

FORM 4
NOTICE TO COMPLY – DANGEROUS OR
UNSIGHLTY PREMISES
(Local Governance Act, S.N.B., 2017, c.18, s 132(2))

FORMULE 4
AVIS DE CONFORMITÉ – LIEUX
DANGEREUX
OU INESTHÉTIQUES
(Loi sur la gouvernance locale,
L.N.-B. 2017, ch. 18, par. 132(2))

Parcel identifier:

PID #1149

Address: 261-263 Wentworth Street & 214 Britain Street, Saint John, New Brunswick

Numéro d’identification de la parcelle :

NID : 1149

Adresse : 261-263, rue Wentworth & 214, rue Britain, Saint John, Nouveau-Brunswick

Owner(s) or Occupier(s):

Name: Carr, Bruce Wayne

Address: 21 Meahan Crescent, Saint John, New Brunswick, E2N 0B2

Propriétaire(s) ou occupant(s) :

Nom : Carr, Bruce Wayne

Adresse : 21, Meahan Crescent, Saint John, Nouveau-Brunswick, E2N 0B2

Local government giving notice: The City of Saint John

Gouvernement local signifiant l’avis : The City of Saint John

By-law contravened: *Saint John Unsightly Premises and Dangerous Buildings and Structures By-Law*, By-law Number M-30 and amendments thereto (the “By-law”).

Arrêté enfreint : *Arrêté relatif aux lieux inesthétiques et aux bâtiments et constructions dangereux de Saint John*, Arrêté numéro M-30, ainsi que ses modifications ci-afférentes (l’ « Arrêté »).

Provision(s) contravened: Subsections 6(1), 6(2) and 6(3) of the By-law.

Disposition(s) enfreinte(s) : Les paragraphes 6(1), 6(2) et paragraphe 6(3) de l’Arrêté.

Conditions(s) that exist: The premise is unsightly by permitting junk, rubbish, refuse and a dilapidated building to remain on the premise. The building has become a hazard to the safety of the public by reason of being vacant or unoccupied and has become a hazard to the safety of the public by reason of dilapidation and by reason of unsoundness of structural strength. The conditions of the building and premise are described in Schedule “A”, a true copy of the inspection report dated May 29, 2019 prepared by Catherine Lowe, EIT, By-law Enforcement Officer, reviewed and concurred in by Rachel Van Wart, P.Eng., By-law Enforcement Officer

Description de la (des) situation(s) : Les lieux sont inesthétiques en permettant la présence de ferraille, de détritux et le bâtiment délabré. Le bâtiment est devenu dangereuse pour la sécurité du public du fait de son inhabitation ou de son inoccupation et est devenu dangereuse pour la sécurité du public du fait de son délabrement et du fait de manque de solidité. Les conditions du bâtiment et des lieux sont décrites à l’annexe « A », une copie conforme du rapport d’inspection en date du 29 mai 2019 et préparé par Catherine Lowe, IS, une agente chargée de l’exécution des arrêtés du gouvernement local, révisé et en d’accorde avec par Rachel Van Wart, ing., une agente chargée de l’exécution des arrêtés du gouvernement local.

What must be done to correct the condition: The owner is to remedy the conditions by complying with the required remedial actions of the aforementioned inspection report and bring the building and premises into compliance with the aforesaid By-law.

Ce qu’il y a lieu de faire pour y remédier: La propriétaire doit restaurer les conditions en se conformant aux recommandations du rapport d’inspection susmentionné et d’amener le bâtiment et les lieux en conformités avec l’Arrêté.

In the event that the owner does not remedy the condition of the building and premises in the time prescribed by this Notice to Comply, the building may be demolished as the corrective action to address the hazard to the safety of the public and the premises may be cleaned up.

Dans l’éventualité que la propriétaire ne remédient pas le bâtiment et les lieux dans le temps prescrit par le présent avis de conformité, le bâtiment pourront être démolis comme mesure corrective compte tenu qu’il représente un danger pour la sécurité du public et les lieux pourront être nettoyés.

In the event of demolition, all debris and items on the premises will be disposed of as the corrective action to address the hazard to the safety of the public.

