

COMMUNITY STANDARDS & LICENCE APPEAL COMMITTEE

AGENDA/SELECTION SHEET

July 10, 2014 - Churchill Building

Call to Order Adjournment

MEMBERS

T. Caterina, B. Anderson, M. Oshry

ITEM		ACTION
1.	CALL TO ORDER AND RELATED BUSINESS	
1.1	Call to Order	
1.2	Adoption of Minutes	
	June 10, 2014, Community Standards and Licence Appeal Committee meeting minutes.	
2.	EXPLANATION OF APPEAL HEARING PROCESS	
3.	COMMUNITY STANDARDS AND LICENCE APPEAL C	OMMITTEE MATTERS
3.1	Appeal of Order - S.S., 8608 - 30 Avenue NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the Municipal Government Act.	Postponement Request
3.2	Appeal of Order – G.F, M.F and B.F., 9840 - 76 Avenue NW, Edmonton, Alberta, Order Pursuant to Section 546(1) of the <i>Municipal Government Act</i> .	Postponement Request
3.3	Appeal of Order - M.P., 11206 – 85 Street NW, Edmonton, Alberta, Order Pursuant to Section 545(1) of the Municipal Government Act.	Withdrawn
3.4	Appeal of Order - Equitable Holdings Ltd., 15315 – 95 Street NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the Municipal Government Act.	Withdrawn
3.5	Appeal of Order – B.L. and J.T., 5116 - 206 Street NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act</i> .	Withdrawn
4.	ADJOURNMENT	

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COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MINUTES (DRAFT)

June 12, 2014 - Churchill Building - Hearing Room 3

PRESENT

S. McKeen, B. Anderson, A. Knack

ALSO IN ATTENDANCE

- S. McDonald, Office of the City Clerk
- K. Niziol, Office of the City Clerk
- C. Ashmore, Law Branch
- I. Russell, 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 9:35 a.m.

1.2 Adoption of Minutes

Moved B. Anderson - A. Knack:

That the May 8, 2014, Community Standards and Licence Appeal Committee meeting minutes be adopted.

In Favour: Carried

B. Anderson, A. Knack, S. McKeen

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. No one objected.

3. COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS

- Appeal of Order 150775245-001 S. B. and M. B., 11918 37
 3.1 Street, NW, Edmonton, Alberta, Order Pursuant to Section
 545(1) of the *Municipal Government Act*
 - S. B., Appellant, requested that Items 3.1 and 3.2 be heard together.
 - S. B. provided a set of photographs as well as a supporting letter from a neighbour which were distributed to Members of the Committee, the Respondent and the Office of the City Clerk.
 - S. B., Appellant, made a presentation, explained the submitted photographs and answered the Committee's questions.
 - T. Courtoreille, Community Services Department, made a presentation and answered the Committee's questions.

Three sets of photographs dated March 18, 2014, June 11, 2014, and a set from 2010 were provided to the Appellant, Members of the Committee and the Office of the City Clerk.

- S. B. made closing comments and answered further questions from the Committee.
- T. Courtoreille made closing comments and answered further questions from the Committee.

The Committee met in private at 10:27 a.m., pursuant to Section 20 of *The Freedom of Information and Protection of Privacy Act.*

The Committee met in public at 10:47 a.m.

Moved B. Anderson - A. Knack:

debris and other assorted materials from Due Date: the entire property and take any actions May 29, 2014 or remove any other items that are contributing to the unsightly condition of the property. In Favour: Carried B. Anderson, A. Knack, S. McKeen Appeal of Order 150775245-002 - S. B. and M. B., 11918 - 37 Street, NW, Edmonton, Alberta, Order Pursuant to Section 545(1) of the Municipal Government Act Item 3.2 was heard together with Item 3.1 – see above. Moved A. Knack - B. Anderson: The committee upholds the order. Community Services Dept. You are therefore ordered to repair all damage to the building and replace all rotten, deteriorated or missing roof, Due Date: window and door components. Prevent May 29, 2014 any inappropriate infiltration of air, moisture or water by covering any holes or openings in the building and repairing and refinishing exterior surfaces that are unpainted, untreated or peeling. In Favour: Carried B. Anderson, A. Knack, S. McKeen **ADJOURNMENT** The meeting adjourned at 10:49 a.m. City Clerk Chair

Community Services Dept.

