

FORM 4
NOTICE TO COMPLY – DANGEROUS OR
UNSAFETY 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 #312744

Address: 1536 Loch Lomond Road, Saint John,
New Brunswick

Owner(s) or Occupier(s):

Name: Elliott, Ryan David

Address: 53 McClaren Drive, Oromocto, New
Brunswick, E2V 1L8

Local government giving notice: 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”).

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

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
December 4, 2018 prepared by Rachel Van Wart, EIT,
By-law Enforcement Officer, reviewed and concurred in
by Amy Poffenroth, P. Eng., By-law Enforcement
Officer.

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.

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.

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.

The aforementioned remedial actions relating to the
demolition of the building and the disposal of debris and

Numéro d’identification de la parcelle :

NID : 312744

Adresse : 1536, route Loch Lomond, Saint
John, Nouveau-Brunswick

Propriétaire(s) ou occupant(s) :

Nom : Elliott, Ryan David

Adresse : 53, avenue McClaren, Oromocto,
Nouveau-Brunswick, E2V 1L8

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

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 »).

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

Description de la (des) situation(s) : Les lieux sont
inesthétiques en permettant la présence de ferraille,
de débris 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 4 décembre 2018 et préparé
par Rachel Van Wart, IS, une agente chargé de
l’exécution des arrêtés municipaux, révisé et en
d’accorde avec par Amy Poffenroth, ing., une agente
chargé de l’exécution des arrêtés municipaux.

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 conformité avec l’Arrêté.

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.

Dans l’éventualité de demolition, 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.

Les mesures correctives susmentionnées relativement
à la demolition du bâtiment et la disposition des débris

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).

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 4th **day of December, 2018.**

Fait à Saint John le ____ **décembre, 2018.**

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: Rachel Van Wart, EIT
Mailing address:

Nom : Rachel Van Wart, 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, 10^e étage
Case postale 1971
Saint John (Nouveau-Brunswick)
E2L 4L1

Telephone: (506) 658-2911
E-mail: rachel.vanwart@saintjohn.ca
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Téléphone : (506) 658-2911
Adresse électronique: rachel.vanwart@saintjohn.ca
Télécopieur : (506) 632-6199

Corporate seal of the local government:



Sceau du gouvernement local

Notes:

1. All appropriate permits must be obtained. 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"
1536 Loch Lomond Road
Saint John, New Brunswick
PID# 312744**

Dated at Saint John,
this 4th day of
December 2018.


Standards Officer

Inspection Date: November 1, 2018

Inspection Conducted by: Rachel Van Wart, EIT and Catherine Lowe, EIT

Introduction

Inspections of the property at 1536 Loch Lomond Road, PID# 312744, have revealed that there are three buildings on the premise (the "Buildings"); a single-storey, single family, wood framed house with a finished basement (the "House"), a two car, wood framed garage (the "Garage"), and a wooden shed (the "Shed"). Staff first became aware of the property's vacancy in May 2018 and began standard enforcement procedures. The property is located in the City's East Side in a two-unit residential zone. The Buildings are a hazard to the safety of the public by reason of being open, by reason of being vacant and by reason of dilapidation. The House and Garage are a hazard to the safety of the public by reason of unsoundness of structural strength.

Discussion

The Buildings are 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 children's toys, deteriorating newspapers in delivery bags, a propane tank, an office chair, rugs, a garden hose, a plastic table, garbage cans, roof shingles, sheets of plywood, glass, and other loose and bagged garbage. There is a fence to the left of the House spanning from the front of the House to the property line, and another small section at the front right of the House. The fence has a wooden frame that is deteriorated and rusted metal lattice. The aforementioned accumulation of junk, rubbish, and refuse is unsightly.
2. The House is dilapidated. The vinyl siding on the exterior of the House is discolored and cracked in some locations. The wooden trim of the House is rotten. Many windows of the House are broken, with jagged glass still in the window panes. The front deck is sagging and unsound. The rear deck is rotting, with holes and soft boards in some locations. The door leading to the basement of the House is ajar and the bottom panel of the door is missing. The glass door at the rear of the House is off the track and cannot be closed.

