



Hamilton

**A G E N D A**  
**PROPERTY STANDARDS COMMITTEE**  
**MEETING**  
**June 27, 2016**  
**9:30 a.m.**  
**Hamilton City Hall**  
**Room 264, 2<sup>nd</sup> Floor**  
**71 Main Street West, Hamilton**

*Please note: All cellular telephones, Blackberries and pagers to be switched off during Committee meetings.*

**Ida Bedioui,**  
**Legislative Co-ordinator**  
**Extension 4605**

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1. **CHANGES TO THE AGENDA**
  2. **DECLARATIONS OF INTEREST**
  3. **MINUTES OF PREVIOUS MEETING**
    - 3.1 June 6, 2016
  4. **CONSENT ITEMS**
  5. **APPEALS**
    - 5.1 9:30 a.m. 1 St. James Place Ward 2  
St. James No. 1 Inc.
    - 5.2 9:30 a.m. 1 St. James Place Ward 2  
St. James No. 1 Inc.
  6. **UNFINISHED BUSINESS**
  7. **NEW BUSINESS**
  8. **ADJOURNMENT**



# Hamilton

## MINUTES

### PROPERTY STANDARDS COMMITTEE

Monday, June 6, 2016

9:30 a.m.

Room 264, Hamilton City Hall

71 Main Street West

Hamilton, Ontario

**Present:** Charles Dimitry, Chair  
Steve Devisser, Vice-Chair  
James (Jamie) Summers

**Absent with Regrets:** Nancie Mleczko and William Robins, personal

**Also Present:** Jennifer Turcotte, Municipal Law Enforcement Officer  
Dana Lezau, Solicitor for City staff  
Daniell Bartley, Solicitor for the Committee  
Ida Bedioui, Legislative Co-ordinator, City Clerk's Office

The meeting was called to order.

#### 1. CHANGES TO THE AGENDA

The Legislative Co-ordinator advised there were no changes to the agenda.

**(S. Devisser/J. Summers)**

That the June 6, 2016 Property Standards Committee agenda be approved, as presented.

**CARRIED**

#### 2. DECLARATIONS OF INTEREST

There were none declared.

#### 3. MINUTES OF PREVIOUS MEETING

3.1 March 7, 2016

**(J. Summers/S. Devisser)**

That the Minutes of the March 7, 2016 meeting be approved.

**CARRIED**

#### 4. APPEALS

##### 5.1 4 Thorpe Street, Dundas (Item 5.1)

Dana Lezau, Solicitor for staff, addressed Committee in her opening statement indicating that the Property Standards Order was properly issued, staff did not trespass, and the appellants still own the property in question.

The appellant, Mr. Anthony Tomkins in his opening statement indicated that he and his wife are not in good health. He just learned of the whole story the other day. He is 73 years old and he wants to move out of the house and move on. They weren't aware that people were on their property. The property has been put up for sale for the land only, not the house. He sees no reason to repair the house.

Dana Lezau, distributed copies of the disclosure package noting there are 11 tabs. She called upon Jennifer Turcotte, Municipal Law Enforcement Officer to give evidence respecting the property at 4 Thorpe Street. Officer Turcotte was solemnly affirmed. Officer Turcotte advised that she is a Municipal Law Enforcement Officer and has held this position since 2013 and she outlined her duties explaining she is a proactive officer responding to complaints.

Entered into evidence as Exhibit "A" is the disclosure package and in response to questions from Dana Lezau, Jennifer Turcotte confirmed the following:

- Tab 8 – Copy of recorded complaint received by the City
- Tab 3 – Copy of Officer Turcotte's notes – she confirmed that she did not make any changes to her notes and she provided an outlined of what she observed when she inspected the property;
- Tab 11 – Photos of the property - Officer Turcotte confirmed that she took all the photos on September 3, 2016 except for the last one which she took on September 18, 2016;
- The photos show the deteriorated roof, window sills and shed;
- Tab 10 – copy of the taxation database which indicates Mr. and Mrs. Tomkins as the current owners.

In response to questions from Mr. Tomkins, the appellant, Officer Turcotte indicated the following:

- She cannot advise who filed the complaint;
- She knocked on the front door of the house first but no one answered so she proceeded with her inspection of the outside of the property.

