



**City of Kingston
Appeals Committee
Meeting Number 07-2023
Minutes**

**Monday, October 16, 2023 at 12:00 p.m.
Hosted from Councillors' Lounge, 3rd Floor, City Hall**

Committee Members Present

Councillor M^cLaren, Chair
Councillor Oosterhof (arrived at 12:03 p.m.)
Tara Kainer
Robert Knox
Todd Storms

Regrets

None

Staff Members Present

Joe Harry, Property Standards & Municipal Law Enforcement Officer
Steve Mothersell, Supervisor, Enforcement
Nicholas Pappas, Property Standards & Municipal Law Enforcement Officer
Andrew Reeson, Senior Legal Counsel
Iain Sullivan, Committee Clerk

Others Present

Youko Leclerc, Appellant
Robin O'Farrell, Appellant
Members of the public were present.

This is not a verbatim report.

Meeting to Order

The Chair called the meeting to order at 12:00 p.m.

Approval of the Agenda

Moved by Ms. Kainer

Seconded by Mr. Knox

That the agenda be approved.

Carried

Confirmation of Minutes

Moved by Mr. Knox

Seconded by Ms. Kainer

That the minutes of Appeals Committee Meeting Number 06-2023 held on Monday, September 18, 2023, be approved.

Carried

Disclosure of Pecuniary Interest

There were none.

Delegations

There were none.

Briefings

There were none.

Business

a) New Appeals

i) 5 Cataraqui Street

Mr. Harry conducted a PowerPoint presentation regarding New Appeal – 5 Cataraqui Street. A copy of the presentation is available upon request through the City Clerk's Department.

Councillor Oosterhof arrived to the meeting.

Mr. Knox sought further details regarding the remediation required for the property. Mr. Harry stated that any remediation is more related to the intended future use of the property. He added that City environment staff noted there was no prohibition on removing the demolition debris with respect to environmental remediation.

Mr. Knox inquired about the security requirements for structures awaiting demolition. Mr. Harry stated the City Building Services Department require fencing to secure the site from trespass, along with signage around the property. He further stated that he was unsure if this requirement was being complied with as Building Services issued the order on the morning of October 16, 2023.

In response to a question from Councillor Oosterhof, Mr. Harry stated that staff would like to see all debris from the previous demolition removed and the property be maintained within all aspects of the Property Standards By-law.

Youko Leclerc, agent for the Appellant, spoke to the letter that was provided to the Committee. He explained the reasons for noncompliance with Items 1 and 3 of the Order to Remedy. Mr. Leclerc advised that the property owner has a contract in place with a property management company to maintain the site. He advised that the property owner is undertaking an environmental site assessment that is required for a Brownfield Community Improvement Plan (CIP) application for financial assistance in site remediation. Mr. Leclerc spoke to the timeline for completing the CIP application and that the property owner wishes to remove the existing debris as part of that process. He requested that a six-month extension be granted for compliance with the Order to Remedy.

Mr. Knox questioned the security of the property at the current time. Mr. Leclerc responded that there is a chain link fence, however some holes had been cut into the fence.

Mr. Knox asked about the safety of the remaining structures on the property. Mr. Leclerc stated that the building that was demolished was done so as the result of a fire due to trespass. He stated that the Building Department order would require additional site security measures.

Mr. Knox inquired as to how often site checks are completed regarding trespass and vagrancy. Mr. Leclerc responded that as part of the maintenance contract there is a requirement for site inspections once per month.

Mr. Storms sought further details regarding the six-month extension request. Mr. Leclerc explained that a CIP application takes between three to five months to complete. He added that four weeks would be required to secure a contractor to remove the debris. Mr. Leclerc stated that six months would provide sufficient time if the CIP process were to be delayed.

In response to a question from Mr. Storms, Mr. Leclerc confirmed that the clearing of the demolition debris would need to wait until CIP funding is approved in order for those costs to be eligible for funding.

Mr. Knox inquired if any debris could be removed prior to the approval of the CIP application. Mr. Leclerc stated that from an environmental perspective the debris could be removed at any time. He added that including the debris removal in the CIP application is part of the overall economic analysis for the project.

Councillor McLaren sought further details regarding property maintenance. Mr. Leclerc advised that his understanding was a contractor had been hired in August to complete work once per month.

Councillor McLaren sought confirmation on the date of the first complaint. Mr. Harry stated that he completed his first inspection on June 22, 2023. He added that his most recent inspection was October 2, 2023 and he had not noted any progress with respect to Item 2 of the Order to Remedy.

Councillor McLaren inquired as to how long the current owner had owned the property. Mr. Leclerc stated that he could not give an exact number of years, but that the current owner had owned the property for many years.