The Garage is dilapidated, sagging and leaning. One of the plywood sheets which covered an entrance to the garage has fallen. The metal garage door to the second entrance of the Garage is crumpled and has detached from the frame. Wall panels at the left and rear of the Garage have fallen.

The paint on the Shed is peeling. One of the doors to the Shed is missing completely while the other remains open. 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 Buildings are a hazard to the safety of the public by reason of being vacant or unoccupied for the following reasons:

1. The Buildings have been found open during multiple routine inspections and are considered to be abandoned. A Demand to Enter Letter was sent to the owner by registered mail and was picked up at the post office by the owner; however the owner did not contact this department or show up at the property on the scheduled date. This resulted in the need for an application for an entry warrant in order to assess the interior conditions of the Buildings. The front door of the House is unlocked and can easily be pushed open. The door to the basement of the House is open and will not shut. The rear sliding glass door of the House is open and off the track. The sliding glass door cannot be closed. The Garage is also not secure. In addition, the Shed door is also open. Buildings in a dilapidated condition that are known to be vacant and left open can attract vandalism, arson and criminal activity. The condition of the property affects the quality of life of neighboring properties and negatively impacts property value of real estate in the area due to negative perceptions of unsafe and deteriorating conditions. To add to the longevity of the vacancy, Saint John Energy confirmed that the power has been disconnected since July 2017.
2. There is a higher risk of a fire event occurring at the property since it may be known to the public that the Buildings are vacant. There is evidence of vandalism on the property and inside the House as many windows are broken and items are damaged. There is a neighboring single family home located at 1548 Loch Lomond Road in close proximity. If a fire event were to occur within the Building it could potentially spread to the neighboring property, causing damage to the building and endangering the lives of the occupants. Trespassers could easily cause a fire if they are smoking in the Buildings.
3. There is a concern for emergency personnel safety in the event of a fire or emergency. If firefighters suspect there may be people inside the Building, it would be reasonable to expect they may be required to enter it. The interior condition of the Building is not known to firefighters which pose a hazard to their safety and others who may be inside in the event of a fire. There is garbage and household items strewn throughout the Building. The roof in the kitchen is leaking and has caused water to pool on the floor of the kitchen. Water resting on the floor could cause the floor to become unsound and presents a slipping hazard. The basement floor is covered with mounds of deteriorated material such as paper, drywall, and insulation. There are boxes, appliances, and various other discarded bulky items in the basement which create tripping hazards. These conditions could restrict the movement or cause injury to emergency personnel should they need to gain entry into the Building.

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 Buildings are a hazard to the safety of the public by reason of dilapidation for the following reasons:

1. The exterior of the House is dilapidated. The deck on the right side of the House which provides access to the main entrance is sloped below the grade of the door and deflects under load. The deck on the left side of the House is rotten with loose boards and soft under load. There is also a hole in the deck boards, measuring approximately 1 ft by 1 ft. The doors to the House are open and accessible; the left side sliding glass door no longer closes, the right side door is unlocked and accessible and the basement door is ajar and open. The wood trim on the Building is peeling and rotten. Various windows are open and broken. There are hazardous sharp objects such as broken glass and nails around the perimeter of the property. The fence to the left of the Building and the small section to the right of the Building are dilapidated. The wood on the fence is rotten and the metal is rusted. Sections of the fence are leaning.
2. The main floor of the House is dilapidated and hazardous. There is mold on walls and ceilings. These conditions pose a respiratory hazard to anyone entering the Building. There is a large accumulation of bagged and loose garbage and household items covering the floor. The kitchen floor is covered with food containers and garbage that is rotten and water damaged. There is a leak in the roof of the kitchen which is causing water to pool on the floor. The kitchen ceiling tiles are peeling, discoloured and sagging. There is a hole in the rear wall of the House below a large picture window that is damaged, with missing drywall and insulation exposing the rotten exterior wall. There are cracks in various walls throughout the main floor of the House. One of the bedroom doors is wedged shut, however the interior of the room could partially be seen through the broken bedroom window, accessible from the left deck. The bedroom contains scattered garbage and broken children's toys.
3. The basement of the House is dilapidated. There is extensive black mold growth throughout the entire basement on numerous surfaces, which poses a respiratory hazard to anyone entering the House. Sections of basement ceiling drywall and insulation have fallen and remain lying on the floor and on top of discarded items. Water damaged paint, insulation, and drywall also hang from the basement ceiling. Discarded garbage and household items cover the floor and include boxes, magazines, various piles of decomposing paper, and other discarded items. The large volume of items presents a tripping hazard for anyone who may enter the basement. The exterior door leading to the basement is open and cannot be closed, allowing the elements into the basement. Continued exposure to water and damp conditions will cause the walls, ceilings, and items left in the basement to further deteriorate.
4. The Garage is dilapidated; the structure is leaning to the right and sagging in the center. A portion of the rear wall has detached from the rest of the structure. Numerous wall panels of the Garage are missing while others are loose and hanging. The left side Garage door opening is missing a piece of plywood, exposing discarded items and the right side metal garage door is rusted, broken and has detached from the frame of the Garage. The soffit and fascia at the front of the Garage are rotten, loose and hanging. The Garage is not protected from the elements which have caused it to deteriorate. The Garage contains many discarded items, some of which are leaning against the walls. The weight of these items could cause further wall panels to collapse.

