



Safety Codes Council

COUNCIL ORDER No. 0015450

**BEFORE THE BUILDING SUB-COUNCIL
On February 19, 2016**

IN THE MATTER OF the Safety Codes Act, Revised Statutes of Alberta 2000, Chapter S-1.

AND IN THE MATTER OF the Order dated April 17, 2015 issued by an Accredited Municipality (the Respondent) against not-for-profit organization (the Appellant) and Her Majesty The Queen In The Right of Alberta.

UPON REVIEWING the Order **AND UPON HEARING** the Appellant and the Respondent; **THIS COUNCIL ORDERS THAT** the Respondent's Order is **VARIED**.

FROM:

- 1.** FORTHWITH STOP any and all work on the buildings indicated in the above schedule and take action to ensure that no person or property is exposed to undue risk because of the aforesaid construction pursuant to Sentence 8.1.2.2.(1) of Division B of the Alberta Building Code 2006. The secured fencing of not less than 1.8 m high shall be installed, maintained and secured as described in Article 8.2.1.3. of Division C of the Alberta Building Code 2006, until written approval to remove said fencing has been issued by the Authority Having Jurisdiction.
- 2.** FORTHWITH Demolish the structures listed in the schedule at the aforementioned address, to comply with Article 2.2.11.1.(1) of Division C of the Alberta Building Code 2006 by 16:00 hours on the 8th day of May, 2015.

The following conditions will apply to the demolition of these structures:

- Demolish all structures listed in the schedule
 - Remove all debris for the site
 - Backfill with clean fill any open excavation evident after demolition
 - Grade the area to match the surrounding grades
 - Contact the Authority Having Jurisdiction once demolition and grading has been completed.
- 3.** Maintain the integrity and security of the Site until conditions listed in item #2 have been approved by the Authority Having Jurisdiction.

TO:

1. FORTHWITH STOP any and all work on the greenhouse structure referred to on the Record as “the Earthship” (Structure # 2 in the Respondent’s Order) and take action to ensure that no person or property is exposed to undue risk because of the aforesaid construction pursuant to Sentence 8.1.2.2.(1) of Division B of the Alberta Building Code 2006. Secured fencing of not less than 1.8 m high shall be installed, maintained and secured as described in Article 8.2.1.3. of Division C of the Alberta Building Code 2006, until written approval to remove said fencing has been issued by the Authority Having Jurisdiction (the “AHJ”).
2. No party shall gain access to the site for whatever reason without permission from the AHJ.
3. On or before May 13, 2016 and to the satisfaction of the AHJ, assemble the necessary documentation and present it to the AHJ along with payment of any required fees, as sufficient and necessary to obtain a building permit for the Earthship structure noted above.

OR

4. FORTHWITH DEMOLISH the Earthship structure to comply with Article 2.2.11.1.(1) of Division C of the Alberta Building Code 2006.

The following conditions will apply to the demolition of the structure:

- Demolish the structure
- Remove all debris from the site
- Backfill with clean fill any open excavation evident after demolition
- Grade the area to match the surrounding grades
- Contact the AHJ once demolition and grading has been completed.

AND

5. Maintain the integrity and security of the Site until conditions listed in the preceding paragraph have been approved by the AHJ.

Issue:

1. It should be noted that of the three structures identified in the original Order, the structures identified therein as #1 and #3 have been demolished in accordance with that Order.
2. It should also be noted that the Earthship, identified as structure #2 in the original Order was/is located at a property adjacent to the address referred to in the original Order. The Appellant acknowledged this fact and had no objections to correcting this error, as requested by the Respondent in its Hearing Brief.
3. The Appeal therefore is concerned solely with the Earthship or Structure #2 as identified in the Respondent’s Order. Pursuant to the Respondent’s Order, the Appellant was ordered by

the Respondent to stop work and take safety precautions to ensure no one is exposed to undue risk and to demolish this structure.