The committee upholds the Order.

3.2

4.

You are therefore ordered to remove all tree clippings, hot tubs, loose litter and



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3.1 Appeal of Order 154126820-001 issued to S S 8608 – 30 Avenue NW, Edmonton, AB, Order Pursuant to Section 546(1)(c) of the *Municipal Government Act*

Hearing Date: July 10, 2014

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

Appellant: S. S.

Respondent: T. Courtoreille, Community Services Department

A. Preliminary Matter

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

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

S. S Appellant, felt a postponement was required as the Order is not very clear and he has not received clear direction as to exactly what actions need to be taken. He feels that the directions provided on the Order are different than the verbal directions he has received when various municipal enforcement officers visited his property. He also stated that a key witness he wanted to bring was not available to appear on today's date. As well he only received disclosure documents from the Respondent today which does not provide enough time to properly prepare his presentation. In addition he states that it is Ramadan and his mouth is dry making it difficult for him to talk.

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

T. Courtoreille, Respondent, opposed the postponement request. There have been nine previous complaints under this Ownership since 2008 relating to snow on walks, nuisance property conditions and weeds and delaying this matter further would serve no purpose. There have been 3 separate citizen complaints which triggered this Order. The Appellant has completed 60 to 70 percent of the clean-up but disputes



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that the remaining material should be removed. The documents provided to the Appellant are simply photographs of the property as well as a copy of the Order and since the Appellant lives at the property the photos should come as no surprise. T. Courtoreille feels the Appellant is fully capable of complying but this will not happen without intervention.

Decision on Preliminary Matter

The request for postponement is denied.

Reasons

The Appellant has suggested that as it is Ramadan his mouth is dry since he cannot eat or drink during the day. This appears to be the only reason Ramadan was a factor in the request for a postponement. The Committee noticed no problems with the Appellant's ability to communicate when he was presenting his arguments for the postponement, and as such the Committee does not accept this as a valid reason to postpone the hearing.

The Appellant also suggests that since the Respondent did not provide formal disclosure that he was at a disadvantage, and matters should be adjourned to allow him to further prepare his arguments. In addition he suggests that since the Respondent handed him photos this morning, that he was unable to prepare to dispute this evidence. The onus of proceeding with an appeal of an order under Section 546 is on the Appellant and there is no requirement in the bylaw for either party to provide disclosure prior to the hearing. The Appellant had over one month to prepare and organize his case. The sole issue in the case was whether the property was unsightly as defined in the *Municipal Government Act*. These hearings do not deal with large amounts of facts that are in dispute, or require time to gather material to respond to allegations of the other party. In other words there is not a large amount of information that needs to be gathered or exchanged.

The Committee confirmed that the evidence of the Respondent was simply photos of the Appellant's property. As such, this was not a case where the Appellant is getting ambushed by new material and needs an adjournment to consider the material. The material presented was photographs of the yard of the Appellant. The information on the photographs would not be new to the Appellant and does not warrant an adjournment.

Finally the Appellant suggests that a witness that he was calling was not available for the hearing. It was not clear to the Committee how this witness was vital to the case of the Appellant. The Appellant seems to suggest that the witness was there during



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site visits by the City and would testify as to what took place. What took place during site visits does not assist this Committee in determining whether the property is a nuisance and is therefore not a valid reason to postpone the hearing.

