

AGENDA
and Schedule "A"
to the minutes of the
PROPERTY STANDARDS COMMITTEE
meeting held
Wednesday, January 22, 2014
at 10:00 o'clock a.m.
Council Chambers, 3rd floor, City Hall

1. **CALL TO ORDER**

2. **DECLARATION OF CONFLICT OF INTEREST**

3. **ADOPTION OF THE MINUTES**

The adoption of the minutes of the Property Standards Committee at its meetings held September 16, 2013 and November 20, 2013(attached) to be discussed following the hearing of the appeals.

The minutes of the meeting held September 16, 2013 be amended to reflect the following:

"In response to a question asked by J. Middleton regarding who called the demolition company, B. Suszek states he called and left a message for the company to contact him and D. Lunardi states he later called the company to advise that their services were not necessary."

4. **DEFERRALS/REQUEST FOR DEFERRALS**

HEARING OF APPLICANTS AND INTERESTED PARTIES - 10:00 o'clock a.m.

5. **DISCUSSION OF APPEALS (ENCLOSED)**

The Canadian Transit Company against an Order issued September 24, 2013 regarding property 319 Indian, Windsor, Ontario Lot 24 Plan 888. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.

5.1 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 322 Indian, Windsor, Ontario Lot 18 Plan 887. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.

5.2 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 331 Indian, Windsor, Ontario Lot 22 Plan 888. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.

5.3 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 332 Indian, Windsor, Ontario Lot 16 Plan 887. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.

- 5.4 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 336 Indian, Windsor, Ontario Lot 15 Plan 887. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.5 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 340 Indian, Windsor, Ontario Lot 14 Plan 887. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.6 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 346 Indian, Windsor, Ontario Lot 13 Plan 887. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.7 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 352 Indian, Windsor, Ontario Lot 1 and Part Lot 2 Plan 888. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.8 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 358 Indian, Windsor, Ontario Lot S Pt lot 2 Plan 888. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.9 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 364 Indian, Windsor, Ontario Lot 4 S Pt Lot 3 Plan 888. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.10 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 372 Indian, Windsor, Ontario Lot 5 to 6 Plan 888. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.11 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 388 Indian, Windsor, Ontario Lot N Pt Lot 9 Plan 888. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.12 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 394 Indian, Windsor, Ontario Lot S Pt Lot 9 Plan 888. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.13 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 408 Indian, Windsor, Ontario Lot 1 to 3 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.14 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 420 Indian, Windsor, Ontario Lot 4 N Pt Lot 5 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.15 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 428 Indian, Windsor, Ontario Lot S Pt Lot 5 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.

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- 5.16 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 440 Indian, Windsor, Ontario Lot 7 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.17 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 446 Indian, Windsor, Ontario Lot 8 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.18 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 451 Indian Windsor, Ontario Lot 12 Plan 982. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.19 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 452 Indian, Windsor, Ontario Lot 9 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.20 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 457 Indian, Windsor, Ontario Lot 13 Plan 982. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.21 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 458-460 Indian, Windsor, Ontario Lot 10 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.22 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 464 Indian, Windsor, Ontario Lot 11 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.23 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 470 Indian, Windsor, Ontario Lot 12 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.24 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 474 Indian, Windsor, Ontario Lot 13 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.25 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 490 Indian, Windsor, Ontario Lot 14 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.26 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 2879 University W., Windsor, Ontario Lot 3 Pt Lot 2 Plan 887. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.27 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 2891 University W., Windsor, Ontario Lot 1 Pt Lot 2 Plan 887. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.

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- 5.28 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 2856 Donnelly, Windsor, Ontario Lot 16 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.29 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 2874 Donnelly, Windsor, Ontario Lot 15 Plan 840. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.
- 5.30 **The Canadian Transit Company** against an Order issued September 24, 2013 regarding property 2874 Peter, Windsor, Ontario Lot 8 Plan 888. The Notice of Appeal dated October 9, 2013 has been received within the 14 day timeframe.

