

EDMONTON
COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

Citation: B. R. M.v Community Standards and Neighbourhoods (City of Edmonton), 2020
ABECSLAC 006

Date: October 29, 2020
Order Number: 358769144-001
CSLAC File Number: CSLAC-20-006

Between:

B. R. M.

and

The City of Edmonton, Community Standards and Neighbourhoods

Committee Members

Ian Wachowicz, Chair
Kathy Cherniawsky
Rohit Handa

DECISION

[1] On October 20, 2020, the Community Standards and Licence Appeal Committee (the “Committee”) heard an appeal that was filed on June 9, 2020. The appeal concerned the decision of Community Standards and Neighbourhoods to issue an Order pursuant to Section 545(1) of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”) on May 25, 2020:

Remove all wood, pails, containers, pylons, chairs, plywood, metal, pallets, pipes, planting pots, boxes, paper, books, lights, tires, bike parts, cement blocks, 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.

- [2] The subject property is located at 12204 - 113 Avenue NW, Edmonton.
- [3] 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;
 - A written submission from the Appellant; and
 - Disclosure documents from the Respondent.
- [4] The following exhibit was presented during the hearing and forms part of the record:
- Exhibit A – A set of photographs dated October 19, 2020, from the Respondent.

Preliminary Matters

- [5] 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.
- [6] The Chair outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.
- [7] The appeal was filed on time, in accordance with Section 547 of the *Municipal Government Act*.

Summary of Hearing

i) Position of the Appellant, B. R. M.

- [8] Mr. M. referenced one of his submissions, a copy of the envelope that the Notice of Entry dated May 13, 2020 was mailed out in, and the Committee confirmed they had a copy. The envelope was postmarked May 20, 2020.
- [9] The Appellant had concerns about the legality of the May 21, 2020 inspection. He did not receive the Notice of Entry prior to this inspection and was caught off guard when a Municipal Enforcement Officer, along with two Edmonton Police Service constables, arrived at his door on May 21, 2020. The Municipal Enforcement Officer advised he was there to inspect the subject property and asked if the Appellant had received the Notice of Entry. The Appellant advised the Officer that he had not received it.
- [10] Mr M. requested a few minutes to make himself presentable and the Officer indicated they would wait. When the Appellant returned after a few minutes, the Municipal Enforcement Officer stated he had completed the inspection and that he would write up a letter itemizing all of the things that had to be removed from the property. The resulting order is what prompted the Appellant to request a review.

- [11] It is the Appellant's opinion that the order is void as the City failed to give reasonable notice of entry as required by the *Municipal Government Act* for the May 21, 2020 inspection.
- [12] A couple of weeks ago, the Appellant received a second Notice of Entry demanding access to the property on October 19, 2020, to conduct an inspection. The Appellant replied via fax that he did not consent to having an officer enter his property on October 19, 2020. The Appellant confirmed that the Notice of Entry for the October 19, 2020 inspection was dated September 30, 2020, and that he received it in the mail a few days later.
- [13] Pictures provided to the Appellant at today's hearing showed that an inspection had been conducted from public property on October 19, 2020. These photos appear to have been taken using telescopic lenses.
- [14] The Officer who issued the Order is not present at today's hearing. He would have been the person who could provide the best evidence.
- [15] The Appellant only found out that an inspection had taken place on April 1, 2020, after he requested and received limited disclosure from the City.
- [16] In all three inspections (April 1, May 21 and October 19), the Officer simply took photographs and did not bother to ask a single question about the merits of the property. The Appellant feels like he has been treated arbitrarily and believes that the *Municipal Government Act* has been contravened.