Dans l’éventualité de démolition, tous les débris et autres items sur les lieux seront disposés comme mesure corrective dans le but de remédier le danger pour la sécurité du public.

The aforementioned remedial actions relating to the

Les mesures correctives susmentionnées relativement

demolition of the building and the disposal of debris and items on the premises do not include the carry-out clean-up, site rehabilitation, restoration of land, premises or personal property or other remedial action in order to control or reduce, eliminate the release, alter the manner of release or the release of any contaminant into or upon the environment or any part of the environment.

Date before which the condition must be corrected: ¹

- a) The demolition of the building, clean-up of the property and related remedies must be complete, or plans and permit applications for repair related remedies, must be submitted: within 30 days of being served with the Notice to Comply.
- b) The repair related remedies must be complete within 120 days of being served with the Notice to Comply.

Date for giving notice of appeal: Within 14 days of being served with the Notice to Comply.

Process to appeal: The owner may within 14 days after having been served with this Notice to Comply, send a Notice of Appeal by registered mail to the Common Clerk of The City of Saint John, City Hall – 8th Floor, 15 Market Square, Saint John, New Brunswick, E2L 4L1.

Potential penalty for not complying with notice within time set out in notice:² Subsection 11(1) of the By-law states that a person who fails to comply with the terms of a Notice to Comply given under section 7 of the said By-law, commits an offence that is punishable under Part 2 of the *Provincial Offences Procedure Act* as a category F offence.

Where an offence under subsection 11(1) continues for more than one day, the minimum fine that may be imposed is the minimum fine set by the *Provincial Offences Procedure Act* for a category F offence multiplied by the number of days during which the offence continues pursuant to subparagraph 11(3)(b)(i).

à la démolition du bâtiment et la disposition des débris et autres items sur les lieux ne comprennent pas le nettoyage, la remise en état des lieux, des terrains ou des biens personnels ou toute autre mesure corrective dans le but de contrôler ou de réduire, d'éliminer le déversement, de modifier le mode de déversement ou le déversement d'un polluant dans ou sur l'environnement ou toute partie de l'environnement.

Délai imparti pour y remédier : ¹

- a) La démolition du bâtiment et le nettoyage des lieux doivent être complétés, ou à laquelle les plans et demande de permis pour les mesures des réparations, doivent être soumises, dans les 30 jours qui suivent la signification de l'avis de conformité.
- b) Les réparations reliées aux mesures doivent être complétées dans les 120 jours qui suivent la signification de l'avis de conformité.

Date limite pour donner l'avis d'appel: Dans les 14 jours qui suivent la notification de l'avis de conformité.

Processus d'appel : La propriétaire peut dans les 14 jours qui suivent la notification de l'avis de conformité, envoyé un avis d'appel par courrier recommandé à la greffière communale de la municipalité, à The City of Saint John, Édifice de l'hôtel de ville, 8^e étage, 15 Market Square, Saint John, Nouveau-Brunswick, E2L 4L1.

Peine possible en cas d'omission de se conformer aux exigences de l'avis dans le délai y imparti : ² Le paragraphe 11(1) de l'Arrêté prévoit quiconque omet de se conformer aux exigences formulées dans un avis de conformité notifié aux termes de l'article 7 de ladite Arrêté, commet une infraction qui est punissable en vertu de la partie 2 de la *Loi sur la procédure applicable aux infractions provinciales* à titre d'infraction de la classe F.

Lorsqu'une infraction prévue au paragraphe 11(1) se poursuit pendant plus d'une journée, l'amende minimale qui peut être imposée est l'amende minimale prévue par la *Loi sur la procédure applicable aux infractions provinciales* pour une infraction de la classe F multipliée par le nombre de jours pendant lesquels l'infraction se poursuit conformément à l'alinéa 11(3)b(i).

Local government’s authority to undertake repairs or remedy:³ Paragraphs 12(1)(a), 12(1)(b) and 12(1)(c) of the By-law state that if an owner or occupier does not comply with a Notice to Comply given under section 7 within the time set out in the said Notice, the City may, cause the premises of that owner or occupier to be cleaned up or repaired, or cause the building or other structure of that owner or occupier to be repaired or demolished. Further, subsection 12(3) of the By-law states that the cost of carrying out such work, including any associated charge or fee, is chargeable to the owner or occupier and becomes a debt due to the City.