6. **NEW BUSINESS**

None

7. **COMMUNICATIONS**

None

8. **ADJOURNMENT**

KK/
Windsor, Ontario September 16, 2013

A meeting of the **Property Standards Committee** is held this day commencing at 2:00 o'clock p.m. in the Town of Walkerville Meeting Room, 3rd floor, City Hall, there being present the following members:

Jim Evans, Chair
John Middleton
Mark Stephens
Bill Van Wyck

Guests in attendance:

Marsha Arditti
Judy Gould
Brian Halfday
Danielle Bowers
Gabrielle Maggio
Helen Wolfe (Appellant)
Jeffrey Aitkens, Solicitor, Ricci Enns & Rollier LLP
Kimberly Wolfe, Solicitor, Ricci Enns & Rollier LLP

Also present are the following resource personnel:

Patrick Brode, Senior Legal Counsel
Lee Anne Doyle, Executive Director/Chief Building Official
Dan Lunardi, Manager of Inspections (East)
Barry Suszek, Building Inspector
Rob Vani, Manager of Inspections (West)
Andrea Dejong, Fire Prevention Officer
John Lee, Fire Prevention Officer
Brian McLaughlin, Deputy Fire Chief
Karen Kadour, Committee Coordinator

1. CALL TO ORDER

The Chair calls the meeting to order at 2:00 o'clock p.m. and the Committee considers the Agenda being Schedule "A" **attached** hereto, matters which are dealt with as follows:

2. DECLARATION OF CONFLICT OF INTEREST

None disclosed.

3. **ADOPTION OF THE MINUTES**

Moved by B. Van Wyck, seconded by J. Middleton,
That the minutes of the meeting of the Property Standards Committee at its
meeting held April 19, 2013 **BE ADOPTED** as presented.
Carried.

4. **DEFERRALS/REQUEST FOR DEFERRALS**

No request for deferral.

5. **DISCUSSION OF APPEALS**

5.1 **Helen Kathleen Wolfe** against an Order issued August 20, 2013 regarding
property at 816 Howard, Windsor, Ontario Lot N Pt lot 3 S Pt lot 4 Block 3, Plan 13
against an Order issued August 20, 2013 regarding property at 816 Howard, Windsor,
Ontario Lot N Pt lot 3 S Pt lot 4 Block 3, Plan 134. The Notice of Appeal dated August
23, 2013 has been received within the 14 day timeframe.

Helen Kathleen Wolfe, Kimberly Wolfe, Solicitor and Jeffrey Aitkens, Solicitor
are present and available to answer questions.

The following documents are distributed and attached respectively as Appendix
“A”, Appendix “B” and Appendix “C”:

- Affidavits of Helen Wolfe and Kimberley Wolfe, along with the accompanying
exhibits to be formerly submitted with respect to the appeal of this order, **attached**
as Appendix “A”.
- Several handwritten submissions along with e-mails regarding 816 Howard,
attached as Appendix “B”.
- Letter to the Humane Society from Judy Gould, **attached** as Appendix “C”.

B. Van Wyck reports members of the Property Standards Committee attended the
site located at 816 Howard.

J. Aitkens, Solicitor indicates his client has retained the services of a Professional
Structural Engineer, however he is currently on vacation, and the report outlining the
structural damage has not been received. He is requesting the Committee provide a
“workable Order”. He notes the engineer’s report will not be available until the end of
October 2013.

J. Aitkens states Helen Wolfe recently paid off her mortgage, however, as the
insurance was tied into the mortgage, the insurance on the property lapsed and there is no

insurance on the property. He is requesting the Windsor Fire and Rescue Services' Order be quashed.

Kimberly Wolfe, Solicitor advises she attended the scene of the fire on August 29, 2013 at approximately 5:00 o'clock p.m. She states Helen Wolfe was not present at the time of the fire and was told her cat (still in the home) had expired. She was advised the City of Windsor intended to demolish the home following the extinguishing of the fire. She indicates Helen Wolfe has a collection of several cultural artifacts in the home and she stood vigil overnight. She notes Helen Wolfe wants to repair the home.

