



COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

MINUTES

April 16, 2015 – Churchill Building

PRESENT

S. McKeen, B. Anderson, D. Loken

ALSO IN ATTENDANCE

S. McDonald, Office of the City Clerk
 A. Cheuk, Law Branch
 T. Rowley, Office of the City Clerk

TABLE OF CONTENTS

ITEM		PAGE	DECISION
1.	CALL TO ORDER AND RELATED BUSINESS	1	
1.1	Call to Order	1	
1.2	Adoption of Minutes	1	Carried
2.	EXPLANATION OF APPEAL HEARING PROCESS	2	See Minutes
2.1	REQUEST TO SPEAK	3	Action
3.	COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS		
3.1	Appeal of Order - K.P., 8520 - 71 Avenue NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act</i> .	3	Withdrawn
3.2	Appeal of Order - A.G. Diesel Repair Ltd, 5550C - 53 Avenue NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act</i>	3	Action
4.	ADJOURNMENT	4	

DECISION SUMMARY

ITEM		DECISION
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1. CALL TO ORDER AND RELATED BUSINESS

1.1 [Call to Order](#)

S. McKeen called the meeting to order at 9:38 am

1.2 [Adoption of Minutes](#)

Moved B. Anderson:

That the February 11, 2015 Community Standards and Licence Appeal Committee meeting minutes be adopted.

In Favour:

Carried

S. McKeen, B. Anderson, D. Loken

2. EXPLANATION OF APPEAL HEARING PROCESS

S. McKeen 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. REQUEST TO SPEAK

Moved B. Anderson:

That the Community Standards and Licence Appeal Committee hear from the following speakers:

**3.2 Appeal of Order – A.G. Diesel Repair Ltd,
5550C – 53 Avenue NW, Edmonton, Alberta,
Order Pursuant to Section 546(1)(c) of the *Municipal Government Act*.**

- D. P., President of Condominium Board
- A. P., Condominium Manager

In Favour:

Carried

S. McKeen, B. Anderson, D. Loken

3. COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS

3.1 Appeal of Order - K.P., 8520 - 71 Avenue NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) 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of the City Clerk, advised the Committee that pursuant to an inspection conducted on the property, Administration has withdrawn the Order against this property because it is now in compliance with the Community Standards Bylaw 14600.

3.2 Appeal of Order - A.G. Diesel Repair Ltd, 5550C - 53 Avenue NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the *Municipal Government Act*

M. Marchen, Solicitor for the Appellant, requested a postponement and answered the Committee's questions.

S. McDonald read the bylaw pertaining to a postponement request so that M. Marchen could indicate which category his request falls under.

M. Marchen categorised his request and answered questions from the Committee.

T Courtoreille, Community Services Department, made a presentation on the postponement request and answered the Committee's questions.

Three sets of photographs were provided to the Appellant, Members of the Committee and the Office of the City Clerk.

D. P., Condominium Board President, made a presentation on the postponement request and answered the Committee's questions.

A. P., Condominium Board Manager, made a presentation on the postponement request.

M. Marchen responded to D. Pelletier's and A. Pirmohamed's presentation and answered the Committee's questions.

T. Courtoreille responded to M. Marchen's presentation.

D. P., responded to M. Marchen's presentation and answered the Committee's questions.

A. P., responded to M. Marchen's presentation.

The Committee met in private at 10:22 am, pursuant to Section 4 and 27 of the *Freedom of Information and Protection of Privacy Act*.

The Committee met in public at 10:28 am

Moved B. Anderson:

That the postponement request be denied.

In Favour:

Carried

S. McKeen, B. Anderson, D. Loken

M. Marchen made a presentation and answered the Committee's questions.

T. Courtoreille made a presentation and answered the Committee's questions.

A. P., made a presentation and answered the Committee's questions.

M. Marchen presented documents to Respondent, Members of the Committee and the Office of the City Clerk and answered the Committee's questions.

T. Courtoreille responded and answered the Committee's questions.

D. P., responded and answered the Committee's questions.

A. P., responded and answered the Committee's questions.

The Committee met in private at 11:00 am, pursuant to Section 4 and 27 of *The Freedom of Information and Protection of Privacy Act*.

