

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

Parcel identifier:

PID #00049007

Address: 63 Jack Street, Saint John, New Brunswick

Owner(s) or Occupier(s):

Name: Caldo Ltd.

Address: 63 Jack Street, Saint John, New Brunswick, E2K 4J1

Name: Dicks, Helen R.

Address: 63 Jack Street, Saint John, New Brunswick, E2K 4J1

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 September 25, 2019 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.

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

Numéro d’identification de la parcelle :

NID : 00049007

Adresse : 63, rue Jack, Saint John, Nouveau-Brunswick

Propriétaire(s) ou occupant(s) :

Nom : Caldo Ltd.

Adresse : 63, rue Jack, Saint John, Nouveau-Brunswick, E2K 4J1

Nom : Dicks, Helen R.

Adresse : 63, rue Jack, Saint John, Nouveau-Brunswick, E2K 4J1

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 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 25 septembre 2019 par Amy Poffenroth, ing., agente chargé de l’exécution des arrêtés du gouvernement local.

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.

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 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 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.

Les mesures correctives susmentionnées relativement 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.

Date before which the condition must be corrected:¹

Délai imparti pour y remédier :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 45 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.

- a) La démolition du bâtiment et le nettoyage des lieux doivent être complétées, ou à laquelle les plans et demande de permis pour les mesures des réparations, doivent être soumises, dans les 45 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 for giving notice of appeal: Within 14 days of being served with the Notice to Comply.

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

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.

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.

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.

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.

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).

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 30th day of September, 2019.

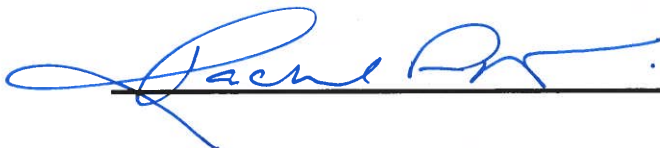
Fait à Saint John le ____ septembre, 2019.

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: Rachel Van Wart, PEng
Mailing address:

Nom : Rachel Van Wart, ing.
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)
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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"
63 Jack Street
Saint John, New Brunswick
PID# 00049007

Dated at Saint John,
this 2 day of
October 2019

Standards Officer

Inspection Date: August 21, 2019

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

Introduction

Inspections of the property at 63 Jack Street, PID# 00049007 have revealed that there are two buildings on the premise (the "Buildings"); a single-storey, single family dwelling with a basement (the "House"), and a wood framed garage (the "Garage"). Staff first became aware of the property's vacancy in January 2018 and began standard enforcement procedures. The property is located on the City's North End in a two-unit residential zone at the end of Jack Street. The House is a hazard to the safety of the public by reason of being open. The Buildings are 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 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; tires, discarded wood, gas cans, rusted metal scrap and barrels, broken glass, a pile of asphalt shingles, as well as other various loose garbage. A white boat sits partially on the property at 63 Jack Street and partially on 0 Jack Street. The right pane of glass of the boat's windshield is broken. The boat is sitting on a rusted hauling trailer. It is clear the boat has not been moved in some time as foliage has grown around the boat and trailer. The aforementioned accumulation of junk, rubbish, and refuse is unsightly.
2. The House is dilapidated. The House has vinyl siding on all sides except the right side, which is cedar shingle siding. The vinyl siding is in good condition; however, the shingle siding on the right side is rotted and deteriorated. The roof trim is deteriorated. There is a large hole in the fascia and soffit on the right side of the House. Rotten insulation is exposed due to the deterioration of the fascia and soffit. The rear section of the House's roof is covered with moss growth due to an overgrown tree that hangs over a portion of the roof. The stairs and deck at the front of the House are rotten and structurally unsound. These conditions are unsightly.

the front of the House are rotten and structurally unsound. These conditions are unsightly.

3. The Garage is dilapidated. Paint is peeling from the siding on the front of the Garage. Siding and an interior wooden wall panel is missing from the left wall of the Garage. This has caused wooden members to deteriorate. The siding is also damaged to the left of the opening, exposing nails. The roof of the Garage is covered with various types of material. There is damage to material at the rear of the Garage. The roof of the Garage is also sagging. 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. Buildings in a dilapidated condition that are known to be vacant can attract vandalism, arson and criminal activity. The property's condition 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. The company who owns the Buildings has since dissolved and has no known address or representatives. The lessee of the Buildings is deceased; no representative of the estate has come forward to accept care and control of the property. Saint John Energy confirmed that the power has been disconnected since June 2018. The City of Saint John Finance department confirmed that the water has been turned off since June 2017. For these reasons, the property is considered abandoned.
2. There is a higher risk of a fire event occurring at the property since it is known to the public that the House is vacant. The exterior door that leads to the basement of the House has been found open during routine inspections. Police queries made on May 19, 2019 and May 22, 2019 report individuals entering the House and of there being used needles around the property. If a fire were to start in the basement, it could easily spread through the entire House. There are two neighboring large multi-unit building complexes at 45 Jack Street and 40 Matthew Lane. The fire could spread to these neighboring buildings, which could cause damage to the buildings and endanger the lives of the occupants. The buildings would also likely need to be evacuated in the event of a fire. This would require significant effort by the fire department and inconvenience the occupants of the neighboring buildings.
3. There is a concern for emergency personnel safety in the event of an emergency. If firefighters suspect there may be people inside the House, it would be reasonable to expect they may be required to enter it. They may also need to enter the House to fully 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. Household items, garbage and other debris cover the floors inside the House. The basement is also filled with discarded items and other junk. These conditions present a tripping hazard to emergency personnel.

