

**EDMONTON  
COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE**

Citation: v Community Standards and Neighbourhoods (City of Edmonton), 2023  
ABECSLAC 10014

Date: October 26, 2023

Order Number: 473191392-001

CSLAC File Number: CSLAC-23-014

Between:

and

The City of Edmonton, Community Standards and Neighbourhoods

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Committee Members

Karen Munro, Chair  
Allan Bolstad  
Don Fleming

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DECISION

[1] The Community Standards and Licence Appeal Committee (the “Committee”) made and passed the following motion on September 19, 2023:

“The hearing of the review of the Order is postponed to October 17, 2023 with the condition that the Appellant submit either digitally or otherwise all text messages and photographs that the Appellant wishes the Committee to consider on or before NOON on October 13, 2023.”

[2] The Committee made and passed the following motion on October 17, 2023:

“That CSLAC-23-014 be raised from the table.”

[3] On October 17, 2023, the Committee heard a request for review of an Order that was filed on August 8, 2023. 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 28, 2023 and mailed on July 31, 2023 and required the following action:

Cut all long grass and weeds to below 10 centimeters in height. Remove or cut any tree, shrub, or other type of vegetation that obstructs any sidewalk or alleyway that is adjacent to the land. Remove garbage bags, storage totes, containers, furniture, wood, metal, glass, clothing, household items, 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: August 23, 2023

- [4] The subject property is located at 11915 - 69 Street NW, Edmonton.
- [5] The hearing on October 17, 2023 was held through a combination of in person, video conference and written submissions. 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 Applicant's written request for review; and
  - The Respondent's written submission, including a series of photographs.

### **Preliminary Matters**

- [6] The appeal was filed on time, in accordance with Section 547 of the *Municipal Government Act*.
- [7] The Applicant previously requested a postponement of the hearing of his application, and on September 20, 2023 the Committee granted a postponement: see CSLAC 23-014.
- [8] The Applicant sent an email on October 16, 2023 requesting a further postponement of the hearing scheduled for October 17, 2023, due to some personal extenuating circumstances. The Board considered this request as a preliminary matter.
- [9] The Respondent did not attend the hearing but provided email confirmation that the request for a postponement was not supported for the following reason: "As this is a citizen complaint, each adjournment impacts the citizen and community."

### **Decision on Preliminary Matter**

- [10] The request to postpone the hearing is denied.

### **Reasons for Decision**

- [11] Section 12(1) of the *Community Standards and Licence Appeal Committee Bylaw 19003* ("the *CSLAC Bylaw*") authorizes the Chair of Committee to "approve hearing procedures for CSLAC" (the Committee). The Chair of the Committee has done so: see the Community Standards and Licence Appeal Committee Procedures and Guidelines Manual ("the Manual").

[12] Section 6(II) of the Manual sets out a “non-exhaustive” list of factors the Committee may consider in deciding whether to grant a postponement. These are as follows.

- a) Previous postponement/adjournment requests;
- b) The seriousness of the issues to be decided;
- c) The cooperativeness of the parties;
- d) Agreement amongst the parties to the postponement/adjournment;
- e) The number of interested parties;
- f) The timeliness of the application;
- g) The impacts and risks associated with delay such as whether the appellant still retains the Licence under dispute or whether the condition of a property represents a danger or an eyesore;
- h) Safety and the public interest in general;
- i) Prejudice to the parties or any other effect a postponement may have on the enforcement of an Order;
- j) Prejudice, harm or any other effect a postponement may have on other interested parties or the public interest; or,
- k) The availability of an alternate remedy such as exclusion of evidence.

[13] The Committee considered these factors, as well as its requirement to conduct the hearing in a fair manner.

[14] In the Committee’s view, a denial of the Applicant’s postponement request does not result in a breach of natural justice. The Committee reached this conclusion for the following reasons.

- The Applicant previously requested and was granted a postponement of this matter. Thus, this is his second postponement request.
- The Committee agrees with the Respondent that “each adjournment impacts the citizen and community.”
- The citizen the Respondent referred to is the citizen who made a complaint to the City in May of 2023, which complaint instigated the investigation of the state of the Applicant’s property.
- The original Order was granted on July 28, 2023 and required the Applicant to comply by no later than August 23, 2023.

- The Applicant's filing of a request for review of the Order stayed the legal requirements in the Order "until a final decision on the appeal is issued by CSLAC": see section 11(1) of the *CSLAC Bylaw*.
- Thus, the postponement granted on September 20, 2023 delayed the requirement to comply with the Order.
- A further postponement would result in another month's delay. This is because a new hearing cannot be scheduled until November, 2023.
- The issues to be decided by the Committee are very serious. This can be determined by considering no more than the description of the actions the Applicant would be required to take (as set out in the Order), should the Order be confirmed by this Committee.
- A failure to decide this matter in a timely manner consequently has a serious impact on the citizen complainant and the Applicant's neighbours.
- In addition, because of the time of year, a month's delay in this Committee's decision effectively means that enforcement of this Order is unlikely to occur before winter. This makes the impact on the citizen complainant and the Applicant's neighbours even more serious.
- The previous postponement decision was granted at the Applicant's request so that he could provide further evidence to the Committee. At paragraph 21 of that decision, the Committee held that the Applicant had until October 13, 2023 to provide this evidence. The Applicant failed to provide any further evidence to the Committee.
- Further, in his original submissions to the Committee, the Applicant said that he was providing written submissions "Incase [sic] I cannot make it on time to the meeting". The Committee views this as a recognition by the Applicant that his request for review could, if necessary, be heard solely via written submissions.