Pouvoir du gouvernement local d’entreprendre des réparations ou de remédier à la situation :³ Conformément aux alinéas 12(1)a), 12(1)b) et 12(1)c) de l’Arrêté, si un avis de conformité a été signifié aux termes de l’article 7 de ladite Arrêté et, que le propriétaire ou l’occupant ne se conforme pas à cet avis de conformité dans le délai imparti et tel qu’il est réputé confirmé ou tel qu’il est confirmé ou modifié par un comité du conseil ou par un juge en vertu le paragraphe 12(3) de ladite Arrêté, la municipalité peut faire nettoyer ou réparer les lieux de ce propriétaire ou de cet occupant ou de faire réparer ou démolir le bâtiment ou autre construction de ce propriétaire ou de cet occupant, et les coûts afférents à l’exécution des ouvrages, y compris toute redevance ou tout droit connexe, sont mis à la charge du propriétaire ou de l’occupant et deviennent une créance de la municipalité.

Dated at Saint John the 3 day of June, 2019.


Fait à Saint John le ____ juin, 2019.

Local government: The City of Saint John

Gouvernement locale : The City of Saint John

Signature of the officer of the local government:

Signature du fonctionnaire du gouvernement local:





Contact information of the officer of the local government:

Coordonnées du fonctionnaire du gouvernement local:

Name: Catherine Lowe, EIT
Mailing address:

Nom : Catherine Lowe, IS
Adresse postale:

Growth and Community Development Services

Service de la Croissance et du Développement Communautaire

The City of Saint John
15 Market Square
City Hall Building, 10th Floor
P. O. Box 1971
Saint John, New Brunswick
E2L 4L1

The City of Saint John
15 Market Square
Édifice de l’hôtel de ville, 10e étage
Case postale 1971
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Corporate seal of the local government



Sceau du gouvernement local

- Notes:**
1. All appropriate permits must be obtained and all relevant legislation must be complied with in the course of carrying out the required remedial action.
 2. Payment of the fine does not alleviate the obligation to comply with the by-law, standard or notice.
 3. Costs become a debt due to the local government and may be added to the joint local government and provincial Real Property Assessment and Tax Notice.

- Notes :**
1. Tous les permis prescrits doivent être obtenus et toute la législation pertinente doit être respectée pendant l’exécution des mesures de remédiation.
 2. Le paiement de l’amende n’a pas pour effet d’annuler l’obligation de se conformer à l’arrêté, à la norme ou à l’avis.
 3. Les coûts deviennent une créance du gouvernement local et peuvent être ajoutés à l’avis commun d’évaluation et d’impôt foncier des gouvernements local et provincial.

I hereby certify that this document is a true copy of the original.

INSPECTION REPORT
Schedule "A"
261-263 Wentworth Street & 214 Britain Street
Saint John, New Brunswick
PID# 1149

Dated at Saint John,
this 3rd day of
June 2019.

Catherine Lowe
Standards Officer

Inspection Date: April 23, 2019

Inspection Conducted by: Catherine Lowe, EIT & Rachel Van Wart, P.Eng.

Introduction

Inspections of the property at 261-263 Wentworth Street and 214 Britain Street, PID# 1149, have revealed that there is one building on the premise (the "Building"); a two-storey, single unit dwelling. Staff first became aware of the property's vacancy in September 2015 and began standard enforcement procedures. The property is located in the lower South Central Peninsula in an urban centre residential zone. The Building is a hazard to the safety of the public by reason of being vacant, by reason of dilapidation and by reason of unsoundness of structural strength.

Discussion

The Building is not in compliance with the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-law*, By-law Number M-30, and amendments thereto (the "By-law").

Unsightly Premise Conditions

Subsection 6(1) of the By-law states:

No person shall permit premises owned or occupied by him or her to be unsightly by permitting to remain on any part of such premises

- (a) any ashes, junk, rubbish or refuse;
- (b) an accumulation of wood shavings, paper, sawdust or other residue of production or construction;
- (c) a derelict vehicle, equipment, machinery or the body of any part of a vehicle equipment or machinery, or
- (d) a dilapidated building.