The Committee met in public at 11:05 am

Moved B. Anderson:

<p>The Committee upholds the order. You are therefore ordered to: Remove all furniture, chairs, metal, wood/pallets, pipes, hoses, wire, plastic, plastic bags/buckets/containers, tarps, cardboard, auto parts, engines/engine blocks, doors/hoods/fenders/grills, tires, gas tanks, lifts, frames, stands, shelves, ladders, propane tanks, C-cans, bins, all materials/items from inside the bins, concrete pieces/blocks, forklifts, metal/plastic storage units, all items/materials/auto parts under the tarps and all damaged/dismantled/derelict</p>	<p>Community Services Dept. Due Date: March 13, 2015</p>
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motor vehicles from the entire property.
Also remove all debris and loose litter from the entire property, and take any actions or measures necessary to remedy the unsightly condition.
And thereafter maintain the property to prevent the reoccurrence of any unsightly condition detrimental to the surrounding area.

In Favour:

Carried

S. McKeen, B. Anderson, D. Loken

4. ADJOURNMENT

The meeting adjourned at 11:06 am

Chair

City Clerk



COMMUNITY STANDARDS & LICENCE APPEAL COMMITTEE

AGENDA

April 16, 2015 – Churchill Building

9:30 am
12:30 pm

Call to Order
Adjournment

MEMBERS

S. McKeen, D. Loken, B. Anderson

ITEM		ACTION
1.	CALL TO ORDER AND RELATED BUSINESS	
1.1	Call to Order	
1.2	Adoption of Minutes	
	<ul style="list-style-type: none"> February 11, 2015, 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 - K.P., 8520 - 71 Avenue NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act</i>.	WITHDRAWN
3.2	Appeal of Order - A.G. Diesel Repair Ltd, 5550C - 53 Avenue NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act</i>	
4.	ADJOURNMENT	

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COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

MINUTES

February 11, 2015 – Churchill Building

PRESENT

T. Caterina, B. Anderson, M. Oshry

ALSO IN ATTENDANCE

S. McDonald, Office of the City Clerk
 C. Ashmore, Law Branch
 T. Rowley, B. Webster, Office of the City Clerk

TABLE OF CONTENTS

ITEM		PAGE	DECISION
1.	CALL TO ORDER AND RELATED BUSINESS	1	
1.1	Call to Order	1	
1.2	Adoption of Minutes	1	
2.	EXPLANATION OF APPEAL HEARING PROCESS	2	
3.	COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS	2	
3.1	Appeal of Proposed Conditions on Business License 69722219-001 - 1208558 Alberta Ltd o/a Encore Night Club and Concert Hall	2	
4.	ADJOURNMENT	2	

DECISION SUMMARY

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

Councillor Caterina called the meeting to order at 9:38 am

1.2	Adoption of Minutes	
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Moved : T. Caterina

That the February 5, 2015 Community Standards and Licence Appeal Committee meeting minutes be adopted.

In Favour:

CARRIED

T. Caterina, B. Anderson, M. Oshry

2. EXPLANATION OF APPEAL HEARING PROCESS

Councillor 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

3.1 Appeal of Proposed Conditions on Business License 69722219-001 - 1208558 Alberta Ltd o/a Encore Night Club and Concert Hall

H. Johma, Counsel for the Appellant, made a presentation requesting a postponement and answered the committee's questions.

S. Renouf, QC, Counsel for the Respondent, made a presentation in opposition to the postponement request and answered the Committee's questions.

The Committee met in private at 10:23 am, pursuant to Section 20 of The Freedom of Information and Protection of Privacy Act.

The Committee met in public at 10:49 am.

Moved T. Caterina:

The decision of the Committee is to grant a postponement to March 13, 2015 at 1:30 p.m., and no further postponements will be considered. The stay of the decision of the Chief Licensing Officer will also be removed meaning that all of the conditions imposed by the Chief Licensing Officer are now imposed on the business until the hearing takes place.