ii) *Position of the Respondent, C. Perizzolo*

- [17] Ms. C. Perizzolo, Acting Coordinator, Complaints and Investigations, appeared on behalf of the City of Edmonton.
- [18] The Notice of Entry in question was dated May 13, 2020, and would have been mailed either the afternoon of May 13, 2020, or the morning of May 14, 2020 via regular mail. Section 23(1) of the *Interpretation Act* as well as section 23(2)(a) of the *Enforcement Bylaw 16368* presume that an item sent by regular mail to an address in Alberta is deemed to have been received seven days from the date of mailing.
- [19] At this time, the Committee examined the copy of the envelope that Mr. M. had submitted and determined that the postmark showed a mailing date of May 20, 2020.
- [20] Even if Mr. M. did not receive the Notice of Entry as stated, at the time of the May 21, 2020 inspection, the Bylaw Officer provided a copy of the Notice of Entry and explained the reasons for the visit as well as the enforcement process. The Appellant did not refuse entry on May 21, 2020 and no objection was made to the photographs being taken.

- [21] Ms. Perizzolo confirmed that the 545 Order that Mr. M. received was based on the May 21, 2020 photographs. If the Committee were to find that reasonable notice was not provided, the May 21, 2020 photos would not be valid. However, the October 19, 2020 photographs were taken from public land and depict an accurate condition of the property on that date.
- [22] Ms. Perizzolo provided the following responses to the questions from the Committee:
- a) If the Committee were to find the May 21, 2020 photos invalid, she asks the committee consider varying the order to read October 19, 2020.
 - b) She can confirm that Mr. M. received the Notice of Entry for the October 19, 2020 inspection as he reached out to the City upon receiving the notice and advised that the City was not authorized to enter his land. As a result, the Officer took the October 19, 2020 photographs from public land.
- [23] Ms. Perizzolo then addressed the merits of the appeal.
- [24] Enforcement action was originally initiated due to a complaint received in March 2020. The Officer inspected the property on April 1, 2020 from public property and made note of the untidy and unsightly condition. Due to snow accumulation, the file was put forward until May 21, 2020.
- [25] On May 21, 2020, a re-inspection was conducted and ten photographs were taken showing an excessive accumulation of material. A 545 Order was issued on May 25, 2020 ordering the property owner to remove all wood, pails, containers, pylons, chairs, plywood, metal, pallets, pipes, planting pots, boxes, paper, books, lights, tires, bike parts, cement blocks, 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.
- [26] On June 16, 2020, at the request of the property owner, the Officer hand delivered disclosure documents from the City.
- [27] Two sets of photographs dated May 21, 2020, and October 19, 2020, are before the Committee today and accurately depict the condition of the property.
- [28] Section 6 of the *Community Standards Bylaw* 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. For further clarification, the Bylaw lists examples of nuisance conditions which include excessive accumulation of material, appliances, household goods, boxes, garbage or refuse whether of any apparent value or not.

- [29] 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.
- [30] 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.
- [31] Ms. Perizollo provided the following response to a question from the Committee:
- a) If a document has been served personally, Ms Perizollo's office assumes reasonable notice has been given if no objection has been received within 24 hours.

iii) *Rebuttal of the Appellant*

- [32] The Appellant produced the original envelope in which the May 21, 2020 Notice of Entry was mailed and the postmark was viewed by the Committee members as well as the City's representative.
- [33] The Appellant objected to Ms. Perizzolo acting on behalf of the designated officer as the officer would be the person who could provide the best evidence.
- [34] The *Municipal Government Act* is a benevolent act and requires property owners to be treated with respect. The Appellant was caught off guard at the time of the May 21, 2020 inspection and did not have time to take notes or to tape the conversation. He was not dressed when the Officers arrived and by the time he had made himself presentable, the Municipal Enforcement Officer had already made some kind of assessment.
- [35] The Appellant never consented to the May 21, 2020 inspection.
- [36] The Appellant confirmed that the October 19, 2020 photos were of his property but feels that the Officer still had an obligation to question the property owner rather than just take photographs.
- [37] He would object if the Board were to simply extend the date of compliance.

iv) *Rebuttal of the Respondent*

- [38] It is the City's submission that the property is in an untidy and unsightly condition which was confirmed by the April 1, May 21 and October 19 inspections as well as complaints which were received regarding the property.