In response to questions from the Committee, Officer Turcotte outlined her process when she attends a property:

- She goes to front door and knocks;
- She calls out by introducing herself;
- if someone is there she asks to be accompanied by the occupant;
- If not she does an external inspection;
- She had contact with the property owner by e-mail and also with the Real Estate agent, Judy Shepalo.

The appellant, Mr. Anthony Tomkins called his witness Judy Shepalo and she was solemnly affirmed. She provided the following testimony:

- Mr. Stokes has submitted a \$3,000 deposit on the house and still wants to purchase the house and hasn't cancelled his offer;
- This time last year she acted as the Real Estate agent for the Tomkins and the property was sold in June and was supposed to close in August;
- The deal was put on hold for the buyer to get a new lender;
- The deal hasn't closed yet;
- They must sell the house and whoever buys the house is going to tear it down or do major renovations.

In response to questions from the Committee, Judy Shepalo responded as follows:

- She is an agent for ReMax Escarpment Realty;
- The house is pending;
- The property was sold for the land value only;
- There was a problem with the appraiser who wanted to come into the house;
- The buyers still want to purchase the house but there is no closing date;
- The owner still plans to sell the house if the deal doesn't go through;
- There is no point in Mr. Tomkins doing any repairs.

The appellant, Mr. Anthony Tomkins was solemnly affirmed and provided the following testimony:

- His wife is not well and he needs an operation which is why they are getting rid of the house;
- The stress levels are unbelievable;
- He has done a lot of cleaning up around the property;
- The neighbours have been helping him;
- He is a good neighbour;
- There is no way the shed is going to fall down;
- He was a maintenance supervisor so he knows:

- He wants to sell the house and move out fast;
- More time would be helpful;
- He needs to go through legal proceedings now;
- There are no conditions on the sale;
- He doesn't know if the buyer is aware of the Order issued on the property.

The City and the appellant started their summations when the appellant indicated that he has a letter to submit which was written by his wife. He confirmed he was there when she wrote the letter and she read it to him. She wrote it so that she could participate in the appeal.

A copy was provided to Dana Lezau for review.

The Committee took a ten minute recess.

The Committee accepted the letter and it was entered into evidence as Exhibit B.

Mr. Tomkins provided an overview of the letter and he indicated that his wife is not very well. He advised that he has nothing to add to the letter.

The City provided the following summation:

- The Order was properly issued;
- The appellant acknowledged that the MLE Officer did her job;
- There was no incidence of trespassing;
- Officer Turcotte knocked on the door and there was no answer;
- The Officer mailed the Order to the owners;
- The owners wish to sell the property but the sale failed to close;
- There is no definite closing date and we do not have the buyer here to let us know his intention;
- The Order should stand and the items should be addressed.

Mr. Tomkins in his summation indicated the following:

- He would like to move tomorrow;
- There is a \$3,000 deposit with the purchase offer;
- There are two other people who want to buy the property;
- He and his wife are not in good health.

There were no further questions from the City.

In response to questions from Committee the Appellant responded as follows:

- They have some personal items stored elsewhere;

- They are currently living in the house and most possessions are there;
- The cross neighbours are helping with snow clearing, hedging and cutting grass.

Dana Lezau requested that her closing statement be amended to address the statement on page 2 of the letter written by Mrs. Tomkins with the allegation that the Municipal Law Enforcement Officer was trespassing. Legal staff have researched case law and they have found evidence of two case laws. Copies were distributed.

Dana Lezau referenced the Decision of Orillia (City) v. Nicol, entered into evidence as Exhibit "C". Paragraphs 9 and 10 find that the by-law is enacted for the protection of the public and there is no need to give notice or get a warrant because of the common sense assumption that an unannounced inspection is to verify compliance.

The Decision of Davis v. Guelph (City), entered into evidence as Exhibit "D" reinforces the aforementioned on page 10 paragraph 37.

Mr. Tomkins indicated that he cannot give a time of when the sale of his property will close and he asked that the Order be quashed. He needs to be out of there and wants the whole thing dropped. He will retain a lawyer to deal with the offer that has not closed. He needs the pressure off his back. That is basically it.

The Committee retired to deliberate and made the following decision with respect to the Order issued on September 14, 2015 on the property located at 4 Thorpe Street, Dundas:

That the Order be amended by extending the compliance date to September 30, 2016 and that in all other respects the Order be upheld.

