sent to the correct address in Vancouver.
- [20] In the Applicant's opinion, nothing was posted on the door of the property, although the previous tenants did sometimes remove mail from the mailbox.
- [21] The Applicant submitted Exhibits A-D that shows email chains to different City Departments starting on June 24, 2024.
- [22] The Applicant was concerned that the CPST wanted to dissuade him from filing an appeal as outlined Exhibit C which includes the email interaction between the Applicant and the CPST. He has a right to appeal and the CPST acted inappropriately in trying to get the Applicant to withdraw his case.
- [23] The Applicant was communicating with the EPS in 2022 regarding the property and was told that they would assist in boarding up the home. Without having seen the notice, the Applicant did not realize that the CPST was the Authority that later boarded up the property in the summer of 2022.
- [24] The Applicant first physically saw the Order on July 4, 2024 as an attachment to an email.
- [25] As soon as the Applicant understood where the charges came from and what happened, they filed the appeal on July 10, 2024.
- [26] The Applicant provided the following information in response to questions by the Committee:
 - a) The Applicant's bookkeeper updated all mailing addresses in 2022 when the Applicant moved. An email was also sent to Bylaw notifying them of the address change.
 - b) The Applicant notified the Bylaw department when they noticed the mailing address was incorrect. Bylaw acknowledged that a mistake was made.

iii) Rebuttal of the Respondents:

- [27] The CPST advised the Applicant that as per the email from the Committee, it appeared as though the appeal was not in time.
- [28] The information to file an appeal was given to the Applicant.

iv) Rebuttal of the Applicant:

- [29] Pictures provided by the Respondents show something posted onto the door of the property after it was boarded but it is unclear what it is.
- [30] The photos of the pre-board up on the property showing the Order were not submitted by the City.
- [31] He believes that the Order was posted and the property was boarded on the same day contrary to the *Municipal Government Act*.

v) Rebuttal of the Respondents:

- [32] The photo in question was taken before the CPST did an enhanced boarding of the house. The photo shows the boarding done by the EPS as indicated by the notice on the front door. The Order would have been posted the same date on the Order. The July 20, 2022 pictures show that the Order was still posted on the building from when it was posted on June 23, 2024.
- [33] The Respondents clarified information about the boarding photos for the Committee:
 - a) The Orange notice on the door is a poster that indicates that the property has been boarded up under Section 546 of the *Municipal Government Act* by the CPST.
 - b) The two white notices on the door are the Notice of Entry and the Order.
 - c) When the Respondents use the word “posted”, they are referring to an Order that was physically attached to the door.
 - d) A newer practice has been put in place where zoomed in and dated photos are taken showing the door and the posted notices.
- [34] The Applicant provided the following information in response to questions by the Committee:
 - a) The submitted Land Titles document issued by the province of Alberta on June 22, 2022 is correct.
 - b) He changed his address with several City departments and with utilities and an application was sent into the Land Titles Office. He does not have documentation of that.

- c) The Applicant's understanding of the wording in Section 547 of the *Municipal Government Act* is that there has to be proof an actual physical notice was received by the recipient of a Section 546 Order. The Applicant did not receive the order in 2022.
- d) The error in street name was made by a City department and if the City had done their due diligence, then the Order would have been received in the proper amount of time.
- e) The Applicant does not know if they use a mail forwarding service for their other out of province properties.
- f) The application is in time as Section 547(2) was not met until he received the email attachment containing the Order.

Decision

[35] **The Committee has no jurisdiction to conduct the review.**

Reasons for Decision

- [36] This hearing was held to consider a request for review of an order issued under section 546 of the *Municipal Government Act (MGA)* (the Order).
- [37] The relevant portions of Section 546(1) provide:

If, in the opinion of a designated officer, a structure... is dangerous to public safety... the designated officer made by written order (a) require the owner of the structure to (i) eliminate the danger to public safety in the manner specified...