K. Wolfe requested the Fire and Rescue Services' Order be lifted to allow the structural engineer to access the building. A. Dejong, Fire Prevention Officer advised they would not lift the Order, but would allow the structural engineer to view the building from above.

J. Aitkens advises the engineer determined the building to be structurally sound and capable of remediation. He proposes the following next steps – quash the Order or provide a workable Order and waive the \$225 Order to Repair Cost Recovery Fee.

L. Doyle states when the report of the structural engineer is received, a time frame will be prioritized. In terms of the \$225 Order to Repair Cost Recovery Fee, she is prepared to waive the fee.

In response to a question asked by J. Middleton regarding if the \$225 fee is issued immediately after a fire has occurred, R. Vani responds affirmatively.

Barry Suzsek, Building Inspector reports upon arrival at the site, he observed the windows were blown out on the upper level, the wood frame roof, ceiling joists, wall framing of the 2nd floor were severely damaged with partial collapse. He states that he inspected the damage from above in the aerial truck, and all interior and exterior finishes had sustained extensive fire, smoke and water damage. He indicates that based on his experience and age of the building he believes the building is framed using 'Balloon Frame Construction' which causes fire, smoke and water to easily move from floor to floor. He states 300,000 gallons of water was poured onto the structure and based on his assessment deemed the building unsafe to enter.

Brian McLaughlin, Deputy Fire Chief indicates the primary damage occurred on the upper southeast side of the building. He states it is very common after a fire for the plaster ceilings to collapse due to the weight of the water saturated plaster and lath, and the collapse is generally an interior type collapse not exterior. He notes there was extensive damage to the 2nd floor and it was not feasible to allow fire crews to enter in a safe manner.

In response to a question asked by J. Middleton regarding who called the demolition company, D. Lunardi responds he initially contacted the demolition company to arrive at the site but later called to state their services were not necessary.

J. Middleton asks who is in control of the property at 816 Howard – the Building Department or Fire and Rescue Services? It is suggested the owner is in control of the property, however, Fire and Rescue Services has to provide authority to allow access to the interior of the building.

B. Van Wyck states if an extension of time is granted, Fire and Rescue Services will not allow access. John Lee indicates access will be allowed under certain conditions outlined in his email to Mr. Aitkens.

J. Aitkens requests Helen Wolfe be allowed access to the building in order to retrieve her belongings.

K. Wolfe is requesting the Order be quashed and to set out the clear guidelines with the Fire Department and the structural engineer. Also, to allow the engineer to revisit the site as the current Order is unworkable and incapable of compliance. She further states by quashing the Order, it puts away the threat of demolition.

In response to a question asked by J. Middleton regarding if the Order will be lifted when the Fire Department receives the engineer's report, A Dejong responds in the affirmative if the report is acceptable.

B. Suszek advises when a fire occurs, generally the insurance company is called to the scene and the process is expedited as the insurance company retains the Professional Engineer to outline what measures need to be taken to secure the building.

Moved by J. Middleton, seconded by M. Stephens,

That the Order to Repair for the property located at 816 Howard, Windsor, Ontario **BE MODIFIED** to remove the reference to demolish the building as identified in Correction #1, and to remove the phrase "*the entire building should be demolished as soon as practical*", and further, that an extension of time for one year **BE GRANTED** to comply with the Order, and that the fences east and west of 816 Howard remain to prevent access to the property.

Carried.

Dan Lunardi indicates the extension of time for one year is a substantial amount of time and he suggests a phased-in approach, i.e. allow 60 days to render the building structurally sound, then other progress dates within the year to achieve compliance i.e. secure the structure, protect the building from the elements.

The Chair thanks the Committee for their due diligence and professionalism in this matter.

