

Property Standards Committee

Meeting held September 4, 2020

A meeting of the Property Standards Committee is held this day commencing at 9:30 o'clock a.m. via Zoom video conference, there being present the following members:

Councillor Rino Bortolin, Chair
Councillor Chris Holt
Councillor Ed Sleiman
Darrel Laurendeau

Regrets received from:

Matthew Wachna

Guest in attendance:

Robert Reynolds, Chodola Reynolds Binder, Solicitor for the Appellant, 837690 Ontario Limited

Also present are the following resource personnel:

John Revell, Chief Building Official
Dan Lunardi, Manager of Inspections/Deputy Chief Building Official
Chris Jedlinski, Inspector/Property Standards Officer
Karen Kadour, Committee Coordinator

1. Call to Order

The Chair calls the meeting to order at 9:38 o'clock a.m. and the Committee considers the Agenda being Schedule A attached hereto, matters which are dealt with as follows:

2. Adoption of the Minutes

Moved by Councillor Sleiman, seconded by D. Laurendeau,
That the minutes of the Property Standards Committee of its meeting held May 19,
2020 **BE ADOPTED** as presented.
Carried.

3. Request for Deferral, Referral or Withdrawal.

None.

4. Appeals

4.1 837690 Ontario Limited – 251 Goyeau Street

Robert Reynolds, Solicitor for the Appellant, 837690 Ontario Limited appears before the Property Standards Committee via Zoom media conference regarding property at 251 Goyeau Street, Plan 91 Lot 55 to Lot 61.

D. Lunardi, provides background information relating to the issuance of the Order to Repair for 251 Goyeau Street as follows:

- A fire occurred in November 2019 at 251 Goyeau Street.
- The Building Department was brought onto the scene by an Engineer from Windsor Fire & Rescue Services to review the damage that was caused.
- During the review, it was confirmed the damage was caused by fire and a power outage to the building.
- On November 15, 2019, the Fire Department released the scene back to the owner. At that time, the Building Department issued unsafe Orders. Those unsafe Orders were divided into two separate Orders –One specific to the fire damage in the parking garage and the other specific to the tenanted space and the occupied space in the building.
- On November 20, 2019, two other Orders were issued which prohibited occupancy of the building until such time that the systems were back up and running and the repair to the garage was completed.
- On March 4, 2020, the Order that is before you today was issued by the Property Standards Officer under the Property Standards Bylaw. That Order had a compliance date of April 3, 2020. The Notice of Appeal was received on March 13, 2020.

Robert Reynolds, Solicitor advises they represent various individuals and that most of the legal work is being handled out of Montreal and Toronto. He notes he is present to speak on behalf of the owners and the insurance companies.

Mr. Reynolds provides the following comments relating to 251 Goyeau Street:

- This is a massive project in terms of the number of issues.
- The project initially got started because of the fire, the Fire Department and the various authorities involved.

- Initially, they had to identify the cause of the fire which started on the first level of the parking garage underneath the lower level of the garage.
- There were a number of cars beneath that were burned out shells so the initial question was did the cars cause the fire or did the fire burn the cars.
- That issue had to be identified so those cars could not be removed until the engineers completed those studies.
- Then it had to be determined whether there was an issue from Enwin as they are right past the Enwin property in terms of their cabling.
- The vehicles were moved out of the basement and a number of commercial and residential tenants started threats of a class action law suit. They wanted to bring in their own engineers for studies and an investigation.
- The owner of the property and the insurance companies have retained engineers.
- In terms of the Orders to Repair, their position on the Notice of Appeal was twofold. Not particularly objecting to the first 3 items in terms of the substance of them but the timing of them – 120 days to do the project is not conceivable.
- In speaking with the engineers and the adjusters yesterday, their request to this Committee (in terms of the 3 items) is an additional 90 days. This would allow them to provide the city with an engineering report, retain a contractor and the ability to provide some timelines in terms of the construction.
- Item #4 in the Order relates to repairing the building to its original condition within 120 days of the issuance of the Order. Firstly, they believe this matter does not fall within Section 1.24 as the building was not vacant at the time of the fire and is not vacant now.
- The owner is actively in possession of the building. There are workers and security in the building everyday. It is not occupied for residential or commercial use but it is occupied.

The Chair states that usually in these scenarios, whoever the owners/person who receives the Order, oftentimes they work with the Building Department timelines. He adds that the engineers are requesting more time as 120 days is not realistic and it is the Building Department's view that 120 days are not sufficient, but stipulated by the By-law. As far as the timelines for the first 3 items, he asks Administration to speak to the 120 days original Order and the push to bring it to this Committee.

D. Lunardi indicates that the appellants request for an additional 90 days for the first three items is very reasonable as the scope of work is massive. It is a complicated process to get the building back up to where it is safe to move people back in. In terms of item 4, we see the building is vacant for its purpose, and at the time that the order was issued, it was vacant for its purpose. There are workers and security personnel in the building but ultimately the building is vacant and not occupied for the purpose for which it was designed. They are very open to looking at a timeline that is reasonable with the understanding that they do not have the engineers' studies in place. For the purpose of why we're here today, we could establish a date and work within that framework of the stages of reoccupying and repairing the building within that deadline.