Due Date:
March 13,
2015

In Favour:

Carried

T. Caterina, B. Anderson, M. Oshry

4. ADJOURNMENT

The meeting adjourned at 10:50 am

Chair

City Clerk



COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

MINUTES

February 11, 2015 – Churchill Building

PRESENT

T. Caterina, B. Anderson, M. Oshry

ALSO IN ATTENDANCE

S. McDonald, Office of the City Clerk
 C. Ashmore, Law Branch
 T. Rowley, B. Webster, Office of the City Clerk

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ITEM		PAGE	DECISION
1.	CALL TO ORDER AND RELATED BUSINESS	1	
1.1	Call to Order	1	
1.2	Adoption of Minutes	1	
2.	EXPLANATION OF APPEAL HEARING PROCESS	2	
3.	COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS	2	
3.1	Appeal of Proposed Conditions on Business License 69722219-001 - 1208558 Alberta Ltd o/a Encore Night Club and Concert Hall	2	
4.	ADJOURNMENT	2	

DECISION SUMMARY

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

Councillor Caterina called the meeting to order at 9:38 am

1.2	Adoption of Minutes	
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Moved : T. Caterina

That the February 5, 2015 Community Standards and Licence Appeal Committee meeting minutes be adopted.

In Favour:

CARRIED

T. Caterina, B. Anderson, M. Oshry

2. EXPLANATION OF APPEAL HEARING PROCESS

Councillor 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

3.1 Appeal of Proposed Conditions on Business License 69722219-001 - 1208558 Alberta Ltd o/a Encore Night Club and Concert Hall

H. Johma, Counsel for the Appellant, made a presentation requesting a postponement and answered the committee's questions.

S. Renouf, QC, Counsel for the Respondent, made a presentation in opposition to the postponement request and answered the Committee's questions.

The Committee met in private at 10:23 am, pursuant to Section 20 of The Freedom of Information and Protection of Privacy Act.

The Committee met in public at 10:49 am.

Moved T. Caterina:

The decision of the Committee is to grant a postponement to March 13, 2015 at 1:30 p.m., and no further postponements will be considered. The stay of the decision of the Chief Licensing Officer will also be removed meaning that all of the conditions imposed by the Chief Licensing Officer are now imposed on the business until the hearing takes place.

Due Date:
March 13,
2015

In Favour:

Carried

T. Caterina, B. Anderson, M. Oshry

4. ADJOURNMENT

The meeting adjourned at 10:50 am

Chair

City Clerk

**3.2 Appeal of Order 155492612-001, issued to AG Diesel Repair Ltd,
5550C – 53 Avenue NW, Edmonton, AB, pursuant to Section 546(1)(c) of the
*Municipal Government Act***

Issue – Preliminary Matters

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

Appearances and Evidence – Preliminary Matters

In dealing with the Appeal of Order 155492612-001, the Community Standards and Licence Appeal Committee (the Committee) heard from M. Marchen, Solicitor for the Appellant, D. P ; President of Condominium Board, A. P , Condominium Manager and T. Courtoreille, Respondent.

The Committee viewed documents presented by the Appellant.

Summary of Appellant's Position – Preliminary Matters

M. Marchen, Solicitor for the Appellant, requested a postponement to allow for more time to review his client's files. He met with his client at the subject property on the previous day, and he wanted to review some of the underlying issues and see if a compromise with the city could be met. He listened to the legislated reasons for postponement read by S. McDonald and advised that he was requesting a postponement on the basis that he had just been handed the disclosure that morning and had not had sufficient time to review the material. He feels that if more time was granted all parties could come to a consensual agreement preventing the situation from escalating further.

Summary of Respondent's Position – Preliminary Matters

T. Courtoreille, Respondent, said this property is a more unique situation. It has numerous titles as it is a condominium complex, making all title holders technically appellants. The City Administration is not obligated to provide disclosure to appellants prior to the hearing for this specific type of appeal. Anticipating that the Appellant would try to use zoning as a defense, he provided materials to the Committee regarding the current property use. There is an ongoing investigation as its current use is not authorized under the Edmonton Zoning Bylaw. The Respondent also advised there are safety concerns with this property as there have recently been two fires, one which may be associated with the business. Edmonton Fire Rescue Services initially brought this property to Bylaw Enforcement's attention in May, 2014 having significant concern regarding the inability for rescue vehicles to safely navigate this property and about materials including oils and cleaning chemicals being stored on this property.

