



**EDMONTON
TRIBUNALS**

*Subdivision &
Development
Appeal Board*

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Date: November 24, 2017
Project Number: 259268796-001
File Number: SDAB-D-17-216

Notice of Decision

- [1] On November 9, 2017, the Subdivision and Development Appeal Board (the “Board”) heard an appeal that was filed on October 20, 2017. The appeal concerned the decision of the Development Authority, issued on September 22, 2017, to [approve, refuse] the following development:

To construct a Semi-detached House with a Basement development (NOT to be used as an additional Dwelling), fireplace, uncovered deck, veranda

- [2] The subject property is on Plan RN22B Blk 45 Lots 12-13, located at 10710 - 125 Street NW, within the DC1 Direct Development Control Provision. The Medium Scale Residential Infill Overlay and the West Ingle Area Redevelopment Plan apply to the subject property.

- [3] The following documents were received prior to the hearing and form part of the record:

- Copy of the Development Permit application with attachments, proposed plans, and the refused Development Permit;
- Previous decision of the Subdivision and Development Appeal Board
- Canada Post receipt confirming delivery of the decision on October 4, 2017
- The Development Officer’s written submissions; and
- Online and email responses in opposition to the proposed development.

Preliminary Matters

- [4] At the outset of the appeal hearing, the Presiding Officer confirmed with the parties in attendance that there was no opposition to the composition of the panel.
- [5] The Presiding Officer outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.

- [6] The Presiding Officer first addressed the issue of jurisdiction and whether the appeal was filed outside of the allowable 14 day appeal period, pursuant to the requirements of the *Municipal Government Act*.
- [7] The Presiding Officer advised that amendments to the Decision Making Timelines contained in the *Municipal Government Act* came into effect on October 26, 2017 and the Board is bound by these requirements.
- [8] Before the amendments were adopted, section 686(1) of the *Municipal Government Act* states, in part:
- A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days...
- [9] In this case the decision of refusal was issued on September 22, 2017. The Canada Post Delivery Confirmation is dated October 4, 2017. Therefore the last day to file an appeal was October 18, 2017 and the appeal was filed on October 20, 2017.
- [10] After the amendments made on October 26, 2017, section 686 now states, in part:
- An appeal on a development permit or a stop order must be filed within twenty-one (21) days of the date of the decision or order.
- [11] Applying the amended legislation, the decision of refusal was issued on September 22, 2017. Twenty-one days from the date of the issuance of the decision is October 13, 2017 and the appeal was filed on October 20, 2017.
- [12] In both instances it appears that the appeal was filed late. The Presiding Officer asked the Appellant to provide information to the Board relative to the filing date of the appeal.

Summary of Hearing

i) Position of the Appellant, Ms. R. Geddes:

- [13] Ms. Geddes advised that she was dealing with some personal matters at the beginning of October and acknowledged that her appeal was filed late. She was not aware of any potential amendments to the *Municipal Government Act*.

ii) Position of the Development Officer, Mr. J. Angeles:

- [14] The decision of refusal was issued on September 22, 2017 and it was his opinion that the appeal was filed late.

Decision

[15] The Board does not assume jurisdiction.

Reasons for Decision

[16] The Board applied the provisions of Section 686 of the *Municipal Government Act* before and after the amendments that were approved on October 26, 2017 and finds that in both instances, the appeal was filed outside of the allowable time period.

[17] When considering the previous provisions of Section 686, the Board determined that the Appellant was notified of the decision of refusal on October 4, 2017. The last day to file an appeal was October 18, 2017 and the appeal was filed on October 20, 2017.

[18] When considering the amendments to the provisions of Section 686 that were approved on October 26, 2017, the Board determined based on the evidence provided by the Development Officer that the refusal was issued on September 22, 2017 and the last day to file an appeal was October 13, 2017. The appeal was filed on October 20, 2017.

[19] The Board finds that the requirements of Section 686 of the *Municipal Government Act*, either before or after the amendments were passed, have not been met. The appeal was filed late and the Board cannot take jurisdiction to hear this appeal.

Mr. V. Laberge, Presiding Officer
Subdivision and Development Appeal Board

Board members in attendance: Mr. N. Somerville, Ms. G. Harris, Mr. L. Pratt, Mr. A. Peterson

Important Information for the Applicant/Appellant

1. This decision may be appealed to the Alberta Court of Appeal on a question of law or jurisdiction under Section 688 of the *Municipal Government Act*, RSA 2000, c M-26. If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall operate to suspend the Development Permit.
2. When a decision on a Development Permit application has been rendered by the Subdivision and Development Appeal Board, the enforcement of that decision is carried out by the Sustainable Development Department, located on the 2nd Floor, Edmonton Tower, 10111 – 104 Avenue NW, Edmonton, AB T5J 0J4.

NOTE: The City of Edmonton does not conduct independent environmental checks of land within the City. If you are concerned about the stability of this property for any purpose, you should conduct your own tests and reviews. The City of Edmonton, when issuing a development permit, makes no representations and offers no warranties as to the suitability of the property for any purpose or as to the presence or absence of any environmental contaminants on the property.