Appearances, and Preliminary, Evidentiary or Procedural Matters:

4. Appearing for the Appellant, the Appeal Panel heard from the President & Executive Director of the not-for-profit organization.
5. Appearing for the Respondent, the Appeal Panel heard from Legal Counsel for the Municipality, the Building Safety Codes Officer, and the Chief Building Inspector.
6. At the commencement of the hearing, the Appellant and Respondent confirmed there were no objections to any members of the Appeal Panel, and that the Safety Codes Council (Council) in general and the Appeal Panel in particular had jurisdiction to hear and decide the appeal.
7. The Appeal Panel Chair (the “Chair”) then explained the process to be followed in hearing this appeal, and read out a list of the written material before the Appeal Panel, consisting of the documents listed below in The Record, paragraph 9 as items a) to i). The Appellant and Respondent confirmed that there were no objections to any of the written material submitted to the Appeal Panel prior to the hearing.
8. During the Respondent’s presentation, the Respondent provided an aerial photograph of the site for consideration by the Appeal Panel. After reviewing the document the Appellant agreed to it being provided to the Appeal Panel with the understanding that many of the structures shown have since been removed, and its only purpose was to confirm the address of the property on which the Earthship is situated. With that understanding, the Chair accepted the submission marked as Exhibit 1- Respondent into the Record.

The Record:

9. The Appeal Panel considered, or had available for reference, the following documentation:
 - a) Order dated April 17, 2015 (pages 1 to 3)
 - b) Notice of Appeal (pages 4 to 7)
 - c) Acknowledgement Letter Dated June 15, 2015 (pages 8 to 9)
 - d) Letter from Respondent dated July 9, 2015 (page 10)
 - e) Email to Respondent from Safety Codes Council dated July 10, 2015 (page 11)
 - f) Appeal Hearing Brief Preparation Guide (Page 12)
 - g) Written Notification of Hearing (pages 13 to 14)
 - h) Hearing Brief of the Appellant (pages 50 to 67)
 - i) Hearing Brief of the Respondent (pages 200 to 262)
 - j) Exhibit 1- Respondent, aerial photograph of the site (page 263)

Provisions of the Safety Codes Act:

10. The *Safety Codes Act* (S-1, RSA 2000), as amended provides, *inter alia*:

Interpretation

1(1) In this Act,

- (v) “owner” includes a lessee, a person in charge, a person who has care and control and a person who holds out that the person has the powers and authority of ownership or who for the time being exercises the powers and authority of ownership;

Part 1

Responsibilities

Owners, care and control

5 The owner of any thing, process or activity to which this Act applies shall ensure that it meets the requirements of this Act, that the thing is maintained as required by the regulations and that when the process or activity is undertaken it is done in a safe manner.

Part 5

Orders, Appeals

Council considers appeal

52(2) The Council may by order

- (a) Confirm, revoke or vary an order, suspension or cancellation appealed to it and as a term of its order may issue a written variance with respect to any thing, process or activity related to the subject-matter of the order if in its opinion the variance provides approximately equivalent or greater safety performance with respect to persons and property as that provided for by this Act.

Provisions of the Safety Codes Act Building Code Regulation 117/2007, as amended

11. Alberta Regulation 117/2007, as amended states, in part:

1. The *Alberta Building Code 2006*, as established by the Safety Codes Council and published by the National Research Council of Canada, is declared in force with respect to buildings, with the variations set out in the Schedule.

Provisions of the Safety Codes Act Permit Regulation 204/2007, as amended

12. Alberta Regulation 204/2007, as amended states, in part:

Interpretation

1(1) In this Regulation,

- (i) “farm building” means a building located on agricultural land as defined in the *Agricultural Operation Practices Act* that is occupied for an agricultural operation as defined in the *Agricultural Operation Practices Act*, including, but not limited to,
 - i.) Housing livestock,
 - ii.) Storing, sorting, grading or bulk packaging of agricultural products that have not undergone secondary processing, and
 - iii.) Housing, storing or maintaining machinery that is undertaken in the building;

Provisions of the Alberta Building Code 2006 (ABC 2006):

13. The Alberta Building Code 2006 provides, *inter alia*:

Division B

Part 8 Safety Measures at Construction and Demolition Sites

8.1.2.2. Protection from Risk

- 1) Precautions shall be taken to ensure that no person is exposed to undue risk.

8.2.1.3. Fencing, Boarding or Barricades

- 1) When a construction or demolition activity may constitute a hazard to the public and is located 2 m or more from a *public way*, a strongly constructed fence, boarding or barricade not less than 1.8 m high shall be erected between the site and the *public way* or open sides of a construction site.
- 2) Barricades shall have a reasonably smooth surface facing the *public way* and shall be without openings, except those required for access.
- 3) Access openings through barricades shall be equipped with gates that shall be
 - a) kept closed and locked when the site is unattended, and
 - b) maintained in place until completion of the construction or demolition activity.

