

COMMUNITY STANDARDS & LICENCE APPEAL COMMITTEE AGENDA

March 27, 2014 - Churchill Building

Call to Order Adjournment

MEMBERS

C. Caterina, S. McKeen, M. Oshry

ITEM		ACTION	
1.	CALL TO ORDER AND RELATED BUSINESS		
1.1	Call to Order		
1.2	Adoption of Minutes		
	February 27, 2014, Community Standards and Licence Appeal Committee meeting minutes.		
2.	EXPLANATION OF APPEAL HEARING PROCESS		
3.	COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS		
3.1	Appeal of Order – B. M., 12204 - 113 Avenue NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the Municipal Government Act.	Postponement Request	
3.2	Appeal of Order - L.B. & J.B, 14722 - 33 Street NW, Edmonton, Alberta, Order Pursuant to Section 545(1) of the Municipal Government Act.	Withdrawn	
3.3	Appeal of Order - H.B., 10230 - 130 Avenue NW, Edmonton, Alberta, Order Pursuant to Section 545(1) of the Municipal Government Act.	Action	
4.	ADJOURNMENT		

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COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MINUTES

February 27, 2014 - Churchill Building

PRESENT

S. McKeen, M. Oshry, B. Anderson

ALSO IN ATTENDANCE

- S. McDonald, Office of the City Clerk
- A. Cheuk, Law Branch
- J. Rose, Office of the City Clerk

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DECISION SUMMARY		
ITEM		DECISION
1.	CALL TO ORDER AND RELATED BUSINESS	
1.1	Call to Order	

Councillor McKeen called the meeting to order at 9:32 am.

1.2 Adoption of Minutes

Moved B. Anderson:

That the January 23, 2014 Community Standards and Licence Appeal Committee meeting minutes be adopted.

In Favour: Carried

S. McKeen, M. Oshry, B. Anderson

2. EXPLANATION OF APPEAL HEARING PROCESS

Councillor McKeen explained the appeal hearing process and asked if anyone objected to any Member of the Community Standards and Licence Appeal Committee hearing the appeals.

B.M., Appellant, objected to Councillor Anderson sitting on the Committee when dealing with the merits of his appeal, but not on the postponement.

The Committee first heard and decided on the postponement request.

3. COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS

- Appeal of Order B. M., 12204 113 Avenue NW, Order Pursuant to Section 546(1)(c) of the *Municipal Government Act.*
 - B.M., Appellant, requested a postponement and answered the Committee's questions.
 - T. Courtoreille, Community Services Department, spoke to the postponement request and answered the Committee's questions.

Moved B. Anderson:

That the Appeal hearing for 12204 - 113 Avenue NW, Edmonton – Order Pursuant to Section 546(1)(c) of the *Municipal Government Act*, be postponed to the March 27, 2014 Community Standards and Licence Appeal Committee meeting at 9:30 a.m and that Councillor Anderson be excused from the panel.

In Favour: Carried

S. McKeen, M. Oshry, B. Anderson

4.	ADJOURNMENT	
	The meeting adjourned at 9:50 am.	
	Chair	City Clerk



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3.1 Appeal of Order 144026970-001 issued to B R Mi 12204 – 113 Avenue NW, Edmonton, AB, Order Pursuant to Section 546(1)(c) of the *Municipal Government Act*

Hearing Date: March 27, 2014

In dealing with this appeal, the Community Standards and License Appeal Committee ("the Committee") heard from:

Appellant:

B. M

, Appellant

M. S

, on behalf of the Appellant

Respondent:

T. Courtoreille, Community Services Department

A. Preliminary Matter

The Appellant requested a postponement which was opposed by the Respondent.

<u>Summary of Appellants Position – Preliminary Matters</u>

B. M , Appellant, felt a postponement was required due to the complexity of the case. He acknowledged that this was the third postponement request on this matter but stressed that the first two postponements were due to matters beyond his control as he was waiting for additional information to be provided. He felt a postponement was warranted to allow a proper investigation to take place.

A meeting was held on March 13, 2014, between B. M. and Community Standards Branch to attempt to come to a resolution. B. M recorded the meeting and paid to have it transcribed. He received a copy of the transcript on March 19, 2014, and felt there has been insufficient time to review and proofread it.

<u>Summary of Respondent's Position</u> – Preliminary Matters

T. Courtoreille, Respondent, opposed the postponement request. Two previous postponement requests have already been granted and he felt this third request is



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just a stall tactic. Community Standards Branch met with B. M. , Appellant, but was unsuccessful in coming to a resolution. Community Standards Branch offered to arrange some help for Mr. M in cleaning up his property but the offer was not accepted. T. Courtoreille believes that delaying this matter further would serve no purpose.