The Committee's decision is based on Mr. Tomkins' acknowledgment of the evidence submitted by Municipal Law Enforcement Officer Turcotte regarding the condition of the property, with the exception of the shed.

The direct evidence and cross examination provided specifically by Officer Turcotte was credible and was not refuted. Officer Turcotte acted appropriately and within her authority to attend the property on September 3 and 18, 2015. Also, in considering the evidence provided by Judy Shepalo and the letter written by Mrs. Tomkins, Committee found that they did not contradict the contents of the Order.

5. **ADJOURNMENT**

**(S. Devisser/J. Summers)**

That the Property Standards Committee meeting be adjourned at 11:55 a.m.

**CARRIED**

Ida Bedioui  
Legislative Co-ordinator,  
Property Standards Committee  
City Clerk's Office

# ORDER

Pursuant to Subsection 15.2(2) of the Building Code Act, 1992 and Section 28 of the Property Standards By-law.

**Property Standards Order No. 16-207487 00 PS**

**Order issued to:**  
**ST. JAMES NO. 1 INC**

**Municipal Address to which Order applies:**  
**1 ST JAMES PL.**  
**HAMILTON, ON**

An inspection on or about **January 21, 2016** of your property, **1 ST JAMES PL. HAMILTON, ON** found that the property does not comply with the standards prescribed by the City of Hamilton's Property Standards By-law 10-221, specifically:

ITEM #	STANDARD (Property Standards By-law Provision)	REQUIRED WORK
1	7(1) In addition to complying with all other applicable provisions of this By-law, the owner of building that is vacant or is damaged by accident, storm, fire, neglect or otherwise shall comply with this section.  7(2) Despite subsection 6(7), where a building on a Part IV heritage property or a Part V heritage property remains vacant for a period of more than 90 days, the owner shall ensure that appropriate utilities serving the building are connected as required to provide, maintain and monitor proper heating and ventilation to prevent damage caused to the building by fluctuating temperatures and humidity.	<b>Ensure the heating/cooling system is maintained and operating to prevent any further building deterioration by fluctuating temperatures and humidity.</b>
2	8(1) All exterior surfaces of a building, structure, fence or retaining wall, including a mobile structure or building, shall be of materials which resist deterioration by the weather or have resistant coatings applied to them, except that a farm building may have unprotected wood surfaces.  8(2) An exterior wall, chimney, roof or other parts of a building, structure, fence or retaining wall, including a mobile structure or building, shall be free from loose or insufficiently secured, rotten, warped or broken materials and objects and such material and objects shall be removed, repaired or replaced.  8(4) An exterior wall and its components and attachments shall be:	<b>(a) Replace/repair any rotted or damaged wood frames around all windows and doors and apply a protective coating to prevent further deterioration.</b>  <b>(b) Remove peeling paint and apply a protective coating to any areas of flashing along top of roof and around chimney which are deteriorated.</b>  <b>Note: A Heritage Permit is required for any work that will</b>

# ORDER

1 ST JAMES PL. HAMILTON, ON

ITEM #	STANDARD (Property Standards By-law Provision)	REQUIRED WORK
	<p>(a) maintained to prevent their deterioration by painting, restoring or repairing the walls, coping or flashing or by waterproofing the wall itself;</p> <p>(b) repaired of vandalism or other damage including but not limited to broken windows.</p>	<p>affect the designated heritage attributes.</p> <p>Cultural Heritage Planning staff are available to assist with technical resources and Permit requirements for Heritage Conservation and can be contacted at 905-546-2424 extension 1214.</p>
3	<p>21(3) An eavestrough or downspout shall be maintained:</p> <p>(a) watertight and free from leaks;</p> <p>(b) free from any obstructions;</p> <p>(c) in a stable condition, securely fastened to the building or structure it drains; and</p> <p>(d) so as to properly perform its intended function.</p>	<p>Reattach downspout extensions on the north west and north east sides of the house and drain away from foundation to prevent water damage to the foundation of the house.</p>

You are ordered, no later than April 3, 2016.

- to carry out the work as set out above.

The City of Hamilton may carry out the work or clear the property at your expense if you do not comply with this Order.