1. There is an accumulation of junk, rubbish, and refuse on the property. These items include, but are not limited to; discarded wood, bricks and other various loose garbage. The aforementioned accumulation of junk, rubbish, and refuse is unsightly.
2. The Building is dilapidated. The Building is significantly sloped; doors and window frames are not plumb. The front portion of the Building is leaning significantly to the left side. The rear section of the Building is encroaching on the neighboring property at 212 Britain Street. The Building's exterior cladding consists of wooden shingles. Paint is peeling from the shingles and some show signs of rot. Windows and doors on the first storey are boarded with plywood that has been painted blue. The wooden landing and stairs at the front left entrance is leaning and rotted. The concrete walkway spanning the right side of the driveway is cracked. There is a retaining wall on the left side of the driveway, the concrete portion is leaning and the wooden section shows signs of rot. The concrete retaining wall that spans the left section of the front yard of the property is cracked and failing. The wooden retaining wall that spans the right front yard section closest to Britain Street shows signs of rot. At the rear of the Building there are deteriorated Styrofoam and wooden boards affixed to the foundation

between the Building and the neighbouring property located at 212 Britain Street. These conditions are unsightly.

Vacant and Unoccupied

Subsection 6(2) of the By-law states:

No person shall permit a building or other structure owned or occupied by the person to become a hazard to the safety of the public by reason of being vacant or unoccupied.

The Building is a hazard to the safety of the public by reason of being vacant or unoccupied for the following reasons:

1. Buildings that are in a dilapidated condition can attract vandalism, arson, or criminal activity as well as pose a hazard to the safety of the public and devalue properties in the surrounding area. The City of Saint John Finance department confirmed that the water has been turned off since November 2016. Saint John Energy confirmed that the power has been disconnected since November 18, 2016.
2. There is a higher risk of a fire event occurring at the property since it is known to the public that the Building is vacant. The rear of the Building neighbors a three-unit apartment building at 212 Britain Street and is attached on the left side to a seven-unit apartment building at 127-129 Broad Street. If a fire event were to occur within the Building, it could easily spread to the neighboring property which would cause significant damage to the buildings and endanger the lives of the occupants.
3. There is a concern for emergency personnel safety in the event of an emergency. If firefighters suspect there may be people inside the Building, it would be reasonable to expect they may be required to enter it. They may also need to enter the Building to extinguish the fire. The condition of the interior is not known to firefighters which poses a hazard to their safety and others who may be inside in the event of a fire. The floors are significantly sloped and bulging in some areas which could cause emergency personnel to trip or lose their balance. There is household furniture inside the Building including chairs, tables, and other items. These items could be hazardous by restricting movement of emergency personnel should they need to gain entry.

Dilapidated Building Conditions

Subsection 6(3) of the By-law states

No person shall permit a building or other structure owned or occupied by the person to become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength.

The Building is a hazard to the safety of the public by reason of dilapidation for the following reasons:

Exterior Conditions:

1. The Building is dilapidated. The entire Building is significantly out of plumb which suggests major foundation issues. The Building's foundation at the left front entrance is bowed. The foundation at the rear of the Building is covered with deteriorated Styrofoam and wooden boards that appear to be sloped away from the Building's base. The ground at the rear of the Building is clearly heaved and has warped the entire frame of the rear of the Building. If these conditions are not remedied they could cause sections of the Building to fail

between the Building and the neighbouring property located at 212 Britain Street. These conditions are unsightly.

Vacant and Unoccupied

Subsection 6(2) of the By-law states:

No person shall permit a building or other structure owned or occupied by the person to become a hazard to the safety of the public by reason of being vacant or unoccupied.