Division C

Part 2 Administrative Provisions

2.2.9.1. General

- 1) A *permit* is required for the construction, *alteration*, installation, repair, relocation, demolition, or change in *occupancy* of any *work* to which this Code applies in accordance with regulations made pursuant to the Safety Codes Act.
- 2) In addition to a *permit* that is required by Sentence (1), other *permits* may be required for the installation of related *building* services.
- 3) An *owner* shall ensure that all *permits* required in connection with proposed *work* are obtained before starting the *work* to which they relate.

2.2.11.1. Prohibited Actions

1) No Person

- a) shall fail to complete construction or demolition that is regulated by this Code and is shown on the plans, specifications and documents before occupying a *building* without first having obtained the permission of the *authority having jurisdiction* in accordance with this Section,
- b) being responsible for the use, *occupancy*, relocation, construction, *alteration*, demolition of, or addition to a *building* shall cause, allow or maintain an *unsafe condition*,
- c) shall undertake *work* on, over or under public property, or erect or place any construction or store any material thereon, without first having obtained permission from the appropriate authority,
- d) shall allow the property boundaries, or grading of a *building* lot to be changed so as to place a *building* in contravention of this Code unless the *building* is altered, after obtaining any necessary *permits*, so that no contravention will occur as a result of the change of the property boundary or grading, of the *building* lot,
- e) shall knowingly submit false or misleading information,
- f) shall change the size or scope of a *project* for which a *permit* has been issued, or permission to construct has been given, without first having obtained, in writing the permission of the *authority having jurisdiction* or
- g) shall remove or deface any label or marking on a material or product that has been affixed to show compliance with this Code or a referenced document.

2.2.14. Correcting an Unsafe Condition

- 1) If a *building* is in an *unsafe condition*, the *owner* shall forthwith take all necessary action to correct the condition.
- 2) The *authority having jurisdiction* may order the *owner* of any *building* to correct any *unsafe condition*.
- 3) If immediate measures must be taken to avoid an imminent danger of fire or risk of accident, the *authority having jurisdiction* may take any action deemed necessary to reduce the danger of fire or risk of accident, without notice, and at the expense of the *owner*.

Position of the Parties

Appellants

From the Appellants' submissions and testimony the Appellants' position may be summarized as follows:

14. The appellant is a largely volunteer, not-for-profit organization, growing fresh food for the Food Bank and other organizations. Both the Municipality and the province have been supportive of their efforts.

15. Section 3 of the *Municipal Government Act* (“MGA”) indicates that the purposes of a municipality include the provision of good government and the provision of facilities that are necessary or desirable.
16. Municipal “policy” on food production and sustainability is essentially outlined in a document unanimously approved by City Council in 2006-07. In essence, the City has already subscribed to structures such as the Earthship which is the structure at issue.
17. The Appellant submitted that section 5 of the MGA requires the City to adhere to provincial enactments and with the City’s own policies. The appellant expressed concern over the response by both levels of government to the building of a structure such as the Earthship, to grow food for the needy. The appellant submitted that it was not consistent with the provision of good government to “go after” the Earthship.
18. Notwithstanding that the Earthship had received thousands of visitors with no reports of injury, after discussion with the municipality, the appellant engaged a globally respected engineering firm, to find out what action could be taken to resolve safety issues listed in the original Order.
19. The Appeal Panel members were asked to note item 1.0 of the engineering firms, Structural Project Review Report of January 20, 2016, (page 54 of the Appellant’s Hearing Brief) stating “No safety concerns to note.”
20. The appellant demolished two of the structures as requested, thus impeding their ability to produce fresh food going forward (66% reduction in capacity), despite which the municipality is still “going after them”.
21. The Appeal Panel members were asked to note the February 3, 2016 letter from the Vice President for the not-for-profit organization, (page 50 Appellant’s Hearing Brief) in particular how the Earthship has inspired volunteers and visitors, many of whom are shocked that the municipality is not working with them to resolve this matter. The appellant hopes to expand operations in the future (there is lots of land for growing) but the municipality is “standing in the way”.
22. With hindsight, the appellant realizes they made a mistake by allowing the three structures to be built without permits, but at the time they didn’t think anybody cared. They were well into construction when city officials appeared on site.
23. They had obtained a development permit (which is still valid) but didn’t realize a building permit was required.
24. The Appeal Panel members were asked to note the technical drawings of the Earthship type of construction on pages 65 – 67 of the appellants Hearing Brief. This type of construction is accepted in more than 30 jurisdictions across North America and just because it is not a familiar style of building structure, and embraces alternative materials and methods, authorities should not automatically thwart or impede their use. The Appellant believes if

this had been constructed outside of the City it would not be an issue.