6. **REPORTS**

None.

7. **COMMUNICATIONS**

None.

8. **NEW BUSINESS**

J. Middleton expresses concern residents are charged the \$225 Order to Repair Cost Recovery Fee. following a fire at their home.

L. Doyle states the Fee Schedule is approved by City Council, however, she has some discretion to adjust fees under special circumstances.

Moved by J. Middleton, seconded by M. Stephens,
That the Chief Building Official **BE REQUESTED** to waive the Order to Repair Cost Recovery fee of \$225 if a complaint regarding a fire at a particular residence is received within one week of the fire.

Carried.

9. **ADJOURNMENT**

There being no further business, the meeting is adjourned at 4:00 o'clock p.m.

CHAIR

COMMITTEE COORDINATOR

AGENDA
and Schedule "A"
to the minutes of the
PROPERTY STANDARDS COMMITTEE
meeting held
Monday, September 16, 2013
at 2:00 o'clock p.m.
Town of Walkerville Meeting Room, 3rd floor, City Hall

1. **CALL TO ORDER**

2. **DECLARATION OF CONFLICT OF INTEREST**

3. **ADOPTION OF THE MINUTES -**

Adoption of the minutes of the meeting of the Committee held April 19, 2013 – ***attached.***

4. **DEFERRALS/REQUEST FOR DEFERRALS**

HEARING OF APPLICANTS AND INTERESTED PARTIES - 2:00 o'clock p.m.

5. **DISCUSSION OF APPEALS**

- 5.1 **Helen Kathleen Wolfe** against an Order issued August 20, 2013 regarding property at 816 Howard, Windsor, Ontario Lot N Pt lot 3 S Pt lot 4 Block 3, Plan 134. The Notice of Appeal dated August 23, 2013 has been received within the 14 day timeframe.

6. **REPORTS**

None

7. **COMMUNICATIONS**

None

8. **NEW BUSINESS**

9. **ADJOURNMENT**

KK/
Windsor, Ontario November 20, 2013

A meeting of the **Property Standards Committee** is held this day commencing at 10:00 o'clock a.m. in the Council Chambers, 3rd floor, City Hall, there being present the following members:

John Middleton, Vice Chair
Mark Stephen
Bill Van Wyck

Regrets received from:

Jim Evans

Delegations in attendance:

Raymond Colautti, R. G. Colautti Law, regarding Item 5.1
Ann Marie Laniak, Kevin Flood regarding Item 5.1
Larry P. Lowenstein, Solicitor, Laura Fric, Solicitor, Geoffrey E. J. Grove,
Solicitor, Kevin O'Brien, Solicitor Osler, Hoskin & Harcourt Law Firm

Also present are the following resource personnel:

Bill Jean, Manager of Permit Services/Deputy Chief Building Official
Wira Vendrasco, Legal Counsel
Karen Kadour, Committee Coordinator

1. CALL TO ORDER

The Chair calls the meeting to order at 10:00 o'clock a.m. and the Committee considers the Agenda being Schedule "A" attached hereto, matters which are dealt with as follows:

2. DECLARATIONS OF CONFLICT OF INTEREST

None disclosed.

4. DEFERRALS/REQUEST FOR DEFERRALS

W. Vendrasco requests the Committee stand down from hearing the Appeal or defer consideration of the Appeal.

The salient points of discussion provided by W. Vendrasco are as follows:

