

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 #55222624

Address: 22 Belgrave Street, Saint John,
New Brunswick

Owner(s) or Occupier(s):

Name: MacVicar, Kevin Gibson

Address: 100 Douglas Lake Road, Saint John,
New Brunswick, E2N 1T2

Numéro d'identification de la parcelle :

NID : 55222624

Adresse : 22, rue Belgrave, Saint John,
Nouveau-Brunswick

Propriétaire(s) ou occupant(s) :

Nom : MacVicar, Kevin Gibson

Adresse : 100, route Douglas Lake, Saint
John, Nouveau-Brunswick, E2N 1T2

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
March 7, 2019 prepared by Catherine Lowe, EIT and
Rachel Van Wart, EIT, By-law Enforcement Officer,
reviewed and concurred in by Amy Poffenroth, P. Eng.,
By-law Enforcement Officer.

Description de la (des) situation(s) : Les lieux sont
inesthétiques en permettant la présence de ferraille,
de détritrus 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 7 mars 2019 et préparé par
Catherine Lowe, IS et Rachel Van Wart, IS, agentes
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.

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
demolition of the building and the disposal of debris and

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.

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

- 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).

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 7th day of March 2019.

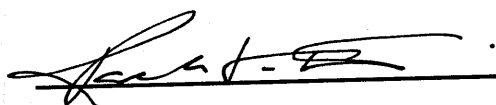
Fait à Saint John le ____ mars 2019.

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, EIT
Mailing address:

Nom : Rachel Van Wart, IS
Adresse postale:

Growth and Community Development Services

Service de la Croissance et du Développement
Communautaire

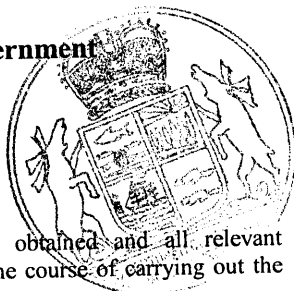
The City of Saint John
15 Market Square
City Hall Building, 10th Floor
P. O. Box 1971
Saint John, New Brunswick
E2L 4L1

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
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Téléphone : (506) 658-2911
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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.

INSPECTION REPORT
Schedule "A"
22 Belgrave Street
Saint John, New Brunswick
PID# 55222624

Inspection Dates: August 1, 2018 and January 31, 2019

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

Introduction

Inspections of the property at 22 Belgrave Street, PID# 55222624, have revealed there are two buildings on the premise (the "Buildings"); a single family, two storey, wood-framed house (the "House") and a detached garage (the "Garage"). Staff first became aware of the property's vacancy in February 2018 and began standard enforcement procedures. The owner of the property is deceased and the estate has no interest in the property. The House sustained a fire on July 31, 2018 that caused significant damage. 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 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 junk, rubbish, and refuse on the property. These items include, but are not limited to; broken glass, discarded vinyl siding, a mattress, rusted metal and various other loose garbage. The aforementioned accumulation of junk, rubbish, and refuse is unsightly.
2. The House is dilapidated. The House sustained a fire in July 2018 that caused significant damage to the rear of the House. The front door, rear door and all first storey windows are boarded with plywood; action City staff had to undertake in July due to the open and dangerous conditions. During the remedial action, metal siding was removed from sections at the rear and right side of the House. Second storey windows remain open with broken glass. The rear deck suffered damage during the fire with metal deck framing exposed and protruding from the structure.
3. The Garage is dilapidated. The right side window and rear door glass is broken. The right side of the Garage was never finished and has no siding. The aforementioned 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 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 estate of the owner has confirmed that they have no interest in the property. The City of Saint John was forced to take action to remove the immediate hazard to the safety of the public after the fire event in July 2018 since no one had come forward to claim care and control of the property. The property is considered to be abandoned. The City of Saint John Finance department confirmed that the water has been turned off since January 2018 due to a water break. Saint John Energy confirmed that the power has been turned off since January 2018.
2. There is a higher risk of a second fire event occurring at the property since it is known to the public that the Buildings are vacant. The Buildings are in close proximity to a single family home at 20 Belgrave Street and a church at 35 Park Avenue. If a fire event were to occur within the Buildings it could potentially spread to the neighboring occupied buildings. This could 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 a fire or emergency. If firefighters suspect there may be people inside the Buildings, it would be reasonable to expect they may be required to enter the Buildings. The interior conditions of the Buildings are not known to firefighters which pose a hazard to their safety. There are holes in the walls and ceilings at the rear of the House where the fire occurred. The floor in this section of the House is covered with fire and water damaged material. The Garage has been vandalised with garbage and discarded items littering the floor. These conditions could pose a hazard to emergency personnel safety in an emergency situation.

