

EDMONTON
COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

Citation: v Community Standards and Neighbourhoods (City of Edmonton), 2020
ABECSLAC 011

Date: December 18, 2020

Order Number: 371668766-001

CSLAC File Number: CSLAC-20-011

Between:

A.

and

The City of Edmonton, Community Standards and Neighbourhoods

Committee Members

Ian Wachowicz, Chair
Kathy Cherniawsky
Winston Tuttle

DECISION

[1] On November 17, 2020, the Community Standards and Licence Appeal Committee (the “Committee”) made and passed the following motion:

“That CSLAC-20-011 be postponed to 1:30 p.m. on December 15, 2020 with the mutual consent of both parties.”

[2] On December 15, 2020 the Committee made and passed the following motion:

“That CSLAC-20-011 be raised from the table.”

[3] On December 15, 2020, the Committee heard an appeal that was filed on October 7, 2020. The appeal concerned the decision of Community Standards and Neighbourhoods to issue an Order on September 17, 2020 pursuant to Section 545(1) of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”):

Remove all damaged/dismantled/derelict, vehicle parts, siding, wood, flower pots, cardboard, metal, furniture, loose litter, 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.

- [4] The subject property is on Plan 5587MC Blk 3 Lot 29, located at 6704 - 132 Avenue NW, Edmonton.
- [5] The appeal hearing on December 15, 2020, 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 appeal; and
 - Disclosure documents from the Respondent including two sets of photographs dated September 16, 2020 and December 14, 2020.

Preliminary Matters

- [6] At the outset of the appeal 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 Hearing

i) Position of the Appellant, A.

- [9] The Appellant was represented by Mr. R. Gregory of Davidson Gregory Tralenberg.
- [10] Mr. Gregory pointed out that there are some differences between the September 2020 photographs and the December 2020 photographs. Some of the items surrounding the vehicle, which has been deemed by the City to be derelict, have been removed. The Appellant is prepared to remove any remaining vehicle parts.
- [11] The owner of the vehicle is currently working in British Columbia. He will be returning for the Christmas season and is prepared to put the vehicle into a functional state of repair at that time.

- [12] The vehicle has an engine and a transmission and, while it is not in pristine shape, it is fully functional other than the tire that is currently missing.
- [13] The owner of the vehicle is prepared to bring it up to specifications so it will no longer be considered a derelict vehicle.
- [14] Mr. Gregory provided the following responses to questions from the Board:
- a) The vehicle can be operational by January 15, 2021.
 - b) While some of the items surrounding the vehicle have been removed, the Appellant acknowledges that there are additional items that need to be removed and he is prepared to take further steps.
- ii) *Position of the Respondent, C. Perizzolo*
- [15] Ms. C. Perizzolo, Acting Coordinator, Complaints and Investigations, appeared on behalf of the City of Edmonton.
- [16] On August 28, 2020, while on proactive patrol, the Municipal Enforcement Officer observed a damaged and dismantled vehicle at the rear of 6704 - 132 Avenue NW as well as other debris including vehicle parts, metal, scrap wood and loose litter.
- [17] A Notice to Comply was issued on August 31, 2020 and a follow up inspection was conducted on September 16, 2020. It was determined that voluntary compliance had not been obtained.
- [18] Seven photographs were taken on September 16, 2020, depicting the nuisance on land condition. The photographs and the officer's notes confirm that the vehicle was in fact damaged and dismantled. There were missing parts including the front tire and grille, there was damage to the engine noted and the vehicle was up on jacks and could not be used for transport. As a result, a 545 *Municipal Government Act* Order was issued on September 17, 2020.
- [19] Section 6(2) of the *Community Standards Bylaw* 14600 identifies nuisance on land as land, or any portion thereof, that shows signs of serious disregard for general maintenance and upkeep, whether or not it is detrimental to the surrounding area. Examples under section 6(2)(a) include excess accumulation of material including but not limited to building materials, appliances, household goods, boxes, tires, vehicle parts, garbage or refuse.
- [20] The City does acknowledge that some of the material identified on the September 16, 2020 inspection has been removed. However, the damaged, dismantled vehicle does remain. Section 6(2)(b) gives damaged, dismantled or derelict vehicles or motor vehicles, whether insured or registered or not, as an example of nuisance on land.

- [21] Two sets of photographs dated September 16, 2020, and December 14, 2020, are before the Committee today and depict an accurate condition of the property.
- [22] Section 545(1) of the *Municipal Government Act* states that, if in the opinion of a designated officer, a person has violated a bylaw or enactment, that the officer is allowed to enforce, that person may be directed by written order to remedy the infraction.
- [23] Based on the above information and the photographs provided to the Committee, Administration is satisfied that the Appellant has contravened Section 6(1) of the *Community Standards Bylaw* and is asking that the Order be upheld.
- [24] Ms. Perizzolo provided the following responses to questions from the Committee:
- a) Ms. Perizzolo confirmed that she has no objection if the Committee were to change the compliance date of the order to the end of January, 2021.
 - b) She agreed that the photos show that there has been some clean-up done since the order was issued in September but the remaining items must still be removed.

iii) Rebuttal of the Appellant

- [25] The Appellant declined the opportunity for rebuttal.

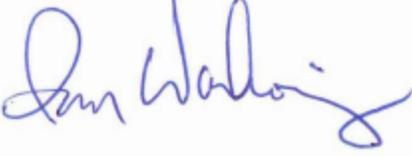
Decision

- [26] The Order is confirmed; however, the compliance date of the Order will be changed from October 12, 2020, to January 31, 2021.

Reasons for Decision

- [27] This is a review of a section 545 order issued pursuant to section 547 of the *Municipal Government Act* and the *Community Standards Bylaw 14600*.
- [28] The order issued under section 545 of the *Municipal Government Act* was validly issued and required the Appellant to:
- Remove all damaged/dismantled/derelict, vehicle parts, siding, wood, flower pots, cardboard, metal, furniture, loose litter, 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.
- [29] Since the issuance of that order, there is evidence before the Committee that there has been significant compliance by the Appellant.

- [30] Photos taken by the Municipal Enforcement Officer on December 14, 2020 and submitted to the Committee as evidence indicate that all that remains that would be subject to the order is a truck, which is currently partially dismantled, as its front passenger tire and rim are removed and a couple of items around the truck, possibly its parts that were hard to see as they were covered in snow. Accordingly, at the moment, there is a dismantled motor vehicle on the site which constitutes a nuisance pursuant to section 6(2)(b) of the *Community Standards Bylaw 14600*.
- [31] The evidence presented to the Committee was that the vehicle and surrounding parts are the property of a third party who will reassemble the vehicle so that it will no longer be damaged, dismantled or derelict.
- [32] The Respondent, the City of Edmonton, agreed that the compliance date of the Order could be extended to January 31, 2021 to allow time for the nuisance to be removed.
- [33] Accordingly, the Order, upon review, is varied solely to the extent that the date for compliance is changed from October 12, 2020 to January 31, 2021.



Mr. I. Wachowicz, Chair
Community Standards and Licence Appeal Committee

cc: Community Standards and Neighbourhoods – J. Lallemand, C. Perizzolo
R. Gregory
A.

Important Information for the Appellant

1. A person affected by this decision may appeal to the Alberta Court of Queen'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.