B. Appeal Hearing

Issues

1. Whether the property is untidy and unsightly and detrimental to the surrounding area.

Evidence

In dealing with the appeal of an Order to S. S regarding 8608 - 30 Avenue NW, Edmonton, AB, the Community Standards and Licence Appeal Committee considered the following evidence:

- 1. A series of photographs shown on the screen by the Appellant (both from his personal laptop as well as physical photos) which were taken on July 9, 2014.
- 2. Three sets of photographs of the subject property taken by Administration on May 23, 2014, July 9, 2014 and from a 2011 investigation.

Summary of Appellant's Position

S. S Appellant, showed a series of pictures showing the improvements he has made on his property to date and feels the pictures show a "restaurant-like setting". He feels that the directions on the Order and the verbal directions from the municipal enforcement officers who visited his property are conflicting but he has tried to complete everything that was requested of him.

He has uncovered the patio furniture although he feels it is his right to keep it tarped to protect it from the elements, has purchased more appealing tarps, has put privacy strips through the chain link fence to make his yard less visible and has registered the vehicle on his property.

Mr. S claims the remaining items have been neatly piled and are required and doesn't feel they should be "removed" from the property. He has built an open structure and ramp for his wheelbarrow, snowblower and lawnmower as these items would be too difficult to access if put in a shed or the garage. The blue barrels are for rain and the sandbox is required for winter traction and is also used by visiting children.



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Mr. S also showed pictures of neighbouring yards and questioned why his yard is being targeted yet nothing is being done about neighbouring yards that have done nothing to improve their appearance.

At the end of his first five minutes to present Mr. S was granted an additional five minutes to finish his presentation. At the end of this additional five minutes, he asked for five additional minutes.

Reason on not allowing the Appellant additional time to make closing comments

The issues in this type of hearing are not of such a nature to require large amounts of time to present evidence and argument. The Appellant appeared somewhat disorganized. For example he had photos on a laptop and instead of having hard copies for the Committee, he attempted to get the committee to take the laptop to view the photographs. The laptop was used along with an overhead projector to view these photos. Some of the presentation of the complainant focused on the car, and rocks on his property which was not the subject matter of the hearing. Appellants should come prepared to focus on the relevant issues, and not waste time shuffling papers and focusing on matters not in issue. The Committee is confident that the Appellant was presented with sufficient time to present his evidence and issues and make arguments within the time granted by the Committee and any additional time was simply allowing him to repeat arguments already made.

Summary of Respondent's Position

There have been nine bylaw complaints since 2008 at this location under the current ownership including nuisance property, weeds, business licensing and snow on walks.

Three complaints from different citizens were received during the 2nd week of May, 2014, regarding a nuisance property condition at this location. On May 8, 2014, a site inspection was conducted which showed a minor nuisance in the front yard, an accumulation of materials on the side portion of the property, adjacent to the alley, as well as a serious accumulation of materials in the rear part of the yard. On May 23, 2014, a full inspection of the entire property was done which confirmed the property was in a nuisance state – particularly on the side and rear portions of the property which is visible to the west neighbour. Two unregistered vehicles in the rear of the yard also contained an accumulation of materials.

Due to an ongoing history at this location no Notice to Comply was issued and a 546 *Municipal Government Act Order* was issued on May 26, 2014, which expired on June 9, 2014, and is the subject of today's appeal.



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- T. Courtoreille acknowledges that there has been partial compliance with the Order and approximately 60 percent of the items have been removed but feels that the Appellant is not willing to complete the work without the intervention of the Community Standards Branch. T. Courtoreille disputes that the remaining items on the property are required for valid construction projects by the Appellant.
- T. Courtoreille personally visited the property on June 24, 2014, and suggested that Mr. S put the remaining materials that he feels are of value into the numerous sheds located on the property. He was advised by another male at the residence that everything is full and there is no room inside these structures.

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.

Decision

The Committee varies the order.

The words "storage bins, garbage cans and ladders" are removed from the original Order dated May 26, 2014.