- [38] The Order states:

An inspection of the property on **June 21, 2022** revealed the property to be dangerous to public safety in that the structure on the land is vacant and not secured to prevent unauthorized entry.

I specifically noted the following:

- Exposed opening(s) throughout the structure(s)
- Entry points into the structure(s) are not adequately secured.

As an employee of the City of Edmonton having the delegated powers, duties, and functions of a designated officer for the purposes of section 546(1) of the Municipal Government Act and a Safety Codes Officer authorized to enforce the National Fire Code - 2019 Alberta Edition (“NFC(AE)”), it is my opinion that the structure on the land is at risk of unauthorized entry which poses a fire risk. This is a danger to first

responders, the community as well as the unauthorized entrants in the structure.

YOU ARE THEREFORE ORDERED TO:

Secure your property against unauthorized entry by:

- Secure/board/Re-secure all points of entry on all structures on both the basement and main or first floor levels, including doors, windows and any holes or openings, as well as any point of entry on any upper levels that may be accessible from any potential climbing point in a manner sufficient to prevent unauthorized entry.

Please refer to the attached “Board Up Procedure Bulletin” for the detailed requirements that must be met for compliance.

YOU MUST COMPLY WITH THIS ORDER BEFORE: July 18, 2022

[39] As the Order was dated June 23, 2022 and the request for review was sent to CSLAC more than two years later by email dated July 10, 2024, the Committee first considered whether it had jurisdiction to hear the matter.

[40] Section 547 of the *MGA* defines the window within which a request to review a Section 546 Order may be made to CSLAC:

- (1) A person who receives a written order under section 545 or 546 may by written notice request council to review the order within...
 - (b) 7 days after the date the order is received, in the case of an order under section 546,

or any longer period as specified by bylaw.

[41] Three methods were undertaken to notify the Applicant of the Order:

- a. The Order was posted at the subject property by attaching it to the front door of the house.
- b. The Order was mailed to the Applicant at the address of the subject property which was the address on record at Land Titles Office as of June 22, 2022.
- c. The Order was mailed to an address provided by Bylaw who obtained it from the Applicant’s former spouse. This address was incorrect in one aspect: Barclay Street Vancouver was listed as Earclay Street Vancouver. The remainder of the address (house number, city, postal code) was correct.

[42] The Respondents argued that the Applicant was out of time as posting the Order at the subject property and mailing a copy of it to the address listed for the owner on the Land Title Certificate both sufficed to start the appeal period in section 547(1) of the *MGA*. In their view, the time allowed to request a review expired in July 2022 regardless of the incorrect address used in the third method.

[43] On the other hand, the Applicant argued that the request for review was made in time because:

- a) He first saw a copy of the Order in an email attachment he received from CPST on July 4, 2024 and then made the request for review July 10, 2024. Until he received a copy of the Order by email he was unaware of its contents.
- b) He lives in another province. He relies on mail and email for notification and he had no opportunity to personally observe the posted Order unless notified by tenants.
- c) He did not receive any notices by mail.
- d) The Applicant had provided the second address to the City departments he knew were involved in 2022, notably Bylaw Enforcement and EPS. The second mailing address listed on the Order is incorrect due to an admitted administration error made by Bylaw - Earclay Street should be Barclay Street.
- e) He had been in communication with the City concerning charges on his tax assessments in 2023 but did not receive complete information until the July 4, 2024 email therefore he has unfairly lost the opportunity to rectify the property himself or to challenge the Order.

[44] The Committee considered the objectives of Section 546 and the wording of Section 547 of the *MGA* to determine its meaning in a purposive and contextual manner and to assess the adequacy of the four means of notification cited by the parties.

Method 1: Notice by Proof the Applicant received an actual physical notice of the Order or opened an email attachment containing the Order

[45] The Committee found that the phrase “receives a written order” in Section 547 does not require the Respondent to positively prove that either physical personal service of a copy of a Section 546 Order has occurred or that an email copy of the Order has been successfully received and read by the owner recipient for the following reasons.