[15] For the reasons above, the Committee denies the Applicant's request for a further postponement.

[16] In the Committee's view, the factors against postponement very much outweigh the factors for postponement, and there is no denial of natural justice in proceeding with the hearing.

### **Summary of Hearing**

i) *Position of the Applicant*, :

[17] The Applicant did not attend the hearing but provided the following written submission dated September 15, 2023:

*Incase [sic] I cannot make it on time to the meeting here is my response.*

*This email is in regard to the appeal launched  
- 69 Street NW.*

*in regard to 11915*

*I am a disabled senior on Aish and have been injured in a car accident recently  
and I am trying to get things done in spite of my convalescence.*

*One issue is Racism which is prevalent in my neighborhood and has been demonstrated by people spray painting my property with racist words and calling Bylaw on me for the littlest issue. One previous neighbor on the north corner had numerous concrete blocks in his yard for approximately 20 years. The yard has a four foot chain link fence and no privacy slats so everybody front ehNorth or East could see this nuisance but nobody reported him because he was white. Later the property was sold and the new owners removed the cinder blocks.*

*One issue concerns the front boulevard which has alphaalpha growing and the issue is whether alphaalpha is considered a wild flower and not grass then I wish to leave it and not cut it down.*

*The furniture in the front of the house is patio furniture which is used by me for eating and entertaining people. The other furniture is used to have ornaments on top of it and flower pots with plants.*

*I am in the middle of doing renovations also. The materials and tools on the property are being used for the small renovations which are as follows: a 4 foot fence is being changed to a 6 foot fence on the north side of the property and the steps to the deck are being replaced and the metal railings will be used for it. The deck is being coated with fiberglass.*

*The basement flooded and repairs are being done to it and items were moved to the back yard to assist in the remediation.*

*Granite counter tops are being installed in the kitchen and various rooms are being painted.*

*The trees in the back alley have been trimmed so they do not obstruct or interfere with the alley. This was prepared in case I am unable to attend the appeal due to reasons beyond my control. Also grass has been trimmed in the yard.*

ii) *Position of the Respondent, K. Lehman, Community Standards and Neighbourhoods*

[18] The Respondent did not attend the hearing but provided written submissions, including a copy of the Section 545 Order, photographs, Slim Map and two Notice of Entries. The submission includes the following timeline of events of the investigation from May 2023 through to August 2023 :

*2023MAY29 Citizen complaint received via the Problem Property online reporting portal. Complaint indicates that the nuisance is located in the rear yard. Two additional complaints were received after the initial investigation was started.*

*2023MAY29 Notice of Entry issued for an inspection on June 19-22.*

*2023JUN15 Officer spoke with the property owner via text message. Due to ongoing renovations additional time was provided to comply.*

*2023JUL11 Officer left a message with the property owner to make arrangements for an inspection.*

*2023JUL12 Officer inspected the front boulevard and rear driveway. Noxious weeds, long grass/weeds, tire and a door were observed. Property owner was not on site at the time of the inspection. The Officer contacted the property owner, who indicated that communication via text message was preferable. Officer advised the property owner of his observations and what was needed to achieve compliance. Additional time provided to comply.*

*2023JUL13 Notice of Entry issued for a follow up inspection on July 24-28.*

*2023JUL25 Bylaw Officer re-inspected the property and found it to be in violation of Section 6(1) of the Community Standards bylaw, nuisance on land. The property owner was not present at the time of the inspection. The Officer observed partial compliance and noted that the long grass/weeds and noxious weeds were cut along the rear driveway and at the front of the property. On the rear driveway the officer observed a damaged door and cabinet, and in the rear yard the officer observed an accumulation of building materials (wood, metal), several storage totes, containers, chairs, a drawer, clothing, household cleaning tools, garbage bags, a pane of glass and overgrown weeds/grass in excess of 10cm. The officer also reported overgrown vegetation at the rear of the property adjacent to the alley which would cause an obstruction to an utility vehicle passing. The Officer attempted to contact the property owner to advise of the bylaw violation, and to re-schedule another joint inspection. Property owner advised that he was unable to attend for a joint inspection.*

*2023JULY 27 Officer attended the property and took 8 photographs depicting the nuisance on land condition, as described above.*

*2023JUL28 A 545 Municipal Government Act Order was issued on July 28, 2023, as a result of the nuisance on land violation at 11915-69 Street NW. The MGA Order was mailed via Canada Post to the registered owners on July 31, 2023 at 0815hrs.*

*2023AUG08 City Administration received notification of the request to appeal the issuance of the MGA Order. All enforcement was suspended pending the outcome of the CSLAC hearing.*

## **Decision**

[19] The request for review is **DENIED**. The Order is confirmed as issued on July 28, 2023. The compliance date of the Order is varied to November 15, 2023.

