

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 #379628

Address: 112 Victoria Street, Saint John,
New Brunswick

Owner(s) or Occupier(s):

Name: VNB Enterprises Ltd.

Address: 61 Northumberland Avenue, Saint
John, New Brunswick, E2J 2L2

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 19, 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 : 379628

Adresse : 112, rue Victoria, Saint John,
Nouveau-Brunswick

Propriétaire(s) ou occupant(s) :

Nom : VNB Enterprises Ltd.

Adresse : 61, avenue Northumberland, Saint
John, Nouveau-Brunswick, E2J 2L2

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 19 septembre 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 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.

Les mesures correctives susmentionnées relativement
à la démolition 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 19th day of September, 2018.

Fait à Saint John le ____ septembre, 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
Fax: (506) 632-6199

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 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"
112 Victoria Street
Saint John, New Brunswick
PID# 00379628

Dated at Saint John,
this 19th day of
September 2019.

Standards Officer

Inspection Date: June 27, 2018

Inspections Conducted by: Catherine Lowe, EIT & Rachel Van Wart, EIT

Introduction

Inspections of the property at 112 Victoria Street, PID# 379628, have revealed that there is one building on the premise (the "Building"); a three-storey, three-unit apartment building. Staff first became aware of the property's vacancy in February 2017 and began standard enforcement procedures. The property is located in the City's North End in an urban centre residential zone. The Building sustained a fire on the second storey in September 2017. Damage caused by the fire has not been remedied. 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; fallen siding, shards of glass, charred wood, plywood boards and other various loose and bagged garbage piled in the narrow alleyway between the Building and the neighboring Building located at 110 Victoria Street. The aforementioned accumulation of junk, rubbish, and refuse is unsightly.
2. The Building is dilapidated. The exterior paint of the Building is peeling. Siding at the front of the Building is deteriorated. The clapboard siding on the left and right side is rotting and has fallen off the Building in some locations. The front windows and doors are boarded. Windows on the left and rear are boarded from inside the Building. Many windows have been broken; shards of glass hang from the panes. There is a gap in the foundation on the left side which could allow animals into the crawl space of the Building. There is a hole (approximately 1ft by 1ft in size) in the right side wall of the Building due to fire damage. 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 and are known to be vacant can attract vandalism, arson, or criminal activity. They can also pose a hazard to the safety of the public and devalue homes in the surrounding area. In addition, this vacant building is a major blight, affecting the quality of life in this residential neighborhood and devaluing neighboring properties due to negative perceptions of unsafe deteriorating buildings. The City of Saint John Finance department confirmed that the water has been turned off since September 2017. Saint John Energy confirmed that the power has been disconnected since June 2017.
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 and because the Building has previously sustained a fire. The Building was found open in June 2017 with signs of vandalism. In addition, to the left of this property are two vacant lots. To the right of this property is another vacant building at 110 Victoria Street. Due to the high volume of neighboring vacant properties, if an additional fire event were to occur within the Building, neighboring citizens may not notice the fire immediately. This could delay when the fire department is notified, providing more time for the fire to blaze out of control. If a fire event were to occur it could spread to the neighboring property and cause significant damage to the building.
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. The second storey of the Building is unsound. There is a hole in the floor of the second storey and a hole in the right wall of the Building due to fire damage. Caution tape has been placed at the top of the stairs leading to the second storey due to its condition. The floor and walls are black due to fire damage. There is extensive water damage throughout the Building due to firefighting efforts. These conditions are not known to emergency personnel and would be extremely dangerous during a high stress emergency situation.

Dilapidated and 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 dilapidation and by reason of unsoundness of structural strength for the following reasons:

1. The siding and exterior trim of the Building are rotten and deteriorated. Siding is missing in some locations and is hanging in others. Damage to the left side of the Building has been partially covered with a plywood board. Glass from broken windows is hanging from the window panes. Debris falling from the Building could cause harm to those on the property or pedestrians on the sidewalk.
2. The left side of the Building is sagging. Siding on the Building is not straight, but is curved downward. The three windows of the first storey are no longer in

alignment with one another, with two of them being at a lower elevation than the third. The left rear section of the Building is sloped towards the rear. These conditions could indicate a shift in foundation or other structural members, compromising the structural integrity of the Building.

