



SPECIAL COMMUNITY STANDARDS & LICENCE APPEAL COMMITTEE

AGENDA

April 11, 2019 – Churchill Building

9:30 am Call To Order 4:30 pm Adjournment
 12:00 Noon Lunch

MEMBERS

M. Banga, J. Dziadyk, S. McKeen

ITEM		ACTION
1.	CALL TO ORDER AND RELATED BUSINESS	
1.1	Call to Order	
1.2	Adoption of Agenda	
1.3	Adoption of Minutes	
	<ul style="list-style-type: none"> February 8, 2019 and February 19, 2019, Community Standards and Licence Appeal Committee meeting minutes 	
1.4	Adoption of revised Community Standards and Licence Appeal Committee Procedures Manual	
2.	EXPLANATION OF APPEAL HEARING PROCESS	
3.	COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS	
3.1	Appeal of Order - 487861 Alberta Ltd.; 15815 Stony Plain Road NW, Edmonton, Alberta, Order pursuant to Section 546(1) of the <i>Municipal Government Act</i> .	Postponement Request
3.2	Appeal of Order - M. B.; 4605 - 117 Avenue NW, Edmonton, Alberta, Order pursuant to Section 545(1) of the <i>Municipal Government Act</i> .	
3.3	Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the <i>Vehicle for Hire Bylaw 17400</i> to W. M.	
3.4	Appeal of Order - B. N. D. and N. D.; 10945 - 152 Street NW, Edmonton, Alberta, Order pursuant to Section 545(1) of the <i>Municipal Government Act</i> .	
3.5	Appeal of Order, R. B.; 606 Bevington Place NW, Edmonton, Alberta, Order pursuant to Section 546(1)(a)	

ITEM		ACTION
	<i>of the Municipal Government Act.</i>	
3.6	Appeal of Order - R. C.; 10946 - 154 Street NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(a) of the <i>Municipal Government Act.</i>	
3.7	Appeal of Order - R.C.; 10946 - 154 Street NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act.</i>	
4.	ADJOURNMENT	

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SPECIAL COMMUNITY STANDARDS & LICENCE APPEAL COMMITTEE

MINUTES

April 11, 2019 – Churchill Building

PRESENT

M. Banga , J. Dziadyk, S. McKeen

ALSO IN ATTENDANCE

A. Chow / K. Wun, 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	

M. Banga called the meeting to order at 9:36 a.m.

1.2	Adoption of Agenda	
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The Items on the Agenda will be heard in the following

order: 3.3, 3.4, 3.1, 3.2.

Moved S. McKeen:

That the August 16, 2018, Community Standards and Licence Appeal Committee meeting agenda be adopted as amended.	
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In Favour:

Carried

M. Banga, S. McKeen, J. Dziadyk

1.2 Adoption of Minutes

Moved J. Dziadyk:

That the February 8, 2019, and February 19, 2019, Community Standards and Licence Appeal Committee meeting minutes be adopted.	
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In Favour:

Carried

M. Banga, S. McKeen, J. Dziadyk

1.3 Adoption of Community Standards and Licence Appeal Committee Procedures Manual

Moved S. McKeen:

That the revised Community Standards and Licence Appeal Committee Procedures and Guidelines Manual be adopted.	
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In Favour:

Carried

M. Banga, S. McKeen, J. Dziadyk

2. EXPLANATION OF APPEAL HEARING PROCESS

M. Banga 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

3.3 Appeal of Decision to refuse to issue a City of Edmonton Driver's Licence under the *Vehicle for Hire Bylaw 17400* to W.

M.

W. M., Appellant, made a presentation and answered the Committee's questions.

K. Johnson, Law Branch, made a presentation on behalf of Business Licencing and Vehicle For Hire and answered the Committee's questions.

C. Ashmore, Law Branch, answered the Committee's questions.

The Committee met in private at 10:21 a.m., pursuant to Section 20 (Disclosure harmful to law enforcement) of the Freedom of Information and Protection of Privacy Act.

The Committee met in public at 10:34 a.m.