You are therefore ordered to remove all wood, steel pipes, table, exercise equipment, plastic bags, window frames, door, barrels, lattice sheets, toys, tools, brass stand, skylight, glass panes, kids pools, sink, fencing material, all items tarped or untarped, loose litter and other assorted materials from the entire property and take any actions or remove and 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.

Reasons

The Appellant spent quite a bit of time referencing garden rocks, furniture, and a car that is located on his property. The Committee notes that these items are not part of the order, and are therefore not relevant to the proceedings before the Committee. Some mention was also made of an open fire investigation and an investigation about an illegal secondary suite. There was no reason to believe any of this information is important to the issues before the Committee, and the Committee determined that this information was irrelevant.



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The Appellant focused on the fact that there are other properties in his community that are as bad as or worse than his property. This Committee has said on many occasions that the mere fact that there are other properties in the neighborhood that are also unsightly does not mean an owner can maintain his property in an unsightly condition. This is not a reason to overturn the order.

It was clear to the Committee that the main focus of the Appellant was that he was concerned that there was some element of a subjective nature to the term "unsightly". He made mention of a number of site visits from City staff attempting to assist him in clearing up the nuisance. He appears to feel that the time and effort he has already spent on cleaning up the property is enough, and described those efforts including putting up a privacy fence. At no time did he appear to dispute that at the time the order was issued that the property was not unsightly.

There is no dispute that since the order was issued, much of the unsightly condition has been remedied. There has been substantial improvement shown in the photographs that were presented that were taken the day before the hearing. While the Committee commends the Appellant on the work he has done, the issue before this Committee was whether the property was unsightly and detrimental to the surrounding neighborhood at the time the order was issued. The Committee viewed photographs that showed an excessive accumulation of materials. This accumulation of materials means that the property was unsightly when the order was issued. There is no question that the nature of the accumulation of materials on the Appellant's property would be detrimental to the surrounding area. The fact that three separate citizens complained about the property supports this view.

In addition, even with the work done by the Appellant there still appears to be an area shown in the photos taken the day before the hearing with an excessive accumulation of material. The Committee is convinced that this area continues to be unsightly and still needs to be remediated. The Committee suggests that the property owner continues to work with City Administration to clean up this last area of the property, and continue to maintain the property in such a way so as not to create further problems in the future.

The order was crafted in such a way that the removal of a number of materials was required to clean up the clutter. There were some items on the list of items on the order that perhaps goes a little far. It is not unusual for property owners in Edmonton to maintain a couple of garbage cans, a ladder, and a couple of storage bins in their yard. This Committee, in these facts, does not believe these items need to be removed from the property, and the Committee will therefore vary the order to remove mention of those items

The order is broadly worded to require the "removal" of items from the property. The Respondent made it clear that removal essentially means to remove it from sight into



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a garage or other legal structure. The Committee agrees with the interpretation of the Respondent that removal does not mean, in this context, having to physically remove the item from the property, and instead contemplates removing it in such a way that it is no longer unsightly. The Committee notes that simply tarping a problem does not fix the problem, so cautions the Appellant to not simply throw tarps on items to hide them.

The Respondent commented that the Appellant had a long history of problems with keeping his property clean. There was mention of previous weed orders, and previous nuisance complaints as well as issues with snow and ice. The Committee also viewed photographs from 2011 showing how bad the property can get. The Appellant did not dispute the prior history of problems. Given the history of issues with nuisance conditions on this property, the Committee agrees that the order is correctly worded to prevent a reoccurrence of the unsightly condition.

Post Hearing

After the oral hearing and the decision of the Committee the Appellant attempted to hand up additional documentation for consideration of the Committee. This additional material was not part of the evidence presented during the hearing and no explanation was provided for not having done so right at the start of the hearing, so was not accepted by the Committee. In addition, after already deciding this matter, accepting additional evidence would have constituted an attempt to have this Committee reconsider the decision, which was already made.