3. The owner removed the board from the front door to allow entry into the Building. A strong odor caused by fire damage could be smelled from outside the Building once the door had been removed. A fire occurred on the second storey of the Building and spread to parts of the first storey in September 2017. The damage caused by the fire has not been remedied. There is caution tape at the top of the stairs leading to the second storey due to its unsound condition. Damage was therefore observed from the first storey only for the safety of the inspectors. Black marks caused by smoke and fire can be seen around ceiling light fixtures on the first storey. The ceiling of a front room on the first storey is severely fire damaged. Members and building materials in this area are black from being burned. There is a hole through the floor at the top of the stairs of the second storey that can be seen from the first storey. There is also a hole in the wall of the right side of the Building. The hole is located where the ceiling meets the right wall of the first storey and extends slightly to the second storey. The neighboring property at 110 Victoria Street can be seen through the hole. These conditions have caused the front portion of the second storey to be unsound and unsafe. There is water damage throughout the first and second storey units from firefighting efforts. Water damaged materials that are left to deteriorate can lead to further dilapidation. Due to this, inspectors did not enter the second or third storey units.
4. The floors of the first storey are covered in debris from damaged walls and ceilings. The debris consists of water and fire damaged building materials such as insulation, wooden members, and drywall. There are holes in the walls and ceilings throughout the unit. The bathroom of the first storey is dismantled. There is drywall and wooden members covering the floor. There is a large hole above the bathtub area and down the wall, exposing water damaged materials. The left front window of the unit is broken, shards of glass lie on the floor. The floor at the base of the rear stairwell appears water damaged.
5. The crawl space beneath the Building contains mechanical and electrical equipment, piping, structural support members and the foundation of the Building. Insulation from the walls and ceiling of this area has fallen and now lies on the ground. Wooden beams which make up the floor of the first storey appear to be deflected. There is a gap in the foundation on the left side of the Building that could allow animals into the crawl space area. Animals can cause damage, carry disease, and affect the quality of life of surrounding neighbors.

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 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

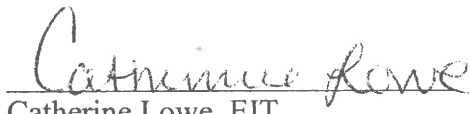
carried out. The repaired Building must meet the *National Building Code of Canada (2010)* as well as other applicable codes.

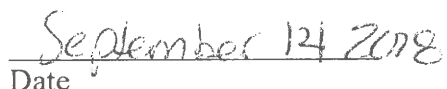
4. The detailed plan, including schedules and any engineering reports, must be approved by the Department prior to commencing repair work.
5. A building permit must be obtained for any and all applicable work prior to commencing said work from the City of Saint John in order to comply with the *Saint 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.

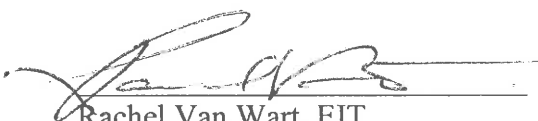
Option 2: Demolition of the Building and cleanup of all debris on the premise by complying with all the remedial actions as follows:

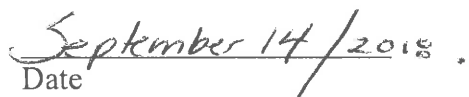
1. The Building must be demolished to remove the hazard to the safety of the public by reason of dilapidation and by reason of being vacant or unoccupied.
2. A demolition permit must be obtained from the City of Saint John in order to comply with the *Saint John Building By-law*.
3. The premise must 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:

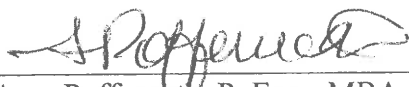

Catherine Lowe, EIT
Technical Services Officer
Growth and Community Development Services


Date


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


Date

Reviewed by and concurred in by:



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

September 19, 2018
Date