The Building is a hazard to the safety of the public by reason of being vacant or unoccupied for the following reasons:

1. Buildings that are in a dilapidated condition can attract vandalism, arson, or criminal activity as well as pose a hazard to the safety of the public and devalue properties in the surrounding area. The City of Saint John Finance department confirmed that the water has been turned off since November 2016. Saint John Energy confirmed that the power has been disconnected since November 18, 2016.
2. There is a higher risk of a fire event occurring at the property since it is known to the public that the Building is vacant. The rear of the Building neighbors a three-unit apartment building at 212 Britain Street and is attached on the left side to a seven-unit apartment building at 127-129 Broad Street. If a fire event were to occur within the Building, it could easily spread to the neighboring property which would cause significant damage to the buildings and endanger the lives of the occupants.
3. There is a concern for emergency personnel safety in the event of an emergency. If firefighters suspect there may be people inside the Building, it would be reasonable to expect they may be required to enter it. They may also need to enter the Building to extinguish the fire. The condition of the interior is not known to firefighters which poses a hazard to their safety and others who may be inside in the event of a fire. The floors are significantly sloped and bulging in some areas which could cause emergency personnel to trip or lose their balance. There is house hold furniture inside the Building including chairs, tables, and other items. These items could be hazardous by restricting movement of emergency personnel should they need to gain entry.

Dilapidated Building Conditions

Subsection 6(3) of the By-law states

No person shall permit a building or other structure owned or occupied by the person to become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength.

The Building is a hazard to the safety of the public by reason of dilapidation for the following reasons:

Exterior Conditions:

1. The Building is dilapidated. The entire Building is significantly out of plumb which suggests major foundation issues. The Building's foundation at the left front entrance is bowed. The foundation at the rear of the Building is covered with deteriorated Styrofoam and wooden boards that appear to be sloped away from the Building's base. The ground at the rear of the Building is clearly heaved and has warped the entire frame of the rear of the Building. If these conditions are not remedied they could cause sections of the Building to fail

which could have hazardous consequences, especially for the occupied neighboring properties.

2. The single storey section on the right side of the Building is dilapidated. This section of the Building was once used as a storage shed but is now empty. The floor of this section of the Building is severely sloped. This section of the Building was originally not in contact with the neighboring property at 212 Britain Street but has since deteriorated to such an extent that the exterior wall is leaning against the neighboring building. The roof of this section of the Building is sloped and is directing water towards 212 Britain Street. This could cause water damage to not only the exterior wall of the neighboring building but the interior wall as well, negatively impacting the residents of 212 Britain Street.
3. The deck located on the right side of the Building's front ell is unsafe. The deck is not properly supported and lacks guards. Any person on this deck would be in danger of falling from a significant height with potential to cause personal injury.
4. The concrete walkway to the right of the driveway is cracked in many locations and is a tripping hazard. The concrete retaining wall at the front of the property is cracked as well. If it were to fail completely it would land on the side walk and create a hazard for pedestrians.

Interior Conditions:

5. The floors, ceilings and walls are extremely out of plumb and far exceed the acceptable allowance dictated in the National Building Code of Canada. Sections of the floor on the first storey are heaved and uneven. Floors on the second storey are sloped. Walls are bowed and ceilings are sagging throughout the Building. This condition is hazardous to anyone inside the Building as it could be a tripping as well as an indication of structural instability.
6. There is water damage in many locations throughout the Building. Sections of ceiling tiles throughout the Building have water marks which implies water is entering the Building in a number of locations, potentially due to leaks in the roof. A section of water damaged ceiling tiles in a room on the second storey have fallen, revealing deteriorated material such as insulation and wooden members. Other sections of ceiling tiles have fallen from the ceiling of the second storey to reveal the vapor barrier. The insulation that can be seen through the vapor barrier is moldy. On the first storey of the Building there are also many locations with water damage and mold growth. A section of ceiling at the entrance of the Building is covered in black mold. Ceiling tiles are hanging from the ceiling in a room on the first storey, likely due to deterioration from water damage. One room has had the drywall and lath removed from the walls and ceiling where there was a known water leak. This condition has not been remedied and the debris from the wall and ceiling remains on the floor. There is visible water damage and mold on the lath and drywall in this area. These conditions will cause the building materials in the ceilings and walls to continue to deteriorate and become unsafe. Mold is also a respiratory hazard to anyone entering the Building.

Structurally Unsound Building Conditions

Subsection 6(3) of the By-law states

No person shall permit a building or other structure owned or occupied by the person to become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength.