T. Caterina, Chair

Date

COMMUNITY STANDARDS & LICENCE APPEAL COMMITTEE

Office of the City Clerk Churchill Building 10019 – 103 Ave., Edmonton, AB T5J 0G9 Ph: 780-496-5026 Fax: 780-496-8199

Email: CSLAC@edmonton.ca

3.2 Appeal of Order 150697244-001 issued to G F , M F and B F , 9840 – 76 Avenue NW, Edmonton, AB, Order Pursuant to Section 546(1)(c) of the *Municipal Government Act*

<u>Issues</u>

Whether the postponement request from the Appellant should be granted or denied.

Evidence

In dealing with the request to postpone the appeal of Order 150697244-001 issued to G F , M F and B F , 9840 – 76 Avenue NW, Edmonton, AB, the Community Standards and Licence Appeal Committee considered the following evidence:

- 1. The Committee reviewed the written request from B. F. , Appellant.
- 2. The Committee heard from T. Courtoreille, Respondent.

Decision

The Committee grants the postponement request and the hearing has been rescheduled to August 21, 2014.

<u>Reasons</u>

There are extenuating family circumstances that are hindering compliance at this time. Partial compliance has already been achieved and the Respondent does not oppose the postponement request.

T. Caterina, Chair

Date



COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

MINUTES

July 10, 2014 - Churchill Building

PRESENT

T. Caterina, B. Anderson, M. Oshry

ALSO IN ATTENDANCE

- K. Niziol, Office of the City Clerk
- C. Ashmore, Law Branch
- I. Russell / T. Rowley, Office of the City Clerk

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3.2	Appeal of Order 150697244-001 - G. F., M. F. and B.F.,		
	9840 - 76 Avenue NW, Edmonton, Order Pursuant		
	to Section 546(1)(c) of the Municipal Government Act.	2	Postponed
3.3	Appeal of Order 152970435-001 - M. P., 11206 - 85 Street		
	NW, Edmonton, Order Pursuant to Section 545(1) of the		
	Municipal Government Act.	5	Withdrawn
3.4	Appeal of Order 155326788-001 - Equitable Holdings Ltd	•	
	15315 - 95 Street NW, Edmonton, Order Pursuant to	_	
	Section 546(1)(c) of the Municipal Government Act.	5	Withdrawn
3.5	Appeal of Order 155932446-001 - B. L. and J. T.,		
	5116 - 206 Street NW, Edmonton, Order Pursuant to	_	
_	Section 546(1)(c) of the Municpal Government Act.	5	Withdrawn
4.	ADJOURNMENT	6	

DECISION SUMMARY DECISION ITEM 1. **CALL TO ORDER AND RELATED BUSINESS** 1.1 Call to Order T. Caterina called the meeting to order at 9:32 a.m. Moved M. Oshry: That the Items on the Agenda that have not been withdrawn be heard in the following order: 3.2, 3.1 In Favour: Carried T. Caterina, M. Oshry, B. Anderson 1.2 **Adoption of Minutes** Moved M. Oshry: That the June 12, 2014, Community Standards and Licence Appeal Committee meeting minutes be adopted. Carried In Favour: T. Caterina, B. Anderson, M. Oshry 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 Licence Appeal Committee hearing the appeals. No one objected. 3. COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS Appeal of Order - G. F., M. F. and B. F., 9840 - 76 Avenue NW, 3.2 Edmonton, Alberta, Order Pursuant to Section 546(1) of the **Municipal Government Act** The Committee was informed that a Postponement Request had been received. The Appellant was not present but had submitted a written request. Troy Courtoreille, Community Services Dept. advised the

Committee that he supports the Postponement Request.

Moved B. Anderson:

That the Appeal hearing for G. F., M. F. and B. F., 9840 - 76 Avenue NW, Edmonton – Order Pursuant to Section 546(1)(c) of the Municipal Government Act, be postponed to the August 21, 2014, Community Standards and Licence Appeal Committee meeting scheduled for 9:30 a.m. in the Churchill Building.