Moved S. McKeen

That the decision to refuse to issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to W. M. be upheld.	
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In Favour:

Carried

M. Banga, S. McKeen, J. Dziadyk

3.4

Appeal of Order - B. N. D. and N. D.; 10945 - 152 Street NW, Edmonton, Alberta, Order pursuant to Section 545(1) of the *Municipal Government Act*.

M. Banga explained the hearing process regarding Municipal Government Act orders and asked if anyone objected to any member of the Community Standards and Licence Appeal Committee hearing the appeals. No one objected.

B. D., Appellant, made a presentation and answered the Committee's questions.

C. Perizzolo, Complaints and Investigations, made a presentation and answered the Committee's questions. She was accompanied by J. Lallemand, Complaints and Investigations, who answered the Committee's questions.

C. Ashmore, Law Branch, answered questions from the Committee.

Two sets of photographs dated December 18, 2018 and January 22, 2019 were provided to the Appellant, members of the Committee and the Office of the City Clerk.

The Committee met in private at 11:33 a.m., pursuant to Section 20 (Disclosure harmful to law enforcement) of the Freedom of Information and Protection of Privacy Act.

The Committee met in public at 11:59 a.m.

Moved J. Dziadyk:

The Committee varies the Order. The Date of compliance is May 16, 2019, and the Order shall exclude toys and building materials. A reasonable amount of these materials can be stored in a manner that is neat and tidy in the back yard.	Citizen Services Due Date: May 16, 2019
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In Favour:

Carried

M. Banga, S. McKeen, J. Dziadyk

3.1 **Appeal of Order - 487861 Alberta Ltd.; 15815 Stony Plain Road NW, Edmonton, Alberta, Order pursuant to Section 546(1) of the *Municipal Government Act*.**

R. Colistro, legal counsel for the Appellant, was unavailable to attend today's hearing and provided a written request that this matter be postponed to the May 16, 2019 Community Standards and Licence Appeal Committee meeting.

Moved S. McKeen:

That the hearing of this matter be postponed to the May 16, 2019, Community Standards and Licence Appeal Committee meeting.	
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In Favour:

Carried

M. Banga, S. McKeen, J. Dziadyk

3.2 **Appeal of Order - M. B.; 4605 - 117 Avenue NW, Edmonton, Alberta, Order pursuant to Section 545(1) of the *Municipal Government Act*.**

The Appellant, M. B., was not present but had submitted a written postponement request.

C. Perizzolo, Complaints and Investigations, provided the Respondent's position regarding this request.

Moved S. McKeen:

That the hearing of this matter be postponed to the May 16, 2019, Community Standards and Licence Appeal Committee meeting.

In Favour:

Carried

M. Banga, S. McKeen, J. Dziadyk

3.5

Appeal of Order, R. B.; 606 Bevington Place NW, Edmonton, Alberta, Order pursuant to Section 546(1)(a) of the *Municipal Government Act*.

J. Lallemand, Complaints and Investigations, advised the Committee prior to the meeting that the Order has been cancelled.

The hearing of this matter was therefore cancelled.

3.6

Appeal of Order - R. C.; 10946 - 154 Street NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(a) of the *Municipal Government Act*.

J. Lallemand, Complaints and Investigations, advised the Committee prior to the meeting that the Order has been cancelled.

The hearing of this matter was therefore cancelled.

3.7

Appeal of Order - R.C.; 10946 - 154 Street NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the *Municipal Government Act*.

J. Lallemand, Complaints and Investigations, advised the Committee prior to the meeting that the Order has been cancelled.

The hearing of this matter was therefore cancelled.

4. ADJOURNMENT

The meeting was adjourned at 12:04 p.m.

Chair

City Clerk



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Postponement Decision of the Committee

Appeal of Order 279096345-001; 15815 Stony Plain Road, Edmonton, Order Pursuant to Section 546(1) of the *Municipal Government Act*

Hearing Date: April 11, 2018

Appellant: 487861 Alberta Ltd.