You may appeal this Order no later than **February 22, 2016** by delivering a Notice of Appeal together with the appeal fee (\$128.00 cheque payable to the City of Hamilton) by registered mail or personally to the Secretary of the Property Standards Committee, City Hall, 71 Main St. W., 1<sup>st</sup> Floor, Hamilton, ON L8P 4Y5. The Notice of Appeal form can be found at <http://www.hamilton.ca/propertystandards> or picked up from the Secretary of the Property Standards Committee.

#### Notes:

1. A Building Permit is required before any material alteration or repair to a building or system or before any demolition.
2. If the building is used as rental residential property, you must comply with any applicable requirements under the Residential Tenancies Act, 2006.
3. Failure to comply with this Order is an offence pursuant to paragraph 36(1)(b) of the Building Code Act, 1992 and section 30 of the Property Standards By-law which could result in a fine of up to \$50,000 for a first offence and \$100,000 for a subsequent offence for an individual and \$100,000 for a first offence and \$200,000 for a subsequent offence for a corporation.

# ORDER

1 ST JAMES PL. HAMILTON, ON

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Issued and sent by Registered Mail on: February 2, 2016

Signature: \_\_\_\_\_



Paul Brown  
Municipal Law Enforcement Officer  
905-546-2424 Ext. 1328

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# ORDER

Pursuant to Subsection 15.2(2) of the Building Code Act, 1992 and Section 28 of the Property Standards By-law.

Property Standards Order No. 16-102925 00 PS

Order issued to:  
ST. JAMES NO. 1 INC

Municipal Address to which Order applies:  
1 ST JAMES PL.  
HAMILTON, ON

An inspection on or about **February 4, 2016** of your property, **1 ST JAMES PL., HAMILTON, ON** found that the property does not comply with the standards prescribed by the City of Hamilton's Property Standards By-law #10-221, specifically:

ITEM #	STANDARD (Property Standards By-law Provision)	REQUIRED WORK
1	<p>7(3) Despite subsections 6(3) and 6(4), where a building on a Part IV heritage property or a Part V heritage property is vacant or damaged by accident, storm, fire, neglect or otherwise, the owner shall protect the building against the risks described in subsection 6(2) and shall effectively prevent the entrance of all unauthorized person by closing and securing openings to the building with boarding:</p> <p>(a) which completely covers the opening and is properly fitted in a watertight manner within the side jambs, the head jamb and the exterior bottom sill of the door or window opening so the exterior trim and cladding remains uncovered and undamaged by the boarding;</p> <p>(b) on the window openings, which is painted a matte black to resemble window glass;</p> <p>(c) on door openings, which is painted a colour that matches the colour of the original door;</p> <p>(d) on an opening other than a window or door opening, which is painted or otherwise treated so that the colour matches the colour of the surrounding exterior of the building; and</p> <p>(e) which is fastened securely with screws at least 50 mm in length and installed at appropriate intervals on</p>	<p>Secure the following as per the Property Standards heritage act.</p> <p>a) Secure all windows and doors and all openings on the entire property. Ensure all windows are completely covered and watertight with the side jambs, so the head jamb and the exterior bottom sill of the door or window opening so the exterior trim and cladding remains uncovered and undamaged by the boarding.</p> <p>b) All window (boards)/ coverings must be painted matte black.</p> <p>c) All door (boards)/coverings must be painted a colour that matches the colour of the original doors.</p>

# ORDER

1 ST JAMES PL. HAMILTON, ON

ITEM #	STANDARD (Property Standards By-law Provision)	REQUIRED WORK
centre.		

You are ordered, no later than April 19, 2016:

- to carry out the work as set out above; OR, IN THE ALTERNATIVE.

The City of Hamilton may carry out the work at your expense if you do not comply with this Order.

You may appeal this Order no later than **April 19, 2016** by delivering a Notice of Appeal together with the appeal fee (\$128.00 cheque payable to the City of Hamilton) by registered mail or personally to the Secretary of the Property Standards Committee, City Hall, 71 Main St. W., 1<sup>st</sup> Floor, Hamilton, ON L8P 4Y5. The Notice of Appeal form can be found at <http://www.hamilton.ca/propertystandards> or picked up from the Secretary of the Property Standards Committee.

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Issued and sent by Registered Mail on: **March 31, 2016**

Signature: \_\_\_\_\_

**Michael Francoeur**  
**Municipal Law Enforcement Officer**  
**905-546-2424 Ext. 5412**