In Favour: Carried

T. Caterina, M. Oshry, B. Anderson

Appeal of Order - S.S., 8608 - 30 Avenue NW, Edmonton,

Alberta, Order Pursuant to Section 546(1)(c) of the Municipal
Government Act

The Committee was informed that a Postponement Request had been received.

- S. S., Appellant, spoke to the Postponement Request and answered the Committee's questions.
- T. Courtoreille, Respondent, spoke to the Postponement Request and answered the Committee's questions.
- C. Ashmore answered the Committee's questions.
- Both S. S. and T. Courtoreille were given the opportunity for closing comments and answered further questions from the Committee.
- C. Ashmore answered further questions from the Committee.

Moved B. Anderson:

That the Postponement Request for 8608 - 30 Avenue NW, Edmonton - Order Pursuant to Section 546(1)(c) of the *Municipal Government Act*, be denied.

In Favour: Carried

- T. Caterina, M. Oshry, B. Anderson
- S.S., Appellant made a presentation.
- S.S. requested an additional 5 minutes to speak.

Moved B. Anderson:

That the Committee allow S. S. an additional five minutes to speak

In Favour: Carried

T. Caterina, M. Oshry, B. Anderson

S.S., Appellant continued with his presentation and answered the Committee's questions. He agreed to forward an electronic copy of the photos used for his presentation to K. Niziol, Office of the City Clerk.

T Courtoreille, Community Services Department, made a presentation and provided three sets of photographs dated 2011, May 23, 2014, and July 9, 2014, to the Appellant, Members of the Committee and the Office of the City Clerk.

T. Courtoreille requested an additional five minutes to speak.

Moved T. Caterina:

That the Committee allow T. Courtoreille an additional five minutes to speak

In Favour: Carried

- T. Caterina, M. Oshry, B. Anderson
- T. Courtoreille, Community Services Department, concluded his presentation.
- S. S. responded to T. Courtoreille's presentation and showed additional photographs to illustrate improvements he has made to his property.
- S. S. requested an additional 5 minutes to speak.

Moved M. Oshry:

That the Committee deny S. S. an additional five minutes to speak

In Favour: Carried

- T. Caterina, M. Oshry, B. Anderson
- T. Courtoreille provided closing comments.

The Committee met in private at 10:49 a.m. pursuant to Section 20 of The Freedom of Information and Protection of Privacy Act.

The Committee met in public at 11:12 a.m.

Moved B. Anderson:

The Committee varies the order.

The words "storage bins, garbage cans and ladders" are removed from the

Community Services Dept.

original Order dated May 26, 2014.

You are therefore ordered to remove all wood, steel pipes, table, exercise equipment, plastic bags, window frames, door, barrels, lattice sheets, toys, tools, brass stand, skylight, glass panes, kids pools, sink, fencing material, all items tarped or untarped, loose litter 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.

Due Date: Jun 9, 2014

In Favour: Carried

T. Caterina, M. Oshry, B. Anderson

Appeal of Order - M .P., 10851 - 75 Avenue NW, Edmonton,
Alberta, Order Pursuant to Section 545(1) of the *Municipal Government Act*

K. Niziol, 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 Community Standards Bylaw 14600.

Appeal of Order - Equitable Holdings Ltd., 515, 10503 - 98

Avenue NW, Edmonton, Alberta, Order Pursuant to Section

546(1)(c) of the Municipal Government Act

K. Niziol, 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 Community Standards Bylaw 14600.

Appeal of Order – B. L. and J. T., 5116 - 206 Street NW,

Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the Municipal Government Act

T Courtoreille, Community Services Department, advised the Committee that an inspection on the afternoon of July 9, 2014, confirmed the property is now in compliance with the Community Standards Bylaw 14600 and the Order will be Withdrawn.

•	ADJOURNMENT		
	The meeting adjourned at 11:18 a.m.		
	T. Caterina, Chair	City Clerk	