I. ISSUE

Whether the appeal hearing should be postponed to Thursday, May 16, 2019.

II. APPEARANCES AND EVIDENCE

Appellant: Written Postponement Request from Ralph Colistro, for 487861 Alberta Ltd.

Respondent: J. Lallemand, Specialized Program Coordinator, Complaints & Investigations, Community Standards & Neighbourhoods

III. SUMMARY OF APPELLANT'S POSITION

1. The appellant submitted the following request via e-mail:

We had blocked off time on our calendars to ensure we were able to attend the March 21, 2019 CSLAC hearing. Unfortunately, that hearing was postponed to April 11, 2019 by CSLAC on its own initiative just days before the March 21, 2019 hearing.

Upon receiving notice that CSLAC had postponed the hearing, we reviewed our calendars. We have other matters to attend to on April 11, 2019 and cannot attend the hearing on that day. We have reviewed our calendars and are available for a hearing on May 16, 2019.

In light of the above, we will not be attending the April 11, 2019 hearing. Please present this information to the Committee and provide us with confirmation that the April 11, 2019 hearing is adjourned.

IV. SUMMARY OF RESPONDENT'S POSITION

2. The Respondent had no objections to the postponement request.

V. DECISION

The appeal hearing regarding this matter has been postponed to the May 16, 2019 Community Standards and Licence Appeal Committee meeting.

VI. REASONS

3. This matter was originally scheduled to be heard on March 21, 2019 and the Appellant had confirmed availability for that date. Unfortunately that hearing was cancelled because the Committee could not meet quorum, and the hearing was rescheduled, without consulting the Appellant, to April 11, 2019. The Appellant now indicates they are not available on April 11, but can attend on May 16, 2019. Given that this postponement request was initiated as a result of the Committee not meeting quorum, it is only fair that the hearing be postponed to May 16, 2019. The Respondent does not object.



Councillor M. Banga



Date



Postponement Decision of the Committee

Appeal of Order 295478682-001; 4605 – 117 Avenue NW, Edmonton, Order Pursuant to Section 545(1) of the *Municipal Government Act*

Hearing Date: April 11, 2019

Appellant:

I. ISSUE

Whether a postponement of 6 to 9 months should be granted as per the Appellant's e-mail request of February 14, 2019.

II. APPEARANCES AND EVIDENCE

In dealing with the Appeal of Order 295478682-001, the Community Standards and Licence Appeal Committee (the Committee) heard from:

Appellant: (not present – by way of written submission)

Respondent: C. Perizzolo, Acting Coordinator, Complaints & Investigations
Citizen Services, Community Standards Branch

III. SUMMARY OF APPELLANT'S POSITION

1. The Appellant was not present but an e-mail request for a postponement was received on February 14, 2019:

Thank you for rescheduling the hearing However I am going to need an adjournment.

Pertinent to my case is the officers conduct and notes on my property and lack thereof on adjacent properties.

As has been argued at hearings before and at Court of Queens bench one can not assert that targeting is going on without proof that the officer is only issuing notices to my property whilst ignoring others. "how do you know the others are not being written up , you can't say that without proof"! Nor can one use ANY evidence NOT presented at the hearing latter in court.

In response to that demand for proof I have had in the past received and provided proof of this action by the officer. With respect to this case it was again asked for and this time "someone" coincidentally informed the Foip officer Doreen Way that this information was no longer to be forwarded to me. Effectively blocking my attempt to provide the very information your office and the courts demands.

As such I have put in an application to the commissioner for a review as the information I seek on the officers conduct as it has absolutely zero influence on a property owners PERSONAL information and as such is NOT protected under the act.

As this information is pertinent to my appeal and the commissioners office has informed me that it takes 6-9 months I have no option but to seek an adjournment until such information is ordered or given voluntarily. Either I can receive an adjournment now in writing, ask for one at the scheduled hearing or apply to the court for one if denied.

IV. SUMMARY OF RESPONDENT'S POSITION

2. The Respondent does not consent to the Postponement request and is prepared to proceed with the hearing today.
3. In response to a question from the Committee Ms. Perizzolo confirmed she is willing to postpone this matter to the next regularly scheduled Community and Standards Licencing Committee meeting which is May 16, 2019.