[46] There is no requirement for personal service or service by registered mail, nor any other directions within the *MGA* concerning the meaning of “receives a written order under section 546.” No City of Edmonton Bylaw specifies a longer period of time to initiate a request for review. This is understandable given Section 546 Orders are often issued in urgent situations to remedy imminent danger.

[47] Section 546 Orders are issued to property owners to address extreme situations that require rapid remedial responses - if not by the owner then by public authorities. In Sections 546 and 547, the public interest in rapidly resolving dangerous situations are balanced against the rights of property owners given that the *MGA* authorizes entry onto private property to conduct remedial action and places the financial cost of remediation on the owner. Overall, the relevant sections of the *MGA* contemplate action will occur promptly and accordingly, a very brief 7 day window is allowed to object to a Section 546 Order.

- [48] Viewed in this legislative context, the Committee concluded that the Applicant's interpretation would create absurd practical results. The current case supports this conclusion. The parties agreed that the vacant house was not secure and that people were regularly breaching the board up and breaking into the house creating an ongoing, dangerous situation for the illegal occupants, for the first responders and for the community through the spring and summer of 2022.
- [49] To suggest no action could be taken until the Applicant acknowledged receipt of a copy of the Order would have allowed a dangerous situation to continue for two years. This is an unreasonable result and shows the Applicant's interpretation is unworkable when considered in context. It runs contrary to the purpose of Section 546 and the urgency reflected in the very short 7 day window within which a review may be requested.
- [50] The Applicant's position that it must be proven he received a physical copy of the Order or opened an attachment to an email with a copy of the Order to start the review period is unreasonable and contrary to the rapid response contemplated in the *MGA* in this urgent context.
- [51] Furthermore, requiring the City to track down uncooperative and absent or missing owners wherever they might be in order to prove acknowledgement or receipt of Orders demanding remedial actions would enable those owners to delay the process significantly. This interpretation of Section 547(1) would circumvent the objectives of Section 546 of the *MGA*, allow owners to evade responsibility for their properties and leave the trespassers, the first responders and the community at risk indefinitely. In the absence of any legislative requirement for a specific means of service including personal service the Committee declines to accept this interpretation of Section 547(1).
- [52] In the Committee's view, this conclusion does not deny the Applicant the right to have the Order reviewed because the Committee finds that the other means of notification addressed later in these reasons provide reasonable opportunity for diligent property owners to request the review of a Section 546 Order.

Method 2: Notice by Posting the Order on the subject structure

- [53] The Respondents stated that the Order dated June 23, 2022 was posted on the front door of the house on the subject property on June 23, 2022.
- [54] The Applicant argued that posting was not proven. He pointed out that in pictures of the same front door taken that day show no Order and that documents that appear in later submitted photos of the are not legible.
- [55] The Respondents acknowledge that no photos show the details of the documents, but explained the Order was posted later in the day after the inspection and that the two white documents that appear on the door on July 20, 2022 are the June 23, 2022 Order and the Notice of Entry and Notice of Remedial Action dated July 4, 2022. The Orange document is a standard notice that CPST has boarded the property.