## **Reasons for Decision**

[20] The Committee considered the written submissions by both the Applicant and the Respondent.

[21] The Order under review was granted under section 545 of the *Municipal Government Act*. This section provides as follows.

### Order to remedy contraventions

545(1) 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, the designated officer may, by written order, require the person responsible for the contravention to remedy it if the circumstances so require.

#### (2) The order may

- a) direct a person to stop doing something, or to change the way in which the person is doing it;
- b) direct a person to take any action or measures necessary to remedy the contravention of the enactment or bylaw, including the removal or demolition of a structure that has been erected or placed in contravention of a bylaw, and, if necessary, to prevent a re-occurrence of the contravention;
- c) state a time within which the person must comply with the directions;
- d) state that if the person does not comply with the directions within a specified time, the municipality will take the action or measure at the expense of the person.

[22] Under section 547(2) of the *Municipal Government Act*, this Committee may confirm, vary, substitute or cancel any order made under section 545.

[23] On the basis of section 6 of the *Community Standards Bylaw 14600*, the Order requires the Applicant to take the following action:

Cut all long grass and weeds to below 10 centimeters in height. Remove or cut any tree, shrub, or other type of vegetation that obstructs any sidewalk or alleyway that is adjacent to the land. Remove garbage bags, storage totes, containers, furniture, wood, metal, glass, clothing, household items, 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.

- [24] Section 6 of the *Community Standards Bylaw 14600* provides that a “person shall not cause or permit a nuisance to exist on land they own or occupy.”
- [25] Section 6(2) describes a nuisance on land to include “signs of serious disregard for general maintenance and upkeep”.
- [26] The provision also provides examples of circumstances that constitute a nuisance to land, including:
  - excessive accumulation of material including but not limited to building materials, appliances, household goods, boxes, tires, vehicle parts, garbage or refuse, whether of any apparent value or not (section 6(2)(a))
  - any loose building or construction materials, any accumulation of construction-related garbage or refuse, or any untidy work or storage areas on the land (section 6(2)(a.2))
  - unkempt grass or weeds higher than 10 centimetres (section 6(2)(d))
  - any tree, shrub, other type of vegetation or any structure (i) that interferes or could interfere with any public work or utility; (ii) that obstructs any sidewalk adjacent to the land; or (iii) that impairs the visibility required for safe traffic flow at any intersection adjacent to the land (section 6(2)(g)).

[Emphasis added by underlining.]

- [27] The Respondent provided evidence to support a finding that the Applicant had caused or permitted “a nuisance to exist on land” he owned or occupied. Included in this evidence were eight photographs of the property.
- [28] The Applicant does not dispute that he has items in his yard that are generally not stored in a yard. The Applicant agrees that he has in his yard: alfalfa, fence materials, metal railings for deck stairs, and items from the basement of the house.
- [29] The Applicant also does not dispute that the photographs provided by the Respondent are an accurate representation of the state of his yard.
- [30] The Applicant does say that he has trimmed the trees and cut the grass, though he did not provide any photographs to support this assertion. The Applicant also says that he would prefer not to cut the alfalfa.

- [31] Instead, the Applicant primarily argues that he has been singled out for investigation and enforcement, and that other properties in Edmonton are also in an unsightly condition.
- [32] The Committee is not authorized to make a decision about any property other than that referred to in the Order. Therefore, even if the Applicant had provided evidence to support his assertion that other properties were in equally bad or worse condition, the Committee could make no determination about these properties. Furthermore, this information would not be relevant information in relation to the Committee's decision about the Applicant's property.
- [33] The only issue before the Committee is the state of the Applicant's property.
- [34] The Committee has no hesitation in deciding that the property does constitute a "nuisance on land", as defined by the *Municipal Government Act* and the *Community Standards Bylaw*.
- [35] The state of the Applicant's property demonstrates "signs of a serious disregard for general maintenance and upkeep".
- [36] Specifically, the Committee finds that the list of necessary actions set out in the Order are fully supported by the photographs provided in the Respondent's written submissions.
- [37] The photographs clearly demonstrate that the Applicant's yard contains:
  - a damaged door and cabinet
  - accumulation of building materials
  - several storage totes
  - several containers
  - chairs
  - a drawer
  - clothing
  - household cleaning tools
  - garbage bags
  - a pane of glass
  - overgrown weeds and grass in excess of ten centimetres, and
  - overgrown vegetation at the rear of the property, adjacent to the alley.
- [38] The Committee notes that the Applicant says he has cut the grass and trimmed the trees. The Applicant did not provide photographs of the cut grass and trimmed trees. The Committee recognizes that the Applicant says he has taken these steps toward compliance, but has not varied the Order on the basis of this assertion.
- [39] Accordingly, the Committee confirms the Order granted on July 28, 2023, with the exception of the date for compliance.

[40] The Committee varies the date of compliance from August 23, 2023 to November 15, 2023.

Karen Munro, Chair  
Community Standards and Licence Appeal Committee

cc: Community Standards and Neighbourhoods - C. Perizzolo, C. Holstead

**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.