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 House is dilapidated. The fire that occurred in the House has left holes in the rear wall and ceiling, exposing broken and damaged lathe. There is fire and water damaged debris on the floor at the rear of the House. The windows on the second storey are broken. Sharp and jagged pieces of glass remain in the window pane. Siding on the right side of the House was damaged during the fire event which caused the siding to peel and protrude away from the exterior wall. The damaged siding had to be cut from the House by City of Saint John officials during the cleanup in July 2018. These conditions have

not been remedied since the fire and could cause the rear of the House to deteriorate prematurely. This is a hazard to anyone entering the rear of the House.

2. Surfaces throughout the House are black due to smoke and fire damage. Also, the second storey windows have been open to the elements since the fire event. This could create damp and water damaged conditions which give rise to mold growth and can deteriorate building members. These conditions pose a respiratory hazard to anyone in the House not wearing proper protective equipment.
3. The deck is dilapidated. The right side of the deck suffered severe fire damage. A section of deck boards were removed as they were fire damaged. This has exposed the rusted metal frame and cross bars of the deck which contain nails and jagged edges that could cause personal injury. The City of Saint John was required to remove sections of the damaged deck from the rear yard during the July 2018 cleanup. The remaining deck boards are charred and deteriorated. Cinder blocks beneath the deck that appear to be supporting a middle span of the deck are leaning.
4. Due to firefighting efforts and a water break, the basement of the House has been flooded. Murky, stagnant water covers the entire floor of the basement, partially submerging wooden and metal structural members. Exposing the members to prolonged water exposure can cause premature rot and rust, potentially causing structural issues.
5. The Garage is dilapidated. The interior of the Garage has been vandalised, with garbage and other discarded items strewn throughout. The left side window and the rear door window have been broken, sharp and jagged glass still remains in the window panes. There are many discarded items around and behind the Garage. These items have now been covered in snow, creating a tripping hazard for anyone around the Garage.

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

1. The concrete foundation of the House is in active failure and is structurally unsound. Many vertical cracks can be seen in the exterior foundation wall on all sides of the House. There is significant damage to the rear foundation wall which can be seen from the basement of the House. A large fissure approximately an inch wide spans from the left side of the rear wall to the doorway of the basement, making it approximately 10 feet in length. Concrete around this fissure and around the doorway is crumbling. This section of the rear foundation wall is no longer flush as the separation due to the fissure has caused the top portion of the wall to bow at an angle to the lower portion. There are also many lateral cracks in the left side foundation wall as seen from the basement. Further structural damage could result if these conditions are not remedied soon.

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.

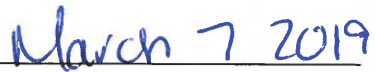
Option 2: Demolition of the Buildings and cleanup of all debris on the premise by complying with all the remedial actions as follows:

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:

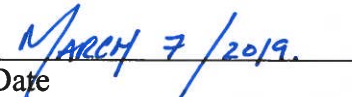


Catherine Lowe, EIT
Technical Services Officer
Growth and Community Development Services


Date



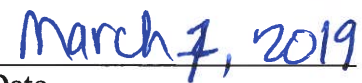
Rachel Van Wart, EIT
Technical Services Officer
Growth and Community Development Services


Date

Reviewed by and concurred in by:



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


Date