- [39] The Committee has the option to vary the Order to be based on the October 19, 2020 inspection should it determine that improper notice was provided for the May 21 inspection.
- [40] The City is willing to be flexible and will work with the Appellant as long as it sees that work is being undertaken to get the property clean.
- [41] A stay of the Order remains in place for 30 days from the date of the Committee's decision plus 7 days for mailing to allow the appeal period to expire. They would also take the weather and the colder temperatures into consideration and they understand that limited work can be done once winter arrives.

Decision

- [42] The Order is substituted and the new Order is based on the October 19, 2020 inspection and has a compliance date of November 20, 2020.

Reasons for the Decision

- [43] A preliminary point is to decide whether to consider evidence gathered by the City and the City's Designated Officer on May 21, 2020. The inspection on May 21, 2020 took place on private land. The *Municipal Government Act* authorizes a designated officer to inspect private land. Section 542 (1) states:

542(1) If this or any other enactment or a bylaw authorizes or requires anything to be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or the structure to be entered to carry out the inspection, remedy, enforcement or action,

- (a) enter on that land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the enactment or bylaw,

- [44] The Board finds that no reasonable notice was given to the owner under section 542. Evidence before the Committee includes the envelope in which a written Notice of Entry was mailed to the Appellant which is clearly postmarked May 20, 2020. The Committee has in its files photocopies of the envelope and the Committee notes that the Appellant brought the original envelope to this hearing which was observed by all members of the Committee as well as the representative from the City of Edmonton.

- [45] With the envelope being postmarked May 20, 2020 by Canada Post and the inspection and entry onto the land occurring May 21, 2020, the following day after being postmarked, the Committee finds there is no possible way that reasonable or any notice was given to the Appellant. The Committee finds that giving notice in person contemporaneous with entry and contemporaneous with a search following entry is not reasonable and constitutes no notice.
- [46] The Committee then had to consider the impact of the lack of notice given under Section 542 of the *Municipal Government Act*.
- [47] The Committee has decided as a result of the failure to give reasonable notice as statutorily required, the evidence gathered from the May 21, 2020 inspection will be excluded from the evidence being considered by this Committee during the review of this order.
- [48] This however, does not end the matter. This Committee's jurisdiction comes from section 547 of the *Municipal Government Act*. Section 547 allows council or a committee of council to review the order and after reviewing the order this Committee may confirm, vary, substitute or cancel the order.
- [49] The Committee notes that this process is a review of the order, not an appeal of the order. Other portions of the *Municipal Government Act* dealing with appeals from Development Authority and Subdivision Authority decisions clearly state "appeals" and "appeal tribunals". This is a review. Powers upon this review include confirming, varying cancelling and also the ability to substitute an order. If this were an appeal, it would clearly be a hearing de novo appeal. This is simply a review of the order given.
- [50] The Committee then reviewed the evidence before it excluding all evidence gathered in the May 21, 2020 inspection. The Committee has before it evidence of a complaint made in March, 2020 and has photographic evidence of the subject site taken yesterday, October 19, 2020.
- [51] The Appellant confirmed that the photos taken yesterday were indeed photos of his property which is also the subject site. It was confirmed by the City that those photographs were taken from public property and were not taken as part of any entry on to the land.
- [52] The *Community Standards Bylaw 14600* bylaw states
- 6 (1) A person shall not cause or permit a nuisance to exist on land they own or occupy.
 - (2) For the purpose of greater certainty a nuisance, in respect of land, means land, or any portion thereof, that shows signs of a serious disregard for general maintenance and upkeep, whether or not it is detrimental to the surrounding area, some examples of which include:

(a) 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;

(a.1) any loose litter, garbage or refuse whether located in a storage area, collection area or elsewhere on the land;