5. The Shed is dilapidated and open to the elements as one of the front doors is missing while the other remains open. Also, the rear window of the Shed is broken. The Shed contains garbage, a lawn mower, a barbeque, and other discarded items. These items and the wooden floor of the Shed are water damaged. If left in this state the Shed will further deteriorate.

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 House and Garage are a hazard to the safety of the public by reason of unsoundness of structural strength for the following reasons:

1. Numerous conditions within the House indicate structural issues. The leak in the ceiling of the kitchen is severe. During the interior inspection water was actively dripping from multiple locations of the ceiling and collecting in a pool of water on the floor below. The kitchen ceiling tiles are peeling, discoloured and sagging. There is a hole in the rear wall of the House below a large picture window that is damaged, with missing drywall and insulation exposing the rotten, unsound exterior wall. There are cracks in various walls throughout the main floor of the House indicating structural movement. One of the bedroom doors is wedged shut, possibly due to movement of the House.
2. The decks on the right and left side of the House are unsound. The section of deck below the main entrance to the Building is sloped as it has fallen below the grade of the rest of the deck, nearly resting on the ground. The deck deflects under load and the deck boards are rotten and deteriorated. The deck on the left side of the House is rotten with loose boards and soft under load. There is also a hole in the deck boards, measuring approximately 1 ft by 1 ft.
3. The Garage is structurally unsound. It is leaning to the right and sagging in the center. The interior wooden beams of the Garage are sagging. Numerous wall panels have fallen from the Garage on the right, left, and rear sides. A portion of the rear wall has detached from the rest of the structure. The Garage is at risk of collapsing if it is left in this condition.

Required Remedial Actions

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

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

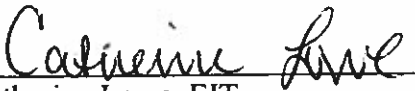
1. The Buildings must be must be completely repaired to remedy the above mentioned hazards to public safety while meeting the requirements of the *National Building Code of Canada (2010)* as well as all other applicable by-laws.
2. The Buildings must be maintained, kept secure, and monitored on a routine 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 Buildings 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 Buildings and cleanup of all debris on the premise by complying with all the remedial actions as follows:

1. The Buildings 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:

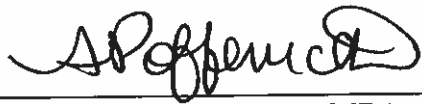

 Catherine Lowe, EIT
 Technical Services Officer
 Growth and Community Development Services

December 3, 2018
 Date


 Rachel Van Wart, EIT
 Technical Services Officer
 Growth and Community Development Services

December 3 / 18.
 Date

Reviewed by and concurred in by:



Amy Poffenroth, P. Eng., MBA
Building Inspector
Deputy Commissioner
Growth and Community Development Services

December 4, 2018

Date