- [56] The Committee finds that the photos described as Inspection Photos with a date of June 22, 2022 are date and time stamped June 21, 2022 between 3:50 p.m. and 3:53 p.m. These photos show a clean front door with no papers posted. The Committee notes that these date and time stamps are before the Order was issued and posted on June 23, 2022.
- [57] The Committee finds that the photos described as Pre-Boardup Photos with a date of July 20, 2022 which are date and time stamped July 20, 2022 between 7:44 a.m. and 7:46 a.m. show the same front door with two white papers posted. The writing on the papers cannot be discerned.
- [58] The Committee finds that the photos described as Post-Boardup Photos with a date of July 20, 2022 which are date and time stamped July 20, 2022 between 9:29 a.m. and 9:38 a.m. show the same front door with two white papers and a third orange document posted. The writing on the papers cannot be discerned. These photos show that the boarding in the earlier photos from that day has been reinforced.
- [59] The Committee agrees that a legible, date and time stamped photo of the Order on the front door would have been more conclusive to prove the Order was posted as the Respondents described on June 23, 2022. However, based on a review of the presented evidence before it, the Committee finds it more likely than not that the Order was posted as indicated in the Respondent's submissions on June 23, 2022.
- [60] The Committee considered that the parties disagreed about whether the Applicant was aware of the contents of the Order as a result of the posted notice.
 - a) The Respondents provided excerpts from communication on July 4, 2022 between a neighbour and CPST that the notice got the attention of the Applicant's property manager and had the Applicant on the phone that day.
 - b) The Applicant stated that he has not been back to the property. He was not on that call at the time of posting. He did not have an property manager caring for the property although a friend did help from time to time and he was not aware of the terms of the Order (including the specific City agency, the proposed remedial action or the possibility he would be held liable for the cost of remedial action) until he received a copy of it by email July 4, 2024.
- [61] In the Committee's view it is not necessary to resolve this discrepancy and decide whether or not the Applicant was in communication with the individual at the property of the day the Order was posted. In the Committee's view it is the property owner's responsibility to be aware of the state of properties that they own regardless of whether or not they reside on those properties. Owners may meet this responsibility personally or through agents or third parties.
- [62] The Committee finds that posting the Order on the front door of the house on June 23, 2022 was a sufficient means of giving the Applicant notice of the written Order as required by Section 547(1) of the *MGA*. The Committee finds that once the written Order is posted at the subject premises, it has been received by the owner.

- [63] Based on this means of notification, the Committee concluded that the time to file a request for review expired on July 1, 2022.
- [64] On this method of notification the Committee finds the Applicant is more than two years late to request a review of the Order.

Method 3: Notice by mailing the Order to the address for the Registered Owner on the Land Titles Certificate

- [65] The Committee also considered whether a copy of the Order addressed and mailed to the Registered Owner on the Land Titles Certificate constituted notice sufficient to meet Section 547(1) of the *MGA*.
- [66] Based on the evidence provided the Committee finds:
 - a) The Applicant has been the registered owner of the subject property for several years including the time when the Order was issued.
 - b) As of June 22, 2022 the Applicant's full name was listed as the owner on the Certificate of Title at the Land Titles Office and address for the Applicant was the subject property.
- [67] In the Committee's view, mailing the Order to the stated address on the Certificate of Title at the Land Titles Office is a sufficient means of notification for the following reasons:
 - a) Unlike Section 545 Orders, Section 546 Orders may only be issued to the "owners" of the property, structure or property that is the subject of the Order.
 - b) The address listed on the Land Title Certificate is often the address for service of property owners for important notices.
 - c) The address listed on the Certificate of Title is provided by the property owner, at the property owner's option the address may be the address of the subject property or it may be another address.
 - d) It is a practical, definitive and timely means to notify property owners which aligns with the objective of Section 546 to rapidly remedy situations which create dangers to public safety.
- [68] The Applicant stated that in dealings involving the property, he relied on mail and email only. In the Committee's view, land owners are responsible to ensure they are aware of the condition of their property and of structures on their property and that they are not creating a danger to the public. Owners ignore this responsibility and the consequences at their own peril.
- [69] The Committee was not persuaded by the Applicant's argument that receiving a notification in this manner was a matter out of his hands and was not notification in this

case as he could only get mail if the tenants forwarded it to him for three reasons. First, the Applicant could have arranged mail forwarding. Second, the Applicant could have changed the address listed on the Certificate of Title. Third, in this case the Applicant was well aware that the tenants were creating a “nightmare situation.” He had discussions with EPS about problems at the property and was aware since at least April 2022 that the property was vacant making the first two courses of action all the more important for a diligent land owner.