- [53] The Committee has reviewed photographic evidence taken by a designated officer on October 19, 2020 and finds that there is a nuisance existing on the subject site. That nuisance consists in part of an excessive accumulation of material including household goods and other materials on the subject site which constitutes a nuisance under Section 6(1) of the *Community Standards Bylaw 14600*.
- [54] Being satisfied that Section 6(1) has been breached by the Appellant, the Committee turns to section 545 of the *Municipal Government Act* which allows Orders to be written requiring the person responsible for the contravention of a bylaw to remedy the circumstances.
- [55] It is the decision of this committee to substitute a new order pursuant to its jurisdiction in section 547(2) of the *Municipal Government Act*. While the previous order was based upon evidence gathered in an inspection that did not comply with the reasonable notice requirement in section 542 of the *Municipal Government Act*, the other evidence properly before the Committee today warrants the issuance of an order pursuant to section 545.
- [56] That order will be on the same terms as the order initially issued by the Designated Officer with the exception that it is based on the evidence shown in photographs taken on October 19, 2020 and that the contravention must be remedied within one month from the hearing date being November 20, 2020.



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

cc: Community Standards and Neighbourhoods – J. Lallemand, C. Perizzolo
B. R. M.

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.

EDMONTON
COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

Citation: M. A. M. v Community Standards and Neighbourhoods (City of Edmonton), 2020 ABECSLAC 009

Date: October 29, 2020
Order Number: 371699434-001
CSLAC File Number: CSLAC-20-009

Between:

M. A. M.

and

The City of Edmonton, Community Standards and Neighbourhoods

Committee Members

Ian Wachowicz, Chair
Kathy Cherniawsky
Rohit Handa

DECISION

[1] On October 20, 2020, the Community Standards and Licence Appeal Committee (the “Committee”) heard an appeal that was filed on September 24, 2020. The appeal concerned the decision of Community Standards and Neighbourhoods to issue an Order pursuant to Section 545(1) of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”) on September 17, 2020:

Cut all unkempt grass and weeds over 10 cm.

[2] The subject property is located at 15206 - 76 Avenue NW, Edmonton.

[3] 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*; and
- The Appellant’s written request for appeal.

[4] The following exhibit was presented during the hearing and forms part of the record:

- Exhibit A – Supporting documents and photographs from the Respondent.

Preliminary Matters

[5] 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.

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

[7] The appeal was filed on time, in accordance with Section 547 of the *Municipal Government Act*.

Summary of Postponement Request

i) Position of the Appellant, M. M.

[8] Mr. B. L, agent for M. M. did not attend the hearing.

ii) Position of the Respondent, C. Perizzolo

[9] Ms. C. Perizzolo, Acting Coordinator, Complaints and Investigations, appeared on behalf of the City of Edmonton.

[10] She received a voicemail at 6:00 p.m. last night and a second message earlier this morning from Mr. L. requesting a postponement. No rationale or reasons for the postponement request were provided.

[11] Members of Administration confirmed that the Community Standards and Subdivision Appeal Committee did not receive any direct communication from the Appellant requesting a postponement.

[12] Item 102 of the CSLAC Procedural Guide states that the Committee will not postpone a hearing unless there are compelling reasons to do so. Item 104 of this guide provides the following examples of compelling reasons: a recent death in the immediate family; serious incapacity or illness; court attendance required on a peremptory basis on another matter; unexpected or unavoidable transportation problems (e.g. bad weather); appellant's or respondent's counsel retained after the setting of the hearing date and the counsel is not available; and unexpected delays in the receipt of relevant documents.

- [13] There is no evidence that any of those situations has occurred. In light of the procedural guidelines to require compelling reasons to be presented to allow for an adjournment, the request for an adjournment via voicemail from the Appellant to the City is denied.
- [14] The Committee will proceed based on the written materials it has received from the Appellant.

Summary of the Hearing

i) Position of the Appellant, B. L.