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 door leading to the basement of the House has been found open during routine inspections. The basement steps are broken, making it difficult and dangerous to access. The basement is filled with various items and garbage. The items have been strewn around the basement, likely by vandals. There is a concrete support column near the center of the House that appears to be crumbling. Towards the rear of the basement, two small openings could provide access for animals. Animals are a nuisance for neighbors and can cause damage to buildings.
2. The exterior of the House is dilapidated. The front, left and rear sides of the House have vinyl siding; however, the right side of the House is wooden shingle siding. The right side of the House faces a wooded area; the trees create cover over this area of the House, causing damp conditions. The shingles are rotted and deteriorated. The fascia and soffit are rotted as well, exposing damaged insulation in some locations. There is a hole in the fascia and soffit that has exposed wooden members, causing them to rot. Damp conditions will cause further decay of the wooden sections of the House, furthering its dilapidation.

The wooden stairs and deck on the front of the House are also rotted and deteriorated. The stairs and deck deflect under load and the wood feels soft under foot. There is a hole in one stair tread as well as at the left side of the deck. The stairs and deck are hazardous as they could fail under load.

3. The interior of the House is dilapidated. There are several sections of the ceiling with water damage throughout the House. Around the kitchen cupboards, the ceiling is stained, likely due to water damage. The kitchen ceiling is also significantly warped. The fluorescent light fixtures on the ceiling are not flush, but on an angle relative to the floor. The ceiling above the shower in the bathroom is stained by water damage. The ceiling tiles are deteriorated and sagging; one corner of a tile is hanging. The window in the bathroom is not missing trim, exposing the vapour barrier and framing, which appears water damaged. A corner in the rear bedroom is water damaged. The area is stained and rotted. Continued exposure to damp conditions will cause the damage to worsen, furthering its dilapidation.
4. The Garage is dilapidated. The roof of the Garage is sagging. There is damage to the covering of the roof at the rear of the Garage. The Garage's siding is damaged and rotted in many sections. There is a hole in the left wall of the Garage where siding and a wall panel have been removed. Wooden members in this area appear rotted. This condition has also exposed nails in the wall. Anyone attempting to gain access to the Garage through this could be cut by the rusted nails. The interior of the Garage is dilapidated. Paint is peeling from the ceiling. A section of ceiling at the rear of the Garage is hanging and appears moldy. For these reason, entering the Garage would be hazardous.

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

1. The House demonstrates signs of structural instability. The right exterior wall of the House appears to be sagging and bowing outward. A wooden board spans nearly the length of the House below both windows on the right side that is visibly no longer straight. The wood shingle siding on this section of the House is rotten and deteriorating. Trim around the windows is also deteriorated.

There are cracks in the left interior wall along the top of both windows. This could indicate the House or the foundation is shifting. The kitchen ceiling is also significantly warped. This is evident as the two florescent light fixtures attached to the ceiling are no longer flush but are at an angle relative to the floor. This in part could be caused by water damage; however, structural shift could also be the cause of this condition.

The roof of the House demonstrates signs of structural instability. There is a large hole in the fascia and soffit on the right side of the House. The remaining trim is rotten. A section of ceiling in the rear bedroom is water damaged. The ceiling of the bathroom is also water damaged and sagging. The kitchen ceiling is stained in some areas due to water damage. The kitchen ceiling is also significantly warped. This is evident as the two florescent light fixtures attached to the ceiling is no longer flush but are at an angle relative to the floor. These conditions indicate that there are likely damaged areas of the roof, allowing water infiltration. If not remedied, continued exposure to wet conditions could cause the ceiling or roof of the House to fail.

2. The wooden deck and stairs of the House are structurally unsound. The stairs are covered by overgrown foliage so their condition is not immediately apparent. The wooden stairs are rotten and soft under load; some treads have holes. The deck deflects under load and the boards are rotting. There are holes in the deck boards on the right side of the deck. A rotten board is sticking out from one of these holes. There is also no guard on the right side of the deck. From ground level, it can be seen that the deck is attached to the front of the House for support. The wooden board the deck is mounted to appears to be rotting. When viewed from beneath, it is clear the deck is sloped. As the rear entrance to the House is barricaded from inside and there are no steps to the rear door, the front entrance is the only entrance to the House. Using the deck and stairs is dangerous as they may fail under load.
3. The wood framed Garage is structurally unsound. The exterior siding of the Garage is missing, damaged, or rotten in many locations. A large section of the left wall is missing. This has caused the left wall to bow. The roof of the Garage can be seen from the deck of the House. The roof is clearly sagging and a section of rear cladding is damaged. The rear ceiling of the Garage is also damaged; a section of the ceiling panel is hanging. The interior and exterior wooden members of the Garage that are visible appear weathered and rotten. The Garage may collapse if it is left in its current condition.

Required Remedial Actions

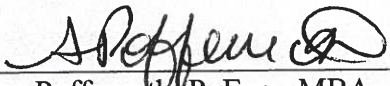
The owner must comply with one of the two options stated below:

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

1. The Buildings must be 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.



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

September 25, 2019
Date