- [70] In this case, a letter containing a copy of the Order was mailed on June 23, 2022.
- [71] Per section 23(1) of the *Interpretation Act*:

If an enactment authorizes or requires a document to be sent, given or served by mail and the document is properly addressed and sent by prepaid mail other than double registered or certified mail, unless the contrary is proved the service shall be presumed to be effected

- (a) 7 days from the date of mailing if the document is mailed in Alberta to an address in Alberta.

- [72] As noted above, in this case there was no explicit authorization or requirement in an enactment to mail the Order. However, as the Committee determined regular mail to the registered owner’s registered address was an effective method, the Committee concluded that it is reasonable and common sense to apply the timing suggested in the *Interpretation Act* and assume the letter mailed to the subject property arrived within 7 days of mailing. The Order has the proper address for the subject site, there was no evidence the letter containing the Order was returned or lost.
- [73] Based on this method of notification, the Committee finds that the letter was likely delivered to the subject property and therefore received by the owner at the latest June 30, 2022. Therefore, the time to request a review expired seven days later per Section 547(1) on July 7, 2022.
- [74] On this method of notification the Committee finds the Applicant is also out of time by more than a year.

Method 4: Notice by mailing the Order to a second erroneous address for the Applicant provided to the CPST department by the Bylaw department.

- [75] Given its conclusions respecting the other methods of notification, particularly the conclusion that methods 2 and 3 were sufficient in this case to meet Section 547(1) of the *MGA*, the Committee finds it unnecessary to comment on this method of notification.

[76] For these reasons, the Committee finds the request for review was made out of time and the Committee has no jurisdiction to proceed with the matter.

Kathy Cherniawsky, Chair
Community Standards and Licence Appeal Committee

cc: Applicant
Community Property Safety Team - K. Hammer
Fire Department - P. Young

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.

EDMONTON
COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

Citation: v Community Standards and Neighbourhoods
(City of Edmonton), 2024 ABESLAC 10012

Date: September 4, 2024
Order Number: 518334072-001
CSLAC File Number: CSLAC-24-012

Between:

and

The City of Edmonton, Community Standards and Neighbourhoods

Committee Members

Kathy Cherniawsky, Chair
Allan Bolstad
Skye Vermeulen

DECISION

[1] On August 20, 2024, the Community Standards and Licence Appeal Committee (the “Committee”) heard a request for review of an Order that was filed on July 15, 2024. The request for review concerned the decision of Community Standards and Neighbourhoods to issue an Order pursuant to Section 545(1) of *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”). The Order was dated July 4, 2024 and was mailed on July 5, 2024 and required the following action:

Cut all long grass and weeds to below 10 centimeters in height. Remove storage totes, garbage bags, chairs, pallets, tables, dressers, crates, pails, baskets, rugs, towels, bottles, containers, pots, pans, kitchen appliances, waste bins, wood, metals, detached roof of a shed, branches, loose litter, 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.

And thereafter maintain the property to prevent the reoccurrence of any unsightly condition detrimental to the surrounding area.

YOU MUST COMPLY WITH THIS ORDER BEFORE: July 27, 2024

- [2] The subject property is located at 11915 - 69 Street NW, Edmonton.
- [3] The hearing on August 20, 2024 was held through a combination of written submissions and video conference. 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 submission; and
 - The Respondent's submissions.

Preliminary Matters

- [4] At the outset of the hearing, the Chair confirmed that because neither the Applicant nor a representative from Community Standards and Neighbourhoods (City of Edmonton) was in attendance, the Committee would proceed with the review based on a consideration of the written submissions that were provided by both parties.
- [5] The appeal was filed on time, in accordance with Section 547 of the *Municipal Government Act*.

Summary of Hearing

- i) Position of the Applicant:*
- [6] The Applicant provided the following written submission on August 16, 2024:

Me and my organization are being targeted by hatemongers and racists. I have had bags of dog shit left on my property. Gaffeti has been spray painted on various property. My Mercedes has been keyed numerous times and my tires have been slashed. Other forms of Vandalism have occurred from windows being broken on vehicles and buildings. The hatemongers have also used bylaw services to harass us. Bylaw wrote up a notice that trees needed to be cut in the back yard but after it was done we realized that the small trees were not in any way blocking the alley but another property three houses down was the one and a picture was forwarded to bylaw of it. The gate was also vandalized in the past. We have been targeted while other properties which have had nuisances exist for approximately 30 years have not been bothered. You have just to live and drive around the neighborhood for 40 years.