Decision on Preliminary Matter

The request for postponement is denied.

Reasons

This was now the third time that Mr. M. ma

made application for a postponement.

This hearing has already been postponed for a number of months. The first two times postponements were granted because Mr. M was gathering documents through FOIP requests that he felt were relevant to the case. He says that these postponements were not his fault, but his fault or not, it was he that was asking for the postponements to give him time to prepare his case. The City did not object to these postponement requests and that appears to be the reason that they were granted. Mr. M has confirmed that he now has the FOIP documents.

This postponement request was made on the basis that he needed to have a transcript of a meeting proofread. This transcript has been prepared but was not yet proofread. This was a meeting that did not take place until recently. It appeared that while not proofread, the transcript was available and Mr. M would be able to place it into evidence if he wanted to do so. It is uncertain what relevance this document has to the issue of whether his property is unsightly, since the meeting did not take place until months after the Order was issued, and was held to see whether the issue could be resolved. Given that this transcript is already available and it is not clear what relevance it has, this is not a reason to postpone this hearing.



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It is the opinion of the Committee that the interests of the public would not be upheld by postponing this hearing for a third time to allow Mr. Mr. more time.

B. Appeal Hearing

Issues

- 1. Whether the property is untidy and unsightly and detrimental to the surrounding area.
- 2. Whether the 546 Order is valid.

Evidence

In dealing with the appeal of an Order to B. M regarding 12204 – 113 Avenue NW, Edmonton, AB, the Community Standards and Licence Appeal Committee considered the following evidence:

- 1. A set of photographs submitted by B. M Appellant.
- 2. A set of photographs dated March 27, 2014, submitted by M. SI in support of the Appellant.
- 3. A transcript of a meeting that took place between B. M and Community Standards Branch (submitted by B. M).
- 4. Three sets of photographs of the subject property taken by Administration on October 31, 2013, March 20, 2014 and March 26, 2014.
- B. M , Appellant, believes the 546 Order he received is invalid and was improperly imposed. He stated there is no nuisance of any kind on the property and never has been. He feels that a proper inspection was never conducted. He is in the process of doing renovations and had never been asked as to the significance of the items on this property. He believes he is being targeted and there has been "neglect of duty" on behalf of the officer. B. M had requested an additional five minutes to present his evidence but this was denied by the Committee.
- Mr. S a friend and neighbour of Mr. M also spoke on his behalf. He presented pictures claiming that the property was not unsightly, and felt that the construction of a temporary fence would resolve the problem. Materials could be stored behind the fence and covered with a fire-proof tarp so nothing would be visible to passersby. In the summer the hedge would leaf out which would further prevent neighbours from having a view of the yard.



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T. Courtoreille, Respondent, noted that as a result of proactive enforcement being conducted in the Inglewood Community a Notice to Comply was issued on September 19, 2013, followed by a 545 *Municipal Government Act Order* issued on October 8, 2013, for overhanging trees and long grass on the rear portion of the property. A follow-up inspection on October 31, 2013, confirmed that the 545 Order had been complied with but the officer then found an excessive accumulation of material on the property. As a result, the officer issued a 546 *Municipal Government Act Order* on November 1, 2013, which is the subject of today's appeal. Mr Courtoreille then provided photographic evidence of the unsightly nature of the property. He denied that his officers or the City was targeting the Appellant and disagreed with any allegations of misconduct on the part of the City.

T. Courtoreille felt that hiding the problem is not a solution. The excess accumulation of material could pose a risk to emergency personnel if they had to respond to the property. A fence would also have to adhere to the Zoning Bylaw.

Based on the information and photographs presented City Administration believes that the property meets the criteria of an unsightly property and interferes with the neighbouring communities and their rights to enjoy their respective communities. Administration requests that the 546 Order be upheld to allow the on-going concerns at this address to be proactively addressed.

Reason on not allowing additional time to speak

Councillors Oshry and McKeen:

While Mr. Mr. claimed that the issue before us was a complicated one, the majority of his presentation was not covering the real issue in this case which was whether his property was unsightly. He made various references to pieces of legislation, and repeated himself on occasion. Much of what he said was not particularly relevant to the main issue. We therefore felt that adding an extra 5 minutes would simply cause him to repeat arguments already made, and would add nothing new.

In addition he has an additional 5 minutes to sum up his position at the end of the hearing.

Councillor Caterina dissenting on this issue:

While I agree with the reasoning above, I would have sided on the side of caution and allowed Mr. M more time to make his argument to forestall any argument that the hearing process was in any way unfair.