The Building is a hazard to the safety of the public by reason of unsoundness of structural strength for the following reasons:

1. The composition of the foundation at the front of the Building is unknown as it is covered in wooden sheathing, however it is visibly bowed away from the Building. At the rear of the Building the foundation is covered by deteriorated Styrofoam and wooden boards. In one section there is a board missing which reveals a space that leads underneath the Building. The portion of exposed foundation is composed of wood and stone, both appear to be failing. The ground at the rear of the Building has heaved and caused the frame of the rear of the Building to warp. This can be seen around the window frames and along the roof line. The rear corner of the Building that is attached to 127-129 Broad Street is rotted. These conditions and the fact that Building is entirely out of plumb suggest severe structural issues.
2. It can be seen from the exterior of the Building that it is warped and leaning. The front ell of the Building is leaning significantly to the left. The roof line of the Building is wavy and out of plumb in a number of sections. The ceilings, walls, and floors of the interior of the Building are sloped, sagging and out of plumb. Household items that rest on the floor are tilted due to the sloped floors of the Building. Windows are no longer flush with the Building which has created gaps around the window frames, allowing water into the Building. Some doorways in the Building are slanted while others are sagging. The ceilings in many rooms of the Building are also sagging. These condition will worsen if they are not addressed which will cause further unsoundness of structural strength.
3. The second storey deck on the right side of the front ell is unsound. There are no footings and no guards or handrails. The deck is not constructed properly according to the National Building Code of Canada and could fail should live load be applied.

Required Remedial Actions

The owner must comply with one of the two options stated below:

Option 1: Remedy the conditions of the Building through all repair and remedial actions as follows:

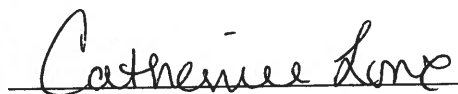
1. The Building must be completely repaired to remedy the above mentioned hazards to public safety while meeting the requirements of the *National Building Code of Canada (2010)* as well as all other applicable by-laws.
2. The Building must be maintained, kept secure, and monitored on a routine basis while the property remains vacant or unoccupied.
3. A detailed plan must be submitted to the Growth and Community Development Services Department of the City of Saint John (the "Department") for review and approval. The plan should also include a schedule for the work that is to be carried out. The repaired Building must meet the *National Building Code of Canada (2010)* as well as other applicable codes.
4. The detailed plan, including schedules and any engineering reports, must be approved by the Department prior to commencing repair work.
5. A building permit must be obtained for any and all applicable work prior to commencing said work from the City of Saint John in order to comply with the *Saint John Building By-law*, By-law Number C.P. 102 and amendments thereto (the "*Saint John Building By-law*").

6. The premise must be cleared of all debris found on the property, including any and all rubbish that may be considered hazardous or unsightly. The debris from the premise must be disposed of at an approved solid waste disposal site, in accordance with all applicable by-laws, acts and regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department. The premise must comply with all applicable By-laws, Acts, Codes and Regulations.

Option 2: Demolition of the Building and cleanup of all debris on the premise by complying with all the remedial actions as follows:

1. The Building must be demolished to remove the hazard to the safety of the public by reason of dilapidation and by reason of being vacant or unoccupied.
2. A demolition permit must be obtained from the City of Saint John in order to comply with the *Saint John Building By-law*.
3. The premise must be cleared of the debris from the demolition and the lot must be made reasonably level with grade so as to not create a tripping or falling hazard. All debris must be disposed of at an approved solid waste disposal site, and in accordance with all applicable By-laws, Acts and Regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department.
4. All debris that is currently on the premise must be removed and disposed of at an approved solid waste disposal site, and in accordance with all applicable By-laws, Acts and Regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department.
5. The property must be in compliance with all applicable By-laws, Acts and Regulations.

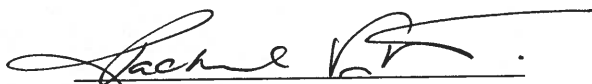
Prepared by:



Catherine Lowe, EIT
Technical Services Officer
Growth and Community Development Services

June 3, 2019
Date

Reviewed by and concurred in by:



Rachel Van Wart, P.Eng.
Technical Services Officer
Growth and Community Development Services

May 29/2019
Date