- Letter from Christopher Williams, Aird & Berlis LLP, External Counsel for the City in his letter dated November 12, 2013 states the following: *“therefore as provided for in subsection 33(18) of the Planning Act, the appeal and the Property Standards Order are stayed pending: Council’s disposition of the application; or, the Ontario Municipal Board has heard an appeal and issued an order; or, the demolition permit application is withdrawn.”*
- Subsection 18 of the Planning Act reads, *“subject to subsection 17 an application to the Council for a permit to demolish any residential property operates as a stay to any proceedings that may have been initiated under any by-law under section 15.1 of the Building Code Act or predecessor thereof of any Special Act respecting maintenance or occupancy standards in respect of the residential properties thought to be demolished until the Council disposes of the application or where an appeal is taken under subsection 4 until the Municipal Board has heard the appeal and issued their order thereon.”*
- Paragraph 22 of the appellant’s submission states “September 3, 2013: Laniak-Flood apply for a demolition permit.
- Section 33 subsection 18 of the Planning Act applies, the Demolition Permit application operates as a stay to any proceedings initiated under any by-law under section 15.1 of the Building Code Act.
- Recommends the Committee stand down or defer consideration of this Appeal until Council disposes of the Demolition Application or, if the matter is then appealed to the Ontario Municipal Board and the OMB has dealt with the matter.
- The initial submission and the revised submission by the appellant states the following – “respectfully in the opinion of the appellants the Demolition Application must be dealt with first.”
- The Demolition Application must be considered by Council first, and then this Committee can deal with the Appeal.
- Reference is made to the letter from Christopher Williams dated November 12, 2013 as follows: *“therefore the Property Standards Committee should not deal with the appeal at this time nor can the Order be enforced.”* This means the City can also not enforce the Order. The City’s actions on this are also stayed by the operation of section 33 subsection 18 of the Planning Act.
- The property at 357-359 Indian Road is not only subject to the Demolition Control By-law, it is also subject to the Sandwich Heritage Conservation District Bylaw.
- Section 42 of the *Ontario Heritage Act* states *“No owner of property situated in a Heritage Conservation District that has been designated by a municipality under this part shall do any of the following unless the owner obtains a permit by the municipality to do so:*
 - *Alter or permit the alteration of any of the property other than the interior of the structure or building on the property.*
 - *Erect, demolish, or remove any building or structure on the property, or permit erection, demolition or removal of such building or structure.”*

- Reference is made to Raymond Colautti's letter dated November 14, 2013 notably the following excerpt: "*Consequently, on the appeal on November 20, 2013, we will be submitting that the PSC has the following options to consider in disposing this appeal:*"
- *1. It can quash the Work Orders and order that the structure be demolished if it is satisfied that public health and safety are at risk;*
- *2. It can quash the Work Orders and defer the request for a demolition permit to City Council to process if it considers that public health and safety are not at immediate risk;*
- *3 In any event, it can award the appellants their reasonable legal and engineering costs and order the return of the inspection fee and the fee paid to lodge this appeal."*
- W. Vendrasco's response to the foregoing statements in Mr. Colautti's letter are – "*Quash the order*" – this course of action is not available to the Committee since this matter is stayed by the operation of section 33 subsection 18 of the *Planning Act*. "*Order the structure to be demolished*", This property is subject to the Demolition Control By-law, which prohibits demolition of residential property without a Demolition permit from Council. This option is not available to the Committee. In terms of "*it can award the appellants their reasonable legal and engineering costs and order the return of the inspection fee and the fee paid to lodge this appeal,*" this Committee is established under the provisions of the Building Code Act and specifically section 15.3 subsection 3.1 of the Building Code Act lists the powers of the Committee on an appeal. It states "on an appeal the Committee has all the powers and functions of the Officer who made the Order and the Committee may do any of the following things, if in the Committee's opinion doing so would maintain the general intent and purpose of the by-law and the official plan or policy statement. It is her submission that this Committee does not have the power to award costs of any kind.
- Mr. Colautti requested production of materials from the municipality. The procedure for this is to file a request with the City Clerk under the provisions of the Municipal Freedom of Information and Protection of Privacy Act.

5. DISCUSSION OF APPEALS

- 5.1 Anne Marie Laniak against an Order issued September 24, 2013 regarding property at 357 Indian Road, Windsor Ontario Lot 17, Plan 888. The Notice of Appeal dated October 7, 2013 was received within the 14 day timeframe.