V. DECISION

The hearing of this appeal has been Postponed to May 16, 2019.

VI. REASONS

4. has asked for this matter to be postponed. He has provided a large package of information and makes reference to requests for other information through the FOIP office. It appears he plans on making a number of arguments including that the order he is appealing was not valid, that he is being targeted, that information is

being withheld from him, etc. It appears that he is asking this matter to be adjourned for a period of nine months.

5. A nine month adjournment is excessive. This Committee reminds that the hearing is neither about other orders, nor about whether he is being targeted by the City. This Committee would not have jurisdiction to deal with those types of arguments. The jurisdiction of this Committee relates solely to the order under appeal. In other words, it does not appear on its face that any of the information that is being gathered will end up being relevant to the issue that this Committee can hear.
6. The sole issue that is valid is whether the order that was issued on the property at 4605 - 117 Avenue was warranted at the time it was issued. This is the jurisdiction of the Committee based on section 547 of the *Municipal Government Act* which allows the Committee to review the order.
7. Since the Respondent does not object, the Committee will postpone this matter to May 16, 2019, so can focus on that sole issue.



Councillor M. Banga

30 April 2019

Date



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Decision of the Committee

Appeal of Decision to Refuse to Issue a City of Edmonton Driver's Licence Pursuant to Section 33.1 of the *Vehicle for Hire Bylaw 17400* City File No. 302488538-001

Hearing Date: April 11, 2019

Appellant:

I. ISSUE

Whether a City of Edmonton Driver's Licence should be issued to pursuant to the *Vehicle for Hire Bylaw 17400*.

II. APPEARANCES AND EVIDENCE

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

Appellant:

Respondent: Ms. Kaylyn Johnson, City of Edmonton Law Branch (representing Business Licensing and Vehicle For Hire)

Written Submissions:

- Record and Written Submission from the Respondent

III. SUMMARY OF APPELLANT'S POSITION

1. The Appellant recently applied for a City of Edmonton drivers licence but was refused because of a crime he committed in the summer of 2008. He was convicted in December of 2009.

2. After his conviction he obtained work at a car dealership; however, this dealership went bankrupt last summer. Since then he has had difficulty finding work to cover his bills and support his family. He has applied to trucking companies but many of them also require a security clearance.
3. The arrest was the best thing that happened to him and he has completely turned his life around since then. He attended alcoholics anonymous, has been sober for the last 9 years and has not been in any trouble with the law. A driving abstract he provided shows that he has not had a ticket in the last three years. He would be able to provide character witnesses should the Committee require this.
4. The Appellant provided the following responses to questions from the Committee:
 - a. It is his understanding that he can apply for a pardon once ten years has passed which he intends to do.
 - b. He believes he is completely rehabilitated and would not do anything to jeopardize his family.
 - c. He has employment lined up and expects to be employed in approximately one month if he is granted a City driver's licence.
 - d. There is nothing in his record related to violence; he has never laid a hand on anyone.

IV. SUMMARY OF RESPONDENT'S POSITION

5. Ms. Kaylyn Johnson, Law Branch, appeared on behalf of Business Licensing and Vehicle for Hire.
6. She raised a preliminary issue and asked which version of the Vehicle for Hire Bylaw (Bylaw 17400) pertains to today's hearing. The Respondent's position is that the bylaw that is in force today applies.
7. After some discussion it was determined that, practically speaking, this matter is subject to the Vehicle For Hire Bylaw (Bylaw 17400) as per the amendments which took effect on March 12, 2019.
8. Section 33.1 has been revised to read as follows:
 - 33.1 (1) No person may drive a vehicle for hire if, within the past 10 years, that person was convicted of any of the following offences under the Criminal Code (Canada), the Controlled Drugs and Substances Act (Canada), or the Cannabis Act (Canada):
 - (a) any offence of a violent nature, including firearms and weapons offences;
 - (b) any offence involving sexual assault, sexual exploitation, sexual interference, procuring or invitation to sexual touching;