R. Reynolds refers to Mr. Lunardi's comments relating to the definition of "vacant" and adds that the Bylaw does not provide that a property has to be occupied for the purposes intended, that's not what it says. Your definition of vacant says that it's neither used nor occupied. It does not say it has to be used for the purpose for which it is intended. There are people in the building, it is being used according to the definition in the City's Bylaw. We are trying to get the building done and follow the proper procedures but by the same token, we don't want an Order against us that we do not feel should be ordered.

The Chair advises with respect to item 4 and the 120 days, would the pulling of permits satisfy item 4 and does the Building Department want to see the re-entry of residents and commercial tenants actually being in the building.

D. Lunardi adds they will work with the owners when the deadline is the only issue that is being discussed. The amount of time is being appealed so without establishing a new amount of time, our order is completely inactionable because there is no violation that will ever happen without a deadline.

D. Laurendeau asks the appellant if a professional engineer has been commissioned to begin work on the reports. R. Reynolds responds there have been multiple engineers issuing multiple reports to date. The problem that have at this time is that they are not the reports requested in the Order. In other words, the report that sets out the scope of work that is going to be done has not been completed. That is why an additional 90 days has been requested.

In response to a question asked by Councillor Sleiman regarding if the owners are working on the building without permits, R. Reynolds responds that the work that was done was the initial clean-up in terms of cleaning the fire damage to areas, to remove the vehicles and to scrub down surface areas. The next process was relocating the tenants. The present issue is whether to replace or repair the electrical system.

The Chair summarizes the discussion thus far as follows:

- Mr. Lunardi has made it clear that the Building Department is willing to work with the appellant for the 90 day extension.
- As it relates to the appellant's comments about not seeing the definition as vacant by the appellant's definition of vacant, no building would ever be vacant.
- The important thing for clarification is there is no need to push that point if there is work and goodwill to rectify the issues.
- Concerned if a legal case is built to support the definition of "vacant". This may mean that they are looking at years of having an empty building.
- This has been a huge issue in the community with a lot of residents out of their homes for a long time.

Moved by D. Laurendeau, seconded by Councillor Holt,
That an extension of time of 90 days **BE GRANTED** for Items 1, 2, 3 outlined in the Order to Repair for 251 Goyeau Street as follows:

- Obtain and provide a report from a Professional Engineer
- Obtain the services of a Professional Electrical Engineer
- Obtain a Building Permit

Carried.

The Chair asks Administration to provide a “starting point” for Item 4. D. Lunardi replies he would prefer the appellant provide a date as he has not seen any of the engineering studies and does not know the extent of the scope of work.

In response to a question asked by the Chair regarding a date, R. Reynolds states the only timelines that he has heard is more in the 24 month range.

D. Laurendeau indicates because there is not a clear scope of work, they should be consistent with the bylaw’s direction to extend the order for 120 days to complete the work.

The Chair asks if there is any drawback in allowing leeway for the Building Department to provide extensions of time to the appellant. D. Lunardi responds it is not problematic from the perspective of the Building Department, however, from the appellant’s perspective there would always be that uncertainty whether or not they are going to be charged for violating an order when they are trying in good faith to complete the building.

Councillor Holt asks Administration to responds to the appellant’s reference to a 24 month timeline. D. Lunardi concurs that the 24 month timeline could be accurate as there are a lot of systems and networks that have to be assessed, reviewed, analyzed and determined whether to repair or replace.

Councillor Sleiman advises that the construction industry is very strong at this time and notes it may be difficult to acquire the skilled trades during that timeframe.

Moved by D. Laurendeau, seconded by Councillor Holt,
That an extension of time of twelve (12) months **BE GRANTED** for Item 4 - that the building be repaired to its original condition.

Carried.

The Chair indicates the appellant will work with the Building Department directly. He adds the Building Department will be able to extend that deadline so this is not a deadline to penalize the appellant to set a hard date, but to see action on the file. If indeed 24 months is required, the Building Department can extend those deadlines.

R. Reynolds asks if the ability of the Building Department to extend those timelines will form part of the Order. D. Lunardi replies he doesn't believe so.

Moved by Councillor Holt, seconded by Councillor Sleiman,
That the Building Department **BE REQUESTED** to work with the Appellant to allow subsequent extensions of time.
Carried.

The Chair states this allows leeway for the Building Department to work with the appellant for subsequent extensions to the original 12 month deadline. If they do not see anything happening, they do not have to grant an extension and this matter will come back to the Committee.

D. Lunardi adds he does not believe this matter can come back to the Committee without a deferral. Once the decision is made, the Appeal is closed. The Building Department only wants to see the building completed properly, safely and reoccupied. The only time that they would progress with any enforcement would be if there is stoppage of the project or abandonment of the efforts.

6. Communication

Moved by Councillor Holt, seconded by Councillor Sleiman,
That the e-mail from the Manager of Inspections dated September 1, 2020 regarding an update relating to the decision to defer the Notice of Appeal for the Order to Repair for 280 Aylmer Avenue – Mr. Folino **BE RECEIVED**.

Carried.

7. Adjournment

There being no further business, the meeting is adjourned at 10:27 o'clock a.m.

CHAIR

COMMITTEE COORDINATOR