- [15] The Committee relied on Mr. L.'s written submission and photographs.
- [16] Mr. L. believes there is beauty in a well-manicured yard with longer than typical length grass. He has perused the City Blue Print for Naturalized Yards and believes he is well within the guidelines. He understands there is a difference between a well-tended yard, and one that is simply unkempt.
- [17] He would like to let the grass grow, with stone walking paths, borders for flower beds, lawn ornaments and special trails for the rabbits that run through his yard.
- [18] The Officer who first came from the City to inspect the property reported that "everything was just fine" and there there were no noxious weeds present
- [19] It came as a big surprise to Mr L. when he received the order to cut all unkempt grass and weeds including the backyard which is his private mediation space. He attends to his yard on a daily basis and does not consider it to be unkempt or derelict.
- [20] He has trimmed the grass on the boulevard to a conservative height of 4 inches (10 centimetres).

ii) Position of the Respondent, C. Perizzolo

- [21] On August 31, 2020 a citizen's complaint was received regarding long grass and weeds at the subject site.
- [22] A noxious weed investigation was also simultaneously open. On August 27, 2020, a weed inspector determined that there were no regulated weeds found on the property; however, the weed inspector asked that all long grass and nuisance weeds be trimmed.
- [23] The investigating Officer attended the property on September 16, 2020, for re-inspection. He found no compliance and the grass was up to two feet tall in some areas. One photograph was taken.

- [24] As a result of this September 16, 2020, inspection a 545 order was issued on September 17, 2020 ordering the land owner to cut all unkempt grass and weeds over 10 cm.
- [25] On October 6, 2020, a Bylaw Officer met with the property owner on site to discuss what a naturalized yard is and provided a brochure providing the criteria. A naturalized yard must be carefully planned, designed and maintained and is to include native species.
- [26] Two sets of photographs dated September 16, 2020, and October 19, 2020, are before the Committee today and accurately depict the condition of the property.
- [27] Section 6 of the Community Standards Bylaw 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. For further clarification the Bylaw lists examples of nuisance conditions which include unkempt grass or weeds higher than 10 centimetres.
- [28] 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.
- [29] 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.

Decision

- [30] The Order is confirmed.

Reasons for Decision

- [31] On September 16, 2020, a Designated Officer of the City of Edmonton attended the subject site to investigate a complaint with respect to an unsightly yard caused by excessively long grass. That inspection revealed grass and weeds located on the subject site in excess of 10 centimetres in height.
- [32] On September 17, 2020, pursuant to the authority granted to the City of Edmonton and its Designated Officers under section 545 of the *Municipal Government Act*, an order was issued requiring the landowner at the subject site to cut the grass and weeds to be not higher than 10 centimetres.
- [33] The *Community Standards Bylaw 14600 bylaw* states

- 6 (1) A person shall not cause or permit a nuisance to exist on land they own or occupy.

Section 6(2)(d) of the *Community Standards Bylaw* prohibits the existence of unkempt grass or weeds higher than 10 centimetres.

- [34] Given the evidence provided by the City, based on an inspection conducted on September 16, 2020, the Committee is satisfied that the subject site has unkempt grass or weeds higher than 10 centimetres. Accordingly, there has been a violation of section 6 (1) of the *Community Standards Bylaw*.
- [35] Given the Committee finding that there has been a breach of the *Community Standards Bylaw* 14600 that was observed during the September 16, 2020 inspection, the Order issued on September 17, 2020 pursuant to section 545 of the *Municipal Government Act* was validly issued.
- [36] Pursuant to section 547(2) of the *Municipal Government Act* this Committee may confirm, vary, substitute or cancel the order after reviewing it.
- [37] This Committee confirms the Order as issued.

A handwritten signature in blue ink, appearing to read "I. Wachowicz". The signature is fluid and cursive, with a large initial "I" and a long, sweeping tail.

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

cc: Community Standards and Neighbourhoods – J. Lallemand, C. Perizzolo
B. L.

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.

