

FORM 4
NOTICE TO COMPLY – DANGEROUS OR
UNSIGLTY 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 #374777

Address: 13-15 Albert Street, Saint John,
New Brunswick

Owner(s) or Occupier(s):

Name: PMV Canada Inc.

Address: 526 Queen Street, Fredericton, New
Brunswick, E3B 1B9

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 : 374777

Adresse : 13-15, rue Albert, Saint John,
Nouveau-Brunswick

Propriétaire(s) ou occupant(s) :

Nom : PMV Canada Inc.

Adresse : 526, rue Queen, Fredericton,
Nouveau-Brunswick, E3B 1B9

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 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 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.

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.

Délai imparti pour y remédier :¹

- 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 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 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 19th day of September, 2018.

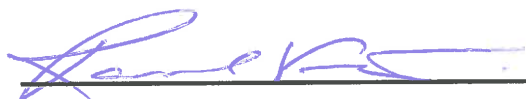
Fait à Saint John le ____ septembre, 2018.

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
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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 :

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"
13-15 Albert Street
Saint John, New Brunswick
PID# 374777

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

Dated at Saint John,
this 19 day of
September 2018.

Inspection Date: July 9, 2018
Inspection Conducted by: Rachel Van Wart, EIT


Standards Officer

Introduction

Inspections of the property at 13-15 Albert Street, PID# 374777 have revealed the building on the premise (the "Building") is vacant, dilapidated and structurally unsound. The Building is a 2-unit multi-storey, wood-framed apartment building. Staff first became aware of the property's vacancy in March 2016 and began standard enforcement procedures. The property is located in the City's North End in an urban centre residential zone. The Building is a hazard to the safety of the public by reason of being vacant, by reason of dilapidation and by reason of unsoundness of structural strength.

Discussion

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

Unsightly Premise Conditions

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

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

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

1. The Building is dilapidated. The wooden shingles on all sides of the building are peeling. All doors and windows on the Building are boarded except three at the rear and left side that are open and broken. Trim boards on the corners of the Building are rotten and missing. There is an electrical mast on the right side of the Building that is leaning and pulling away from the Building. There is a large approximate 2ft hole in the fascia and soffit of the Building at the rear, which appears to permit the entry of animals and rodents. The entire Building is leaning to the right and appears to have structural issues.

Vacant and Unoccupied

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

No person shall permit a building or structure owned or occupied by him or her 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 in dilapidated condition can attract vandalism, arson and criminal activity. The property condition affects the quality of life of neighboring property owners and negatively impacts property value of real estate in the area due to negative perceptions of unsafe and deteriorating conditions. The City of Saint John Finance department confirmed that the water has been turned off since August 2016. Saint John Energy confirmed that the power has been disconnected since November 2016.
2. There is a higher risk of a fire event occurring at the property since it is known to the public that the Building is vacant. In addition, there have been numerous other suspicious fires in the North End in the past year. The Building is surrounded by vacant lots and parking spaces for other buildings, but the neighboring buildings, to the right, left and rear are all vacant. Response time to a fire situation may be delayed due to the unoccupied neighboring buildings.
3. There is a concern for emergency personnel safety in the event of an emergency or fire. If firefighters suspect there may be people inside the Building, it would be reasonable to expect they may be required to enter it. The July 9, 2018 interior inspection found dangerous conditions within the Building due to the extensive water damage and mould growth. Extensive water damage combined with fire damage could result in the failure of floors which presents a dangerous situation for emergency personnel should they need to gain entry to the Building.

Dilapidated and Structurally Unsound Building Conditions

Subsection 6(3) of the By-law states

No person shall permit a building or structure owned or occupied by him or her 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 unsoundness of structural strength for the following reasons:

1. There is a large approximate 2ft hole in the fascia and soffit at the rear of the Building. This hole extends into the ceiling of the second floor, allowing access for rodents, animals and inclement weather. The acceleration of the deterioration of the Building will occur due to this opening and non-water tight condition.
2. Items hanging from the Building are hazardous and may injure pedestrians. There are broken windows at the rear and left side of the Building. Broken glass may fall and injure those entering the property surrounding the Building. There is trim hanging from the front of the Building's soffit. Should this trim fall from the Building, it could cause personal injury to a pedestrian walking on the sidewalk below. There is an electrical mast leaning away from the right side of the Building.
3. The entire Building is leaning to the right indicating structural issues and movement of the building assembly.
4. There is a significant and extensive amount of black mould throughout the Building in multiple locations which poses respiratory hazard for those who may enter the Building. The walls and floors in the rear bedroom of the second storey are full of moisture and black mould. In this room, drywall is missing from the ceiling and mouldy pink insulation and plastic vapour barrier are hanging from the ceiling, full of moisture. Drywall and other moisture

ridden, mouldy items remain lying on the floor. On the first floor unit, under this room, the ceiling is also full of black mould and the drywall is bowing.

The walls and ceiling of the front entranceway to access the second storey apartment are full of black mould. The ceiling in a small bedroom at the front of the second storey unit is deteriorated with missing drywall and exposed vapour barrier and mould pink insulation.

Personal injury could occur in the flooring systems that have been impacted by moisture, with members failing under live load.

5. There is evidence of rodents and animals within the Building, as there is a raccoon carcass on the second floor. Wild animals and rodents such as raccoons and rats can carry diseases, damage property and cause concern for public safety.

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:

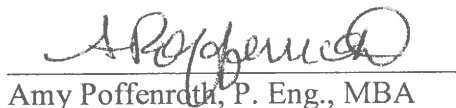


Rachel Van Wart, EIT
Technical Services Officer
Growth and Community Development Services

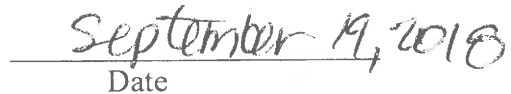


Date

Reviewed by and concurred in by:



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



Date