When asked if there are other means to ensure that this property is cleaned up, the Respondent informed the Committee that in addition to Bylaw conducting numerous inspections on this property, joint inspections have also been conducted with Drainage, Edmonton Fire Rescue Services, Edmonton Police Services, Alberta Motor Vehicle Industry Council and Occupational Health and Safety. All, with the exception of Edmonton Police Service have respective investigations on this property. Each area has individual concerns related to the operation and practices of the business. They have been working as a collective to see if the issues can be resolved. The combined investigations show a much larger picture of the issues at this property.

The time frame for the city to take action on an Order is approximately 22-25 days. In this case the Respondent feels that it would take 35-40 days to allow for a suitable and willing contractor to be found at a reasonable rate as the entire complex is liable for the bill. In a previous encounter the Respondent advised the Appellant told him he would be moving to another site which has not happened. He believes that granting a postponement would further safety concerns to the public and neighboring tenants.

Summary of Speakers Position's – Preliminary Matters

D. P , spoke in opposition to the Appellant. The Condominium complex has been dealing with this Appellant for two years and would like the property cleaned up as soon as possible. They are not able to access all areas of the property due to the accumulation of materials and vehicles. There have also been unauthorized alterations to the building. Adjoining owners and their clientele currently have limited access to on-site parking, and parking off site is putting them at risk. She does not believe that enforcing the Order would shut down the Appellant's business. He has sufficient space to do his work on vehicles in his allocated bays. The trucks outside his bays have been there for months and are clearly not currently being worked on.

A. P , also spoke in opposition to the Appellant. He has made numerous attempts to work with the Appellant to no avail. On behalf of all the property owners, they want the site cleaned up and do not want the matter postponed any further. He confirmed that the Appellant has sufficient space to work in his building should the order be enforced.

Decision: Postponement Not Granted

The hearing will proceed as scheduled.

Reasons

Upon reviewing Section 4, Postponements of the Community Standards and Licence Appeal Committee Procedural Manual, the Solicitor for the Appellant, AG Diesel Repair Ltd., did not provide any compelling reasons for granting a postponement. Instead, his postponement request was akin to an argument that he had insufficient time to prepare, which is a non-compelling reason. The information provided to him on the morning of the hearing date by the Respondent contained mainly photographs of the site, a copy of the Order under appeal and a copy of a Stop Order issued June 11, 2014 by Current Planning with supporting information from the Zoning Bylaw. There are no disclosure deadlines, but nevertheless, the photographs simply depicted the subject property, and it is reasonable to expect the parties to be familiar with the appearance of the subject property. The Zoning Bylaw information is disregarded because it is not relevant to this appeal and zoning issues are outside the jurisdiction of this Committee.

Issue

Has the Appellant been given sufficient time to comply with the Order?

Appearances and Evidence

In dealing with the Appeal of Order 155492612-001, the Community Standards and Licence Appeal Committee (the Committee) heard from M. Marchen, Solicitor for the Appellant, D. P. ; President of Condominium Board, A. P. , Condominium Manager and T. Courtoreille, Respondent.

The Committee viewed copies of a site map and an agreement between AG Diesel and the Condominium Corporation.

The Committee viewed three sets of photos of the subject property dated May 30, 2014, February 26, 2015 and April 15, 2015 provided by the Respondent to the Appellant and the Administration.

Summary of Appellant's Position

M. Marchen, believes that enforcing the Order would effectively shut down his client's business operations causing undue harm. While, he has no issue with the direction of the Order, his client does have an objection with the section of the Order regarding the storage of vehicles on the property. His client claims to have an informal contract with the condominium corporation that permits him to use those portions of the common property for vehicle storage. He argues that although the property appears disorganized it is organized in a fashion that is functional for the Appellant. Marchen provided seven copies

of the letter and a map that outlines the agreement between AG Diesel and the Condominium Corporation showing his terms of use. He was not able to confirm if it was still binding at this time. He indicated on the map where the vehicles are being stored. When asked by the Committee if the common area use mentioned in the contract would be considered a legal requirement, Marchen advised that it is part of the agreement. When questioned further about whether or not the common area was obstructed and messy, Marchen referred back to the photographs and advised they show an area that is "in use."