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Decision

The Committee upholds the order.

Reasons

Mr. M provided the Committee with several different types of arguments, but did not really deal with the main argument which was whether his property was unsightly except to verbally say that it was not. He claims that the bylaw officers have acted outside their authority and therefore breached Section 558 of the *MGA*. He argues that Section 532 and 534 of the *MGA* are somehow relevant. He also argues that Section 617 sets the purpose of the *MGA* and this purpose is not being upheld in this order.

Mr. M: main argument appears to be that he was unfairly treated, and unfairly targeted by the City. He argues that the bylaw officers are acting outside of their mandate and therefore breaching Section 558 and that this is an offense under the *MGA*. The Committee sees no evidence that any bylaw officer has acted improperly. In addition, whether an officer has committed an offense under Section 558 is not within the mandate of this Committee. This Committee is here to decide whether the property that was the subject matter of the Order was unsightly. If the property is unsightly the Order will be upheld. If it is not, it is struck down.

One of the side issues relating to whether he was unfairly treated was whether the property was ever inspected, or inspected correctly. Mr. M. appears to claim he is entitled to a long period of notice before someone comes to his property. Section 542 and 543 of the *MGA* deal with municipal inspections. These provisions discuss entering onto the land to inspect the property. There is no evidence that someone entered onto Mr. M. seems to believe that this is a requirement. However, it is quite possible to determine whether a property is unsightly without entering the land, and there is nothing to suggest that it is a legal prerequisite to enter the land prior to issuing a Section 546 order.

Mr. M referenced Section 532 and 534 of the MGA during his presentation but never really explained his argument as to why they are relevant. It is completely unclear to the Committee what relevance Sections 532 and 534 have to the issue before us. These provisions relate to public works, public places and the repair of roads.



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Finally Mr. M alleged that the Order somehow fails to fulfill the purpose of the *MGA* as set out in Section 617 of the *MGA*. Section 617 sets the purpose of the *MGA* as it relates to planning and development decisions. In contrast, the purpose of Sections 545 and 546 appears to be to ensure that there are simple provisions that allow a municipality to ensure compliance with municipal bylaws, and to ensure that communities are both safe and clean. These provisions allow an avenue for review by City Council since City Council is in an excellent position to determine whether bylaw violations are occurring, and whether properties are not meeting the standards of the community. That is the role of this Committee.

The best argument made on behalf of Mr. M. came from one of his friends, Mr. S. Mr. S. showed pictures from the front of the property and claimed that the unsightly condition was not visible behind Mr. M. 's shrubs and greenery. If this were entirely true, then the condition could not be detrimental to the surrounding area. He then suggested the problems could be remedied by putting up a fence blind. However, the fact that a fence blind would be required suggests the problems are not all hidden by the shrubs as suggested by Mr. S

The evidence of Mr. SI was weighed against the pictures provided by City Administration. This Committee was swayed by the pictures that were presented by the City. These photographs showed a different view of the property than the pictures provided by Mr. S . There was no issue about whether these pictures accurately portrayed the property. Whether a property is unsightly has a subjective component and this is why a review can be asked of this Committee. Our review of the photos suggests that the land shows a serious disregard for general maintenance or upkeep. The nature of this disregard is likely to have an affect on the surrounding community and is therefore detrimental to the surrounding area. We therefore uphold the order as it stands.

Near the end of the hearing Mr. M. was asked whether he wished to submit the transcript of his meeting that was the subject of the postponement request. He did submit that document. After a cursory review of this document, the Committee does not believe it is relevant. It appears to cover the same issues and same material that was covered by Mr. M. during his presentation. The Committee does not find the transcript particularly helpful.

It should be noted that Mr. M made no reference to, nor did he submit any material relating to the FOIP requests that were the subject matter of his first two postponement requests.

There is no question that Mr. M could use assistance in dealing with the issues as it relates to the property. This Committee made it known, when verbally delivering our decision, to City Administration that they should assist Mr. M in attempting to locate an organization that might be able to help him so that they would



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not have to enter on his property and enforce the Order. We have no doubt they will attempt to assist him. However, we cannot force Mr. M. to accept help although we strongly encourage him to do so whether this assistance comes from his friends, his family, or other social agencies. While it is obvious he is an individual that values his privacy, he has to understand that he cannot use his property in a way that affects his surrounding community. Requiring him to remedy the unsightly condition on his property is not overly intrusive or unreasonable.