The Vice Chair indicates the Property Standards Committee has the authority to award costs under the *Statutory Powers and Procedures Act*.

Mr. Raymond Colautti, R. G. Colautti Law representing Anne Marie Laniak, and Kevin Flood appellants is present. The statements provided by Mr. Colautti regarding the property at 357 Indian Road are as follows:

- Asserts there was an application for a Demolition Permit on September 3, 2013.

- Excerpt from a letter from Mr. Flood dated October 7, 2013 to the Chief Building as follows:
- *“the deadline to appeal the Work Order caused by your decisions to heed Mayor’s Office directive to change the strategy on Indian Road expires on October 8, 2013. You informed me on October 1 that you were not aware of who your Inspectors were targeting on Indian Road. I applied for a Building Permit on September 3, 2013. With this information being brought to your attention are you going to rescind the Order and allow this democratic process for the Demolition Application to be heard at Council first. Yes or No? Prior to the Order I had described to you my reasons for Demolition Permit, which coincidentally mirror the Order. If you choose not to rescind the Order will you wave the Inspection Fee of \$225? Yes or No? I know you are going to say that the Chief Building Official’s mandated by the Building Code legislation and not the Mayor’s Office, so then who made the Property Standards complaint? I trust these simple answers can be answered by noon today October 7, 2013”*
- They were not answered. Mr. Flood had to file the appeal to protect his rights. He came to this Committee to assert this whole proceeding is illegal; the Orders should never have been issued. The City could have rescinded the Order. The costs for hiring an engineer, acquiring an appraisal report could have been foregone had the Chief Building Official simply rescinded the Order and allowed the process to continue for the Demolition Permit.
- Asserts this appeal should not be deferred and this Order be quashed and provide costs. The costs should include the legal, appraisal and engineering fees incurred in mounting this defense.
- In the report from CSI Engineering, the structure constitutes a danger and a threat to the health and safety of the neighbourhood and should be demolished.
- An overview of deficiencies on the structure are provided which includes – cedar shaped shingle on the upper floor level, aluminum siding on the rear addition, eavestroughs trim downspouts need to be replaced. Windows are old and weathered and must be replaced. Entire rear stairs is substandard and does not meet OBC.
- In the summary of the Engineer’s report it states – *“In summary and conclusion it is our professional opinion that utilizing and repairing the remaining proportion of this building is not recommended given the age of more than 80 years. The condition and the design construction of this building does not make economic sense to install all new finishings on this structure.”*
- In the Building Code Act, section 15.9 subsection 2 states *“a building is unsafe if the building is structurally or inadequately faulty for the purpose of which it is used or in a condition that could be hazardous to the health or safety of persons in the normal use of building persons outside the building or person whose access to the building has not been reasonably prevented.”*
- In the Building Code Act, section 15.9 subsection 4 *“an inspector who finds that a building is unsafe may order setting out the reasons why the building is unsafe and remedial steps to render the building safe may require the authority to be carried out within the time specified in the Order.”*

- Asking the Committee to quash the Work Order and defer the request for Demolition Permit to City Council. Should award costs in view of the illegal behavior of the Chief Building Official in issuing the Work Orders in the first place.

In response to a question asked by B. Van Wyck regarding if there is evidence the building is unsafe, B. Jean responds he hasn't viewed the building recently, however, nowhere in the Engineer's report does it state the building is unsafe. He states the building is not at the point of requiring an Emergency Order.

The Vice Chair asks why the Building Inspector who issued the Order and the Manager of Inspections are not present. He requests a short recess to allow Rob Vani, Manager of Inspections to be in attendance.

The Vice Chair asks R. Vani when he last attended the site. R. Vani responds he visited the site approximately three weeks ago. He states based on his last inspection, the building showed no outward deflection of the roof, walls or foundation. The building is secure and would not fall under the guise of an unsafe building.

The Vice Chair states he entered the building with Mr. Flood recently and the interior was gutted in the centre and it appeared there were two by sixes holding up sections of the building. His concern is if children entered the building and hit one of the beams, the second floor could fall on them.