EDMONTON
COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

Citation: N. D. J. C. v Community Standards and Neighbourhoods (City of Edmonton), 2020 ABECSLAC 010

Date:	October 29, 2020
Order Number:	373491469-001
CSLAC File Number:	CSLAC-20-010

Between:

N. D. J. C.

and

The City of Edmonton, Community Standards and Neighbourhoods

Committee Members

Ian Wachowicz, Chair
Kathy Cherniawsky
Rohit Handa

DECISION

[1] On October 20, 2020, the Community Standards and Licence Appeal Committee (the “Committee”) heard an appeal that was filed on October 1, 2020. The appeal concerned the decision of Community Standards and Neighbourhoods to issue an Order pursuant to Section 545(1) of the *Municipal Government Act*, RSA 2000, c M-26 (the “*Municipal Government Act*”) on September 22, 2020:

Remove all damaged/dismantled/derelict vehicles and take any actions or remove any other items that are contributing to the unsightly condition of the property.

[2] The subject property is located at 12137 - 58 Street NW, Edmonton.

[3] 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 written submission; and
- Disclosure documents from the Respondent

[4] The following exhibit was presented during the hearing and forms part of the record:

- Exhibit A – Supporting documents and photographs from the Respondent dated October 19, 2020

Preliminary Matters

[5] 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.

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

[7] The appeal was filed on time, in accordance with Section 547 of the *Municipal Government Act*.

Summary of Hearing

i) Position of the Appellant, N. C.

[8] The Appellant does not believe that his property shows serious disregard for maintenance and upkeep. The biggest issue seems to be the condition of the tarps which he is working on replacing. It has been windy lately making this difficult.

[9] The Appellant confirmed that he owns all of the vehicles on the property. He has had this hobby for the past 30 years and no complaints have been made by any neighbours. He gets along well with all of his neighbours.

[10] It is the Appellant's intent to raise the height of the fencing around the perimeter of his property to avoid this kind of issue in the future.

[11] The subject Order is as a result of enforcement action that took place on the property next door. The enforcement officer took notice of the Appellant's property while dealing with the next door property.

[12] The October 19, 2020, photographs do not depict derelict, damaged or dismantled vehicles. The term dismantled is intended to prevent people from dismantling cars and selling the parts from their backyards.

[13] His house and property have been maintained and there are no signs of general disregard for general maintenance and upkeep. The Appellant does not see why he should be here and it is up to the Committee to decide if the photos warrant this type of action.

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

- a) He described the various cars located on the property. Only one vehicle, the 2005 KIA, is currently registered and is used as his commuting vehicle. He is working on the other vehicles as time and finances allow and the trailer is going in for scrap.
- b) The interest in his property came as a result of vehicles parked on the front lawn of the property next door.

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 Sept 21, 2020 while on proactive patrol, the Municipal Enforcement Officer observed damaged, dismantled and derelict vehicles from public property. There were a total of eight vehicles, including a utility trailer, in various locations at the rear and side of the property. Seven of the vehicles are in contravention of the *Community Standards Bylaw*.

[17] These seven vehicles are in various states of repair and are missing parts, tires, windshields, some are on jacks or blocks and some are surrounded or covered in other debris. The vehicles have not moved and have not been used for transport.

[18] She referred to the photographs submitted which show evidence of the damaged, dismantled and derelict vehicles. She also referred to pictometry photographs that have been submitted which confirm that some of the vehicles have been on the property since at least 2015. In fact, Slim mapping shows some of the vehicles have been there since 2008.

[19] Section 6(2) of the *Community Standards Bylaw* 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. For further clarification the Bylaw lists examples of nuisance conditions which include damaged, dismantled or derelict vehicles or motor vehicles, whether insured or registered or not.

[20] Eight photographs were taken on September 21, 2020 for the issuance of the 545 order which instructed the property owner to remove all damaged/dismantled/derelict vehicles and take any actions or remove any other items that are contributing to the unsightly condition of the property.