HAMA -	APR 1 4 2014	
Councillor T. Caterina	Date	



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3.3 Appeal of Order 149387910-001 issued to H B 10230 – 130 Avenue NW, Edmonton, AB, Order Pursuant to Section 545(1) of the Municipal Government Act

Issues

- Whether the property shows serious disregard for general maintenance and upkeep as per Section 6 of the Community Standards Bylaw.
- 2. Whether additional time to comply with the Order should be granted.

Evidence

In dealing with the appeal of an Order to H B , 10230 – 103 Avenue NW, Edmonton, the Community Standards and Licence Appeal Committee considered the following evidence:

- 1. The Committee heard from H. B , Appellant.
- 2. The Committee heard from M. Martin and T. Courtoreille, Respondents.
- 3. The Committee viewed photos of the subject property taken by Administration on February 12, 2014, and on March 26, 2014.

M. Martin, Respondent, noted that as a result of a citizen's complaint an investigation was conducted from an adjacent road right-of-way on February 12, 2014, which showed the property to have an excessive accumulation of material. A 545 *Municipal Government Act* Order was issued with instructions to remedy the nuisance on land conditions with a due date of March 10, 2014.

A review of the file showed complaints regarding the unsightly condition of the property were received in 2009, 2010, 2012 and two in 2013, not including the current matter. These complaints resulted in four *Notices to Comply* and three previous *Municipal Government Act* Orders. Eleven animal related complaints have also been received regarding this property.

The Appellant, H. B. advised he is adding a rear addition to his home and has collected material over several years to keep his costs down. He has kept the material concealed and pulled it out to start working on his addition. He was hit with bad weather and needs more time for the ground to thaw to be able to get the materials out of the ground. He requested an additional 30 days to allow him time to get everything removed from the yard.



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Decision

The Committee upholds the order.

You are therefore ordered to:

Remove all mattresses, furniture, tires, rims, vehicle parts, wood, lumber, bricks, metals, barrels, pails, plastics, machinery, shingles, doors, assorted renovation materials, construction debris, snow mobiles, cube van enclosure / storage box, all damaged/dismantled/derelict motor vehicles, all materials inside the truck box, loose litter and 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.

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

Reasons

Based on the photographic evidence and the submissions of M. Martin and T. Courtoreille, the Committee believes the property does have an excessive accumulation of material and would therefore be considered a nuisance under Section 6 of the Community Standards Bylaw. The ongoing complaints received regarding this property warrant the direction to prevent the reoccurrence of any unsightly condition.

Additional extensions to the Order are not warranted at this time as upholding the Order effectively gives 40 days to clean up the property before enforcement of the order can take place, since no enforcement can occur until the appeal timeline expires. Mr. B also agreed that based on this information about how the order would be enforced, that he did not need any additional time. There is therefore no need to consider granting more time to clean up the property in the order.

	APR 1 4 2014
Coundillor T. Caterina	Date

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COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MINUTES

March 27, 2014 - Churchill Building - Hearing Room 3

PRESENT

T. Caterina, M. Oshry, S. McKeen

ALSO IN ATTENDANCE

- S. McDonald, Office of the City Clerk
- C. Ashmore, Law Branch
- I. Russell, Office of the City Clerk

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3.2	of the <i>Municipal Government Act.</i> Appeal of Order – L. B. and J. B., 14722 – 33 Stree NW Edmonton, Alberta, Order Pursuant to Section 545(1)	2	Action
	of the Municipal Government Act.	4	Withdrawn
3.3	Appeal of Order - H. B., 10230 - 130 Avenue NW, Edmonton, Alberta, Order Pursuant to Section	-	
	545(1) of the Municipal Government Act	4	Action
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DECISION SUMMARY		
ITEM		DECISION
1.	CALL TO ORDER AND RELATED BUSINESS	

1.1 Call to Order

T. Caterina called the meeting to order at 9:37 a.m.

1.2 Adoption of Minutes

Moved S. McKeen:

That the February 27, 2014, Community Standards and Licence Appeal Committee meeting minutes be adopted.

In Favour: Carried

T. Caterina, M. Oshry, S. McKeen

2. EXPLANATION OF APPEAL HEARING PROCESS

T. Caterina explained the appeal hearing process and asked if anyone objected to any member of the Community Standards and Licence Appeal Committee hearing the appeals. No one objected.

3. COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS

- Appeal of Order B. M., 12204 113 Avenue NW, Edmonton,
 Alberta, Order Pursuant to Section 546(1)(c) of the *Municipal Government Act*.
 - B. M. Appellant, requested a postponement and answered the Committee's questions.
 - T. Courtoreille, Community Services Department, spoke to the postponement request and answered the Committee's questions.

Both B. M. and T. Courtoreille were given the opportunity for closing comments.