R. Vani indicates he has not conducted an interior review of the building. He advises there is a current building permit on the property so how the building permit owner executes the repairs to the building and how he maintains a safe site would fall under the requirements of the Ontario Health and Safety Act, which is a jurisdiction of the Ministry of Labour (MOL). He notes the Building Department has not been requested to do any investigation for an unsecure building.

W. Vendrasco states Mr. Colautti raised the issue of costs and referred to the provisions of the Statutory Powers and Procedures Act. Section 17.1 subsection 1 in the Statutory Powers and Procedures Act states "*subject to subsection 2 a tribunal may in the circumstances set out in rules made under subsection 4 to order a party to pay all or part of another parties cost in a proceeding*". Subsection 2 states "*a tribunal shall not make an order to pay costs under this section unless the conduct or course of conduct of a party has been unreasonable, frivolous or vexatious, or a party has acted in bad faith and the tribunal has made rules under subsection 4*". As the Statutory Powers and Procedures Act is the prevailing legislation for this Committee, and this Committee has no rules as such, there is no authority to make and order for costs and no rules have been established as to the ordering of costs, the circumstances in which the cost may be ordered and the amount of the costs.

The Vice Chair states it is noted on the Notice of Appeal that the Order was issued "*as a result of a Property Standards complaint.*" He requests the City produce a

copy of the complaint. He also requests the materials outlined in the letter from Mr. Colautti dated November 14, 2013 also be provided within 24 hours.

W. Vendrasco indicates any material must be requested through the Freedom of Information Protection of Privacy Act and that application has to be made to the City Clerk.

R. Colautti states the requested materials are documents the City has in its own file related to the prosecution of this Work Order which they are entitled to see as part of the disclosure.

The Vice Chair advises he is requesting the foregoing materials be produced due to the letter dated October 7, 2013 from Mr. Flood to Ms. Doyle. He states Ms. Doyle should not have issued the Order to Repair which caused Mr. Flood to incur expenses. He requests costs (approximately \$12,198) incurred to Mr. Flood be awarded by the City.

The Vice Chair attempts to put forth a motion however, K. Kadour states he must step down as Vice Chair and one of the members would assume the Chair in order for him to put forth a motion. No member steps forward to assume the Chair.

B. Van Wyck expresses concern the Vice Chair is not following the rules of procedure.

Moved by B. VanWyck, seconded by M. Stephen,

UPON THE APPLICATION of the Appellant by way of Appeal from the Order to Repair made by the Property Standards Officer on the 24th day of September 2013 respecting the property located at 357 Indian Road, Lot 27, Plan 888, City of Windsor and upon reading the said Order,

IT IS ORDERED that the said Order to Repair **BE DEFERRED** pending Council decision on the demolition application.

Carried.

3. MINUTES

Moved by B. VanWyck, seconded by M. Stephen,

That the minutes of the Property Standards Committee at its meeting held October 28, 2013 **BE ADOPTED AS AMENDED** to include the entire e-mail from John Middleton dated October 25, 2013.

Carried.

Moved by B. VanWyck, seconded by M. Stephen,

That Rule 13.9 of the Procedure By-law 98-2011 regarding business not already before the Property Standards Committee **BE WAIVED** to permit Mr. Larry Lowenstein,

Solicitor, Canadian Transit Company without prior notice to speak to the Notices of Appeal for the heritage properties within the Sandwich Heritage Conservation District.

Carried.