Councillor Oosterhof expressed understanding for the economic reasons for the extension request. He expressed concerns with the current state of the property.

Mr. Storms stated that he understood the rationale for timing and financing. He expressed concern with the lack of site security. He stated that some work should be completed to secure the site and would like to see proof of that work in order to grant an extension.

Ms. Kainer stated that safety of the site is paramount.

In response to a question about the security of the current fence and buildings, Mr. Harry stated that there are a number of cuts in the fence and that there is unobstructed access from River Street to the property. Regarding the buildings, Mr. Harry stated that there are two smaller buildings that appear to have been used for shelter recently, and

that the foundation of the existing demolition has not been graded, levelled and backfilled as required by the Property Standards By-Law.

Mr. Knox stated that the only reason the debris cannot be removed is the budget for the project. He stated that the site needs to be secured immediately.

In response to a question about liability, Mr. Reeson expressed his opinion that the City's risk of liability is low as the obligation to visitors to a site is owed by the occupier, adding that the City is not the occupier of the property. He also stated that municipalities have broad discretion with respect to enforcement of their by-laws if done reasonably and in good faith.

Mr. Leclerc stated that he would be willing to return to the Committee in a month with updates on the security of the site, details on the maintenance of the site and the CIP plan progress. He added that he would share the Committee's comments with the property owner.

Moved by Councillor Oosterhof
Seconded by Mr. Storms

That the Appeals Committee agrees to confirm Item 2 of Order to Remedy CEPS202304707 and the time for compliance therewith; and

That Order to Remedy CEPS202304707 regarding 5 Cataraqui Street be modified to extend the timeline for compliance with respect to Items 1 and 3 in the Order to Remedy to the November 20, 2023 Appeals Committee meeting to allow the Appellant to secure the property from trespassing, with an inspection to occur no later November 16, 2023.

Carried

b) Property Updates

i. 712 Victoria Street

Mr. Pappas conducted a PowerPoint presentation regarding Property Updates – 712 Victoria Street. A copy of the presentation is available upon request through the City Clerk's Department.

Mr. Storms asked about the statute of limitations for the case. Mr. Pappas stated that the City has one year from the date of being made aware of the violation to proceed

with charges. He added that the City was first made aware of the violations on January 9, 2023.

Mr. Reeson added that it is an offence of the Building Code Act to fail to comply with an order, adding that failure doesn't happen until a deadline for compliance is established.

Mr. O'Farrell stated that he cannot comply with the Order to Remedy as to the unit needs to be vacated to complete the repairs. He advised that the Landlord Tenant Board (LTB) has delayed the eviction hearing and not provided a date for when the hearing will take place. Mr. O'Farrell spoke to his efforts to relocate the tenant since January 2023. He advised the Committee that he wants to complete the work to remediate the property.

Ms. Kainer asked for details on the LTB hearing. Mr. O'Farrell stated his case was not heard and that he has not been given a date for the hearing.

Councillor Oosterhof stated that there is work that can be done to make the unit more habitable and does not require the tenant to be evicted.

Lisa Liddle, resident of 712 Victoria Street, spoke to the condition of her unit, citing specifically mold, pests and flooring issues.

Mr. Ochej advised the Committee of the items in the Order to Remedy that are currently before the Committee.

Mr. Storms spoke in favour of upholding the Order to Remedy. He stated that numerous extensions had been granted and that conditions are worsening.

William Florence advised that he was the legal representative of Ms. Liddle. He stated that Ms. Liddle would like the non-structural deficiencies addressed as soon as possible.

Councillor McLaren asked how long the unit would need to be vacated in order to make the necessary repairs to make the unit habitable. Mr. O'Farrell estimated one to three months, adding that he cannot make an exact judgment until he can see the condition of the property without the tenant living in the unit. He spoke to his attempts to declare a frustrated tenancy through the LTB.

Mr. Knox spoke to the authority of the Committee with respect to landlord-tenant related issues.

Moved by Mr. Knox
Seconded by Ms. Kainer

That the Appeals Committee agrees to confirm Items 1, 2, 6, 7, 8, 9 and 10 of Order to Remedy CEPS202300068 and the time for compliance therewith.

Carried

Motions

There were none.

Notices of Motion

There were none.

Other Business

There was none.

Correspondence

There was none.

Date and time of Next Meeting

The next meeting of the Appeals Committee is scheduled on Monday, November 20, 2023 at 12:00 p.m.

Adjournment

Moved by Mr. Knox
Seconded by Mr. Storms

That the meeting of the Appeals Committee adjourn at 1:22 p.m.

Carried