[21] Two sets of photographs dated September 21, 2020, and October 19, 2020, are before the Committee today and depict an accurate condition of the property. Also before the Committee is the Slim mapping pictometry history showing the length of time the vehicles have been present on 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.

iii) Rebuttal of the Appellant

- [24] The Appellant confirmed that there are seven vehicles on the property plus one trailer.
- [25] Most of those cars would not be visible if not for the good neighbour fencing which is low in height. He agrees that the tarps are in a state of disrepair but that is being rectified. The ground around the vehicles is kept neat and tidy and there is nothing to upset the neighbours.
- [26] The Appellant is offended by the approach that has been taken by bylaw enforcement.
- [27] The Appellant confirmed that the 1938 Ford in the rear yard has been on the property for at least ten years. He works on the vehicles when he is able to.
- [28] Mr C. provided the following responses to questions from the Committee:
- a) He is planning to dispose of the trailer as well as the scrap metal that is sitting on the trailer.
 - b) The vehicles are not an issue because they are covered and there are no loose car parts laying around.
 - c) The garage contains tools and equipment for woodworking and welding and he also does his own mechanical work. There is no room to store any of the vehicles in the garage.

iv) Rebuttal of the Respondent

- [29] Ms. Perizzolo declined the opportunity for rebuttal.

Decision

- [30] The Order is confirmed.

Reasons for Decision

- [31] A designated officer of the City of Edmonton issued an order on September 22, 2020 pursuant to section 545(1) of the *Municipal Government Act* requiring that at the subject property the owner remove all damaged/dismantled/derelict vehicles and take any actions or remove any other items that are contributing to the unsightly condition of the property.
- [32] The City of Edmonton has presented photographic evidence, some of which is as recent as yesterday, October 19, 2020 with respect to the state of the property both on the date of the September 21, 2020 inspection and at the current time as well as older aerial photography dealing with previous years.
- [33] The photographic evidence combined with oral evidence provided at the hearing reveals a total of eight vehicles on the subject site including one trailer and one vehicle which is currently insured and licensed and is the Appellant's day to day vehicle used for transport.
- [34] The evidence shows that several of the other six vehicles are in a state of either disrepair or are being dismantled. Some are up on blocks, others have flat tires, others are covered up with tarps and are currently not being driven.
- [35] The *Community Standards Bylaw 14600* bylaw states
- 6 (1) A person shall not cause or permit a nuisance to exist on land they own or occupy.
 - (2) For the purpose of greater certainty a nuisance, in respect of land, means land, or any portion thereof, that shows signs of a serious disregard for general maintenance and upkeep, whether or not it is detrimental to the surrounding area, some examples of which include:

.....

(b.1) damaged, dismantled or derelict vehicles or motor vehicles, whether insured or registered or not;
- [36] The Committee finds that the vehicles as described in the oral testimony and photographs, other than the Kia currently used by the Appellant for his transportation needs, constitute a collection of derelict, damaged and dismantled vehicles on the subject site which is a nuisance pursuant to Section 6(2) of the *Community Standards Bylaw* and which shall not be allowed to continue pursuant to 6(1) of the *Community Standards Bylaw*.
- [37] As the Committee finds that section 6 of the *Community Standards Bylaw* has been breached, the Committee turns to the provision of section 545 of the *Municipal Government Act* which allows a designated officer to issue orders requiring people to

remedy contraventions of Municipal bylaws. The Order given is an order which requires the remedying of contraventions of the *Community Standards Bylaw* as set out above.

[38] Therefore the Committee, pursuant to its authority in section 547 of the *Municipal Government Act* confirms the order as issued.

A handwritten signature in blue ink, appearing to read "I. Wachowicz". The signature is cursive and somewhat stylized, with a large initial "I" and a long, sweeping underline.

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

cc: Community Standards and Neighbourhoods – J. Lallemand, C. Perizzolo
N. C.

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.