- (c) trafficking;
 - (d) any offence involving fraud or fraudulent transactions, conspiracy to defraud, the use of false pretences, bribery, extortion, or theft; or
 - (e) any offence relating to the unlawful operation of a motor vehicle.
(S.2, Bylaw 18727, March 12, 2019)
9. A plain reading of Section 33.1 precludes the City Manager and this committee from issuing a licence to a person for ten years if convicted of one of the offences listed in this section. Drug trafficking is included in this list of offences.
 10. While Section 46(p) of the Vehicle for Hire Bylaw gives variance powers to this Committee, it is the Respondent's position that if this committee grants a licence to a person who is excluded under Section 33(1) the committee is putting this person in contravention of the bylaw.
 11. The records confirm that the Appellant held a City driver's licence from January 23, 2004, to March 10, 2010. He has been without a licence for nine years. The Respondent does not see any urgency for this application or any reason to postpone this matter in order for the Appellant to bring in character witnesses. The ten year period ends in December of this year at which time the Appellant would be eligible to re-apply.
 12. The Respondent expressed concerns that granting exceptions to the Bylaw undermines the intent of the legislation. Having legislation applied consistently is fair to everyone.

V. DECISION

The Committee denies the appeal and upholds the decision of refusal issued by the Program Manager, Business Licensing and Vehicle for Hire.

VI. REASONS

13. The Appellant has been denied a vehicle for hire license based on the fact that he has a criminal conviction in 2009 for trafficking. This conviction is almost 10 years old. This denial arises from the wording of Section 33.1 of Vehicle For Hire Bylaw 17400.
14. In March, 2019, the Vehicle For Hire Bylaw was amended to attempt to resolve a debate about how to interpret Section 33.1 The new version of the bylaw reads as follows:

33.1 (1) No person may drive a vehicle for hire if, within the past 10 years, that person was convicted of any of the following offences under the Criminal Code (Canada), the Controlled Drugs and Substances Act (Canada), or the Cannabis Act (Canada):

- (a) any offence of a violent nature, including firearms and weapons offences;
- (b) any offence involving sexual assault, sexual exploitation, sexual interference, procuring or invitation to sexual touching;
- (c) trafficking;
- (d) any offence involving fraud or fraudulent transactions, conspiracy to defraud, the use of false pretences, bribery, extortion, or theft; or
- (e) any offence relating to the unlawful operation of a motor vehicle.

15. Technically the appellant was denied under the prior version of the bylaw and he appealed based on that denial. This puts the Committee in a strange situation where it is unclear what version of the bylaw to use to decide this appeal. Given that the new version of the bylaw would apply to the Appellant immediately after this appeal is decided, it makes sense to use the new version of the bylaw now. If this was not done, the Appellant, even if successful, could lose his licence immediately upon walking out the door since the new bylaw is currently in effect.
16. City Council made the changes to the bylaw to clarify the rules surrounding whether certain types of convictions that were less serious, or that did not directly relate to the job duties of a vehicle for hire driver, would still disqualify someone from obtaining a licence. The new version of the bylaw was intended to remove the ambiguity that existed in the prior version, and there is no longer any ambiguity in the wording. It was intended to create a hard and fast 10 year ban for all drivers convicted of these offenses with no exceptions. That was the clear will of the majority of City Council, and was done so that the public has utmost confidence in the vehicle for hire program in the City of Edmonton.
17. The new Section 33.1 would clearly capture the conviction of the Appellant.
18. Section 43(p) of the Vehicle for Hire Bylaw suggests that the City Manager, and therefore this Committee, has the ability to waive any requirement under the bylaw. While technically true, exercising that waiver to apply to Section 33.1 would defeat the clear intent of City Council in passing the new provision. This Committee therefore does not interpret Section 43(p) as applying to the prohibition in Section 33.1.