The property is having any four foot fences in the back yard upgraded to six foot chain link fence with 95% privacy slats to prevent anyone from saying it is a nuisance. Further to the above renovation numerous improvements are being done and the building materials there are being

used .The buildings are approximately 70 years old and need upgrading .The back steps are being replaced with metal steps .The basement is having cosmetic work done to it .We are building a chicken coop and will be raising chickens in the future .Solar panels will also be installed on the house and garage There will be a garden suite built onto the existing garage .In summation the lot is a construction jobsite and the building materials are there for the projects.

The wooden pallets on the property are used as fuel for the firepit in the back yard and for the wood stove in the house .

We are asking that this order be discharged and we can in peace continue with the upgrading to make it a nicer looking community .

ii) Position of the Respondent, C. Holstead:

[7] C. Holstead, Manager, Complaints and Investigations, asked the Committee to consider the written submission dated August 14, 2024 in lieu of in person attendance. A detailed Bylaw Investigation Summary dating back to May 2023 including photographs was provided.

Section 545(1) of the MGA states that if a designated officer finds that a person is contravening this or any other enactment that the municipality is authorized to enforce, or a bylaw (and for this hearing, Community Standards Bylaw 14600), the designated officer may, by written order, require the person responsible for the contravention to remedy it if the circumstances so require.

Section 545(2) of the MGA states that the order may direct a person to take any action or measures necessary to remedy the contravention of the enactment or bylaw, [...] and, if necessary, to prevent a re-occurrence of the contravention.

The earliest title records available to Administration show that the property at 11915 69 St NW has been owned by the same individual as far back as 1988, including now as the Director of the Edmonton Emissaries Of The Blue Lama. Since 2003 over thirty complaints relating to nuisance conditions or overgrown weeds on the property have been investigated. Nuisance conditions on the property are persistent over multiple years, complaints, and complainants. The initial conditions related to this specific MGA Order (518334072-001) came under investigation in May of 2023. Multiple efforts were made since that time to work with the property owner, including extending deadlines to remediate the property.

Based on the evidence provided, it is the position of Administration that the appellant has contravened Section 6(1) of the Community Standards

Bylaw nuisance on land and that the MGA Order issued on July 4, 2024 was valid.

Administration requests that the Order be upheld.

Decision

[8] The Order is **CONFIRMED**.

Reasons for Decision

[9] This is an application for a review of a written Order issued by the City of Edmonton pursuant to section 545 of the *Municipal Government Act*. The Applicant asked the Committee to vacate the Order.

[10] The Committee reviewed all of the submissions provided by both parties to make this decision.

[11] Over the past 18 months the property has been the subject of several complaints, ongoing inspections and more than one section 545 *Municipal Government Act* Order. Photos of the subject property taken at various points during this time provided the Committee with context.

[12] The Order currently under review is dated July 4, 2024.

[13] It was issued based on an inspection of the property on July 3, 2024.

[14] Based on the 12 photos of the property taken on July 3, 2024, the Committee finds that a nuisance on land as defined in section 6 of the *Community Standards Bylaw 14600* was occurring on the property. Therefore, the Committee concluded that the Order was properly issued.

[15] The Committee was not persuaded of any reason to alter, substitute or vary the Order.

[16] Based on all the submissions and evidence provided by the parties, the Committee confirms the Order in accordance with section 547(2) of the *Municipal Government Act*.

Kathy Cherniawsky, Chair
Community Standards and Licence Appeal Committee

cc: Applicant
Community Standards and Neighbourhoods – C. Perizzolo, C. Holstead

Important Information for the Applicant

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.