He advised there are similar properties where storage and work is being done in the surrounding area and thus the Appellant's property was arguably not uncharacteristic of the larger area, but acknowledged there may be different permits and zoning involved.

Summary of Respondent's Position

T. Courtoreille stated that AG Diesel is licensed as a vehicle repair company. AG Diesel does not currently have the correct development permit for automotive repair. The Appellant had previously applied for and been refused this permit in 2012. There have been numerous bylaw complaints associated with AG Diesel since 2013. These involve illegal dumping of waste and chemicals, derelict vehicles and accumulation of materials. His department became involved in 2014 after receiving a request from Fire Rescue Services of Edmonton stating that the building was not safe due to the excessive storage of derelict vehicles in and around the building blocking emergency access. There were also safety concerns about the storage of the vehicles, gas tanks, other unknown chemicals and oil bins. The AG Diesel site, is considered untidy and unsightly by City Administration. Thus a *Municipal Government Act* Order was issued on February 26th 2015. To date, there has been no compliance or cooperation from AG Diesel.

The Respondent presented three sets of photographs dated May 30, 2014, February 26, 2015, and April 15, 2015. He pointed out a designated "No Parking" zone that was full of vehicles being stored by the Appellant. He said he could not see a method or theme to the Appellant's organization. He questions whether many of the people working on the Appellant's site are authorized to work there as they run away before they can be approached. There has been at least one incident of an alleged employee being injured and removed by ambulance due to insufficient safety precautions being taken.

Upholding the order would allow the City Administration to act much more swiftly in the case of any subsequent complaints.

Speakers Positions

D. P stated that the agreement from the Condominium Corporation had been rescinded two years ago due to ongoing issues. She noted that the letter states he is allowed to work in front of his bay only, not in the parking lot or the fire lane. He is also not permitted to put a C-can in the fire lane for storage. His large trucks have broken up

pavement that the Condominium Corporation had to repair. The map presented by Mr. Marchen was not provided with the letter agreement and she offered to provide an affidavit from the people who signed the letter stating this.

A. P spoke that the property is in disarray. It reflects poorly on and affects the other businesses that are there. On a few occasions, cars parked outside the car wash have prevented it from operating. If the neighboring chroming business can't get a supply truck in his bay, he has to load his product in the street affecting traffic. Condo owners just want the property to be clean, where people can walk and emergency vehicles have access. Enforcing the Order would positively affect everybody- adjacent owners, customers and visitors.

He is aware of a letter regarding the Appellant's use of common property, but advised that it doesn't show that the Appellant has access to entire laneways. There were clear lines drawn showing his areas of access that the Appellant is still not complying with, including various parking spaces for storage. Additionally, he advised the Committee that the Appellant has not been current with his condominium fees for the last two years also affecting his use of the common areas.

Decision

The Committee upholds the order.

You are therefore ordered to:

Remove all furniture, chairs, metal, wood/pallets, pipes, hoses, wire, plastic, plastic bags/buckets/containers, tarps, cardboard, auto parts, engines/engine blocks, doors/hoods/fenders/grills, tires, gas tanks, lifts, frames, stands, shelves, ladders, propane tanks, C-cans, bins, all materials/items from inside the bins, concrete pieces/blocks, forklifts, metal/plastic storage units, all items/materials/auto parts under the tarps and all damaged/dismantled/derelict motor vehicles from the entire property.

Also remove all debris and loose litter from the entire property, and take any actions or measures necessary to remedy the unsightly condition.

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

Due Date: March 13, 2015

Reasons

Upon reviewing the photographs of the property and based on the verbal evidence, in the minds of the Committee, the property is in an unsightly condition and is detrimental to the surrounding area. The Appellant shows a disregard for maintenance and upkeep and the condition of the property takes away the ability of the rest of the Condominium owners to use the common property in a functional and safe manner.

**EDMONTON COMMUNITY STANDARDS
AND LICENCE APPEAL COMMITTEE**

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S. McKeen, Chair

May 27 '15

Date