The Committee met in private at 9:54 a.m. pursuant to Section 20 of *The Freedom of Information and Protection of Privacy Act*.

The Committee reconvened at 9:58 a.m.

Moved S. McKeen:

That the Postponement Request for 12204 - 113 Avenue NW, Edmonton - Order Pursuant to Section 546(1)(c) of the *Municipal Government Act*, be denied

In Favour: Carried

- T. Caterina, M. Oshry, S. McKeen
- B. M., Appellant, made a presentation and answered the

committee's questions.

- B. M. indicated that he had a set of photographs to present to the Committee.
- C. Ashmore, Law Branch, provided the Committee with advice.

Moved M. Oshry:

That the Committee allow M. S. to speak on behalf of the Appellant.

In Favour: Carried

- T. Caterina, M. Oshry, S. McKeen
- M. S. made a presentation on behalf of the Appellant and provided a set of photographs dated March 27, 2014, to the members of the Committee and the Office of the City Clerk. He responded to the Committee's questions.
- B. M. presented the Committee with his photographs.
- B. M. requested additional time to speak.

Moved T. Caterina:

That the Committee allow B. M. an additional five minutes to speak

In Favour:

T. Caterina

Opposed:

M. Oshry, S. McKeen

Defeated

The Committee reviewed all photographs that had been submitted by B. M. and M. S.

- T. Courtoreille, Community Services Department, made a presentation and answered the Committee's questions. He provided three sets of photographs dated October 31, 2013, March 20, 2014 and March 26, 2014, to the Appellant, Members of the Committee and the Office of the City Clerk.
- B. M. was given the opportunity for closing comments. He requested that the Committee accept a copy of a transcript of a meeting between himself and Community Standards Branch held earlier this month. The Clerk accepted the transcript on behalf of the Committee.

Moved M. Caterina:

That the Committee allow M. S. an additional five minutes

to speak on behalf of the Appellant.

In Favour: Carried

- T. Caterina, M. Oshry, S. McKeen
- M. S. made a presentation.
- T. Courtoreille was given the opportunity for closing comments.

The Committee met in private at 10:59 a.m., pursuant to Section 20 of *The Freedom of Information and Protection of Privacy Act*.

The Committee met in public at 11:08 a.m.

Moved T. Caterina:

The Committee upholds the order.

You are therefore ordered to remove all metal, wood, plastic, household items, suitcases, wire, metal racks, pallets, buckets, concrete, tree clippings, appliances, doors, tarps, damaged/dismantled/derelict vehicles, registered or unregistered, insured or uninsured, that are being used for storage, loose litter and 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.

For greater certainty, this would include all materials tarped, or untarped.

Please cut and maintain all unkempt and long grass and weeds on property that you own or occupy.

Community Services Dept.

Due Date: Nov 15, 2013

In Favour: Carried

- T. Caterina, S. McKeen, M. Oshry
- Appeal of Order L. B. & J. B., 14722 33 Street NW, Edmonton,

 Alberta, Order Pursuant to Section 545(1) of the Municipal

 Government Act
 - S. McDonald, Office of the City Clerk, advised the Committee that pursuant to an inspection conducted on the property, Administration has withdrawn the Order against this property because it is now in compliance with the

Appeal of Order - H. B., 10230 - 130 Avenue NW, Edmonton, Alberta, Order Pursuant to Section 545(1) of the Municipal Government Act

- T. Caterina explained the appeal hearing process and asked if anyone objected to any member of the Community Standards and Licence Appeal Committee hearing the appeals. No one objected.
- H. B. made a presentation and answered the Committee's questions.
- M. Martin, Community Services Department, made a presentation and answered the Committee's questions. T. Courtoreille, Community Services Department, was present as a consultant.

Two sets of photographs taken on February 12, 2014, and on March 26, 2014, were provided to the Appellant, Members of the Committee and the Office of the City Clerk.

- H. B. was given the opportunity for closing comments.
- T. Courtoreille and M. Martin were given the opportunity for closing comments.

Moved T. Caterina:

The Committee upholds the order.

Remove all mattresses, furniture, tires, rims, vehicle parts, wood, lumber, bricks, metals, barrels, pails, plastics, machinery, shingles, doors, assorted renovation materials, construction debris, snow mobiles, cube van enclosure / storage box, all damaged/dismantled/derelict motor vehicles, all materials inside the truck box, loose litter and 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.

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

Community Services Dept.

Due Date: Mar. 10, 2014

In Favour: Carried

T. Caterina, S. McKeen, M. Oshry

4.	ADJOURNMENT	
	The meeting adjourned at 11:33 a.m.	
		City Clerk