19. This Committee sympathizes with the Appellant in that his conviction was long ago, and it appears that all he is trying to do is to get a job in an economy that is making things difficult for some people. In his case, the 10 year ban has almost expired, and he may be eligible for a vehicle for hire licence at that point. There is nothing stopping him from starting the paperwork shortly before the ban expires so that he can get a quick decision once 10 years has elapsed. While his appeal is denied, this Committee wishes him well.



Councillor M. Banga

30 April 2019

Date



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Decision of the Committee

Appeal of Order 300598901-001; 10945 – 152 Street NW, Edmonton, Order Pursuant to Section 545(1) of the *Municipal Government Act*

Hearing Date: April 11, 2019

Appellants:]

I. ISSUE

Whether the property in question is in a nuisance condition.

II. APPEARANCES AND EVIDENCE

In dealing with the Appeal of Order 300598901-001, the Community Standards and Licence Appeal Committee (the Committee) heard from:

Appellant:

Respondent: C. Perizzolo, Acting Coordinator, Complaints & Investigations,
Citizen Services, Community Standards and Neighbourhoods

J. Lallemand, Specialized Program Coordinator, Complaints and
Investigations, Community Standards and Neighbourhoods

Exhibit A: Two sets of photos dated December 18, 2018 and January 22, 2019
from the Respondent

III. SUMMARY OF APPELLANT'S POSITION

1. The Appellant acknowledged that his yard is dirty and advised he is in the process of cleaning it up; the clean-up is about 50 percent complete.
2. He takes exception to some the items that he has been ordered to get rid of such as children's toys, lawn mowers and water containers. Removing these items will result

in his children having no toys to play with and leaving him unable to mow the lawn or water the garden. He has a use for every item he is supposed to get rid of and many of these items are neatly stacked. He does not see how items enclosed inside his fence are an issue to anyone.

3. He is here today to obtain clarification of what exactly needs to be removed from his property and what he is allowed to keep.
4. He provided the following responses to questions from the Committee:
 - a. The garbage bags in one of the Respondent's photographs are there temporarily until garbage pick-up day.
 - b. There is no room in his basement or in the garage to store any of the items that are currently in the yard. The basement is developed and the garage contains a vehicle, tools and worms for worm composting.
 - c. He intends to convert the van into an RV for ice fishing. All of the items that were stored underneath the van when the photo was taken have now been removed.
 - d. He is very committed to getting his yard cleaned up otherwise he faces a severe fine. He needs about 6 weeks to complete the clean-up; some of the items are still frozen to the ground. He is willing to work with City staff to achieve compliance.
 - e. The orange cone in his front yard is used to reserve a parking space for his wife on the street in front of his house. There is a massage studio next door that often has 20 customers attending at a time leaving no parking in front of his house.
 - f. The complainant confirmed that he would like the following items removed from the Order: building materials, wood and tarps, children's toys, Tupperware container, water containers / bins, garden equipment, planting soil, and a dog kennel. He is prepared to move the freezer from the deck into the garage.
 - g. He acknowledged his yard is dirtier than that of his immediate neighbours.
 - h. He recently purchased a piece of property near Alberta Beach which has a sea can on it. He intends to move some of the items from his yard to that property.

IV. SUMMARY OF RESPONDENT'S POSITION

5. The Respondent's provided the following timeline of events leading up to the 545 Order being issued:

Dec. 18, 2018: A bylaw officer attended the property in response to a citizen's complaint. The officer observed an unsightly and untidy condition which included a derelict cube van, multiple garbage cans, scrap wood, plastic buckets, and other debris. Two photographs were taken depicting the condition of the property.

Dec. 19, 2018: A Notice to Comply was issued.

Jan. 10, 2019: A follow-up inspection was conducted and the property was found to be non-compliant. There was new material at the front and the nuisance condition at the rear was greater than what could be seen from public property. A Notice of Entry was issued pursuant to Section 542 of the MGA for further inspection.

Jan. 22, 2019: The bylaw officer attended the property for an inspection (Appellant was present). 26 photographs were taken of the nuisance condition which is primarily located on both side yards (adjacent to the neighbours) and at the rear of the property (adjacent to the alley).