Larry Lowenstein, Osler, Hoskin & Harcourt LLP provides the following comments relating to the 31 Orders to Repair for the heritage properties located within the Sandwich Heritage Conservation District:

- The Property Standards Committee at its meeting held October 28, 2013 approved the following motion:
- *"IT IS ORDERED that the hearing of the appeals of the properties within the Heritage Conservation District BE DEFERRED pending a discussion between The Canadian Transit Company and the City of Windsor to resolve the matter."*
- The CTC did not receive any response from the City or its Solicitors to their request to meet.
- Mr. Chris Williams, Solicitor for the City of Windsor stated in an e-mail *"The City is not entering into negotiations regarding the Heritage Properties as that Order of the Property Standards Committee is under appeal"*
- The CTC has a statutory right to appeal the Heritage Property Repair Orders.
- The CTC is here today to proceed with their appeal. Ms. Vendrasco can represent the City.

W. Vendrasco states the City has appealed to the various orders the Committee made at the October 28, 2013 meeting. This is now before the courts. The City will await the decision of the court as to whether or not these are valid and appropriate orders of the Committee. Once the court has made a decision on this matter, the City will respond in accordance with the decision of the court or if the matter is appealed further. So until the court provides the City with some direction on this matter, the City is not prepared to enter into any discussion regarding the heritage properties. It's the City's position that the Committee cannot order the City into discussion with the CTC.

The Vice Chair advises this Committee did not order anyone into negotiations, rather, when the motion was put forward, the consent of both parties was given. He expresses concern that the application the City filed before the courts is no different than the application the CTC has filed in the Federal courts to not allow the City to have jurisdiction over their properties.

W. Vendrasco states the City did not receive notice that the Committee was going to proceed with the appeals on this day. The issue the City is appealing is the jurisdiction the Committee has to require the City to enter into discussion with the CTC.

Moved by B. Van Wyck, seconded by M. Stephen,

WHEREAS, the Property Standards Committee at its meeting held October 28, 2013 approved the following motion:

"UPON THE APPLICATION of the Appellant by way of Appeal from the Orders to Repair made by the Property Standards Officer on the 24th day of September, 2013 respecting the Heritage properties,

IT IS ORDERED that the hearing of the appeals of the properties located within the Heritage Conservation District BE DEFERRED pending a discussion between The Canadian Transit Company and the City of Windsor to resolve the matter.”; and

WHEREAS the Canadian Transit Company appeared at the Property Standards Committee meeting held November 20, 2013 and requested that the appeals be heard by the Property Standards Committee;

THEREFORE BE IT RESOLVED that the hearing of the appeals by the Canadian Transit Company of the properties located within the Sandwich Heritage Conservation District **BE DEFERRED** to a date and time to be determined during the week of January 14, 2014.

Carried.

B. Van Wyck indicates he will not attend any future meetings of the Property Standards Committee if the Chair is not present.

The Vice Chair states he intends to discuss at the next meeting the way the media impugned the Property Standards Committee of its meeting held October 28, 2013.

6. **REPORTS**

None.

7. **COMMUNICATIONS**

None.

8. **ADJOURNMENT**

There being no further business, the meeting is adjourned at 12:23 o'clock p.m.

VICE CHAIR

COMMITTEE COORDINATOR

AGENDA
and Schedule "A"
to the minutes of the
PROPERTY STANDARDS COMMITTEE
meeting held
Wednesday, November 20, 2013
at 10:00 o'clock a.m.
Room 407, 400 City Hall Square East

1. **CALL TO ORDER**

2. **DECLARATION OF CONFLICT OF INTEREST**

3. **ADOPTION OF THE MINUTES -**

Adoption of the minutes of the meeting of the Committee held October 28, 2013 *-to be e-mailed.*

4. **DEFERRALS/REQUEST FOR DEFERRALS**

HEARING OF APPLICANTS AND INTERESTED PARTIES - 2:00 o'clock p.m.

5. **DISCUSSION OF APPEALS**

- 5.1 **Anne Marie Laniak** against an Order issued September 24, 2013 regarding property at 357 Indian, Windsor, Ontario Lot 17, Plan 888. The Notice of Appeal dated October 7, 2013 has been received within the 14 day timeframe.

6. **REPORTS**

None

7. **COMMUNICATIONS**

None

8. **ADJOURNMENT**