Jan. 28, 2019: The 545 MGA Order which is the subject of today's appeal was issued. The compliance date was extended to April 20, 2019, in order to work with the Appellant.

6. A second Notice of Entry was issued to the Appellant to review the condition of the property prior to this hearing; however, on March 13, 2019, the Appellant notified the bylaw officer and area supervisor that they were not permitted on the land for further inspection.

7. Section 6(2) of the Community Standards Bylaw defines nuisance on land:

..... 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,

This bylaw goes on to list the following examples (all of which present on the subject property):

6(2)(a) "excessive accumulation of material including but not limited to building materials, appliances, and household goods whether of any apparent value or not".

6(2)(b) damaged, dismantled or derelict vehicles

8. Based on the above information and the photos submitted as Exhibit A the Respondent requests the Committee to uphold the Order issued pursuant to Section 545(1) of the MGA.
9. The Respondents provided the following responses to questions from the Committee:
 - a. They acknowledged it is not typical to have such a long list of items on an Order.
 - b. The backyard of the subject property is visible to both adjacent neighbours.
 - c. If an owner notifies them they cannot enter the land they would have to proceed with a court order to gain entry.
 - d. Approximately 37,000 complaints are received per year and compliance rates are very high. Community Standards always try to work with citizens; normally 21 days are given for compliance, however; in this case the property owner was given 3 months and no fine was issued. They are willing to work with the Appellant to identify which items are in good repair and intended for a backyard use and how to store the items in a suitable manner.
 - e. The following is the history of this property, pursuant to nuisance, during the time the Appellant has owned the subject property. Compliance was achieved in all three instances.

October, 2010: A Notice to Comply and an MGA Order were issued.

May, 2011: An MGA Order and a ticket were issued.

June, 2018: A warning notice was issued.

There is no history of long grass or weed complaints at this property.

V. **DECISION**

The Order is varied as follows:

The Date of compliance is May 16, 2019, and shall exclude toys and building materials. A reasonable amount of these materials can be stored in a manner that is neat and tidy in the back yard.

REASONS

10. received an order to remove a large number of items from his yard because those items constitute a nuisance. While he does not appear to take issue with removal of some items, he disputes that certain items need to be removed. He indicates that he is in the process of cleaning up the property.
11. The real issue here is the amount of materials on the property. Under section 6(2) of Edmonton's Community Standards Bylaw, examples of a nuisance include:

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;
12. This property qualifies as a nuisance as a result of this excessive accumulation of material. When a property has this much material on it, it can create issues relating to vermin, and would create additional hazards should emergency personnel have to access the property. There is no question in the eyes of the Committee that the property would be of concern to the neighbors and the broader community.
13. has objected to a number of the items listed in the order, but fails to realize that it is not only the individual items, but the total amount of material, that is creating the nuisance. For example, he seems to object to the inclusion of Tupperware in the order, but does not provide an explanation for why the Tupperware is not kept indoors. He has a dog kennel outside, but no longer owns a dog. He still has tarps stored outside to cover the ground in case of frost, but these appeared to be kept outside throughout the winter as well.
14. Many, if not most, of the items listed in the order should either be stored inside or in a garage or shed. If there were one or two of these items outside no one would object, but by storing these items outside with other items such as a freezer, fuel containers and other items, the amount of material is simply excessive. Even items such as lawn mowers and garden tools are not intended to be stored outside. If they were outside on a transitory basis, that would be fine, but to permanently store all your tools outside creates a nuisance. For the most part, the Committee sees no issue with the majority of the items listed in the order since it is the accumulation of all of these items that form the nuisance.
15. The two items that the Committee would remove from the order are children's toys and building materials/wood. If there is a reasonable amount of these types of items, and the items are stored in a neat and tidy manner, it would be acceptable to have them in the back yard. For example, if the building materials were nicely stacked and

tarped, there is no reason to believe that they cannot remain in the backyard. If the toys were neatly stored, that would be acceptable.

16. The order is so varied.


Councillor M. Banga


Date