25. The Appellant asked the Appeal Panel members to note the photographs submitted by both the not-for-profit organization and the municipality. He said the structure looks solid and he himself believes it is safe.
26. The President & Executive Director said that he and the Appellant take safety seriously but it should not be used as a club, suggesting sometimes safety goes too far, and that the municipalities' actions are indicative of a "nanny state".
27. The engineering report says the building is not going anywhere and is not a public safety concern. The site is surrounded by a fence and a guard rail has been constructed to prevent falls from the roof of the structure. Notwithstanding everything the not-for-profit organization has done the municipalities actions suggest the City does not want them to even be there. Even the appellant's opportunity to argue their case before the Safety Codes Council was challenged.
28. The safety concerns have all been addressed and although it hasn't been fun, the appellant feels there is now a better understanding between the two parties and the not-for-profit organization is 100% committed to working with the municipality, beginning with pursuit of an updated development permit and a building permit for the Earthship.
29. They are, however, in a Catch 22, with "Zoning" telling them to talk to the province and the province telling them that they cannot talk until they have resolved matters with the City.
30. In response to questions from the Appeal Panel, The appellant said the Earthship, once completed, will be used primarily to grow food year round and not likely, as the vice-president suggested, to hold meetings. The land (part of a Transportation Utility Corridor) is leased from the province through Alberta Infrastructure. The Minister is aware of this issue and in contact with the municipality. There are other tenants also leasing the land, most involved in more traditional farming methods. Because the not-for-profit organization is more of a market garden operation, they need a greenhouse.
31. The lease is an agricultural lease in general and does not address greenhouse structures.
32. The facility is a demonstration farm and available to the public.
33. During the hearing the appellant said he felt he was out of his element and apologized for that. He also acknowledged his error in not obtaining the necessary permits before construction began, reminding the Appeal Panel of the not-for-profit organizations volunteer make-up and lack of significant financial resources. It was not the appellants intention to "snub" safety codes.
34. The Appeal Panel must consider why the appellant acted the way they did. They have very limited money, despite which they demolished structures 1 and 3 to appease the municipality. The suggestion by the municipality that the appellant has "done nothing" is

offensive. There was nothing on site when they started and they have had discussions, shared e-mails and conducted tours for both levels of government.

35. The Appellant will earnestly pursue a solution for this situation, noting that while the City is quite willing to let them know what they are doing wrong, they are not willing to find a solution.
36. The appellant is willing to accept the Appeal Panel's advice on how to proceed, but it would be very sad if the Earthship was demolished. It is the product of thousands of hours of volunteer labour and its capacity for producing food is huge. Demolishing the structure is an easy answer, while trying to fix it is a win-win.
37. Given the appellants lack of resources, they are not able to move as quickly as the municipality.
38. In closing, the Appellant said that if the Appeal Panel ruled in favour of the appellant, they are ready to work with the City to obtain the necessary permit(s) to achieve what is the first Earthship greenhouse in Alberta and maybe in Canada.

Respondent

From the Respondent's submissions and testimony, the Respondent's position may be summarized as follows:

39. Photographic evidence was submitted (Exhibit 1 Respondent) confirming the correct address of the property in question and on which the Earthship is located.
40. The SCO testified that public safety was and is the City's primary concern. Originally there were three structures on the property, two of which have since been demolished.
41. The Appeal Panel members were asked to note the photo on page 226 of the Respondent submission, showing the tire structure backfilled with earth and covered with a tarp. The structure was secured by a fence which was breached on more than one occasion as shown in the photograph on page 216, despite assurance from the appellant this would not happen.
42. Despite the appellants testimony that the use of the building may be restricted to growing vegetables only, the Appellant's Hearing Brief (page 51) says the building would be used for meetings, despite no heating or fire protection.
43. The structure was constructed without permits and does not meet code. For this reason it was ordered demolished.
44. The Chief Building Inspector testified he had discussions with the appellant regarding permit issues in the summer of 2015. The appellant acknowledged then that 2 of the 3 structures would be demolished, which the building inspector took to be a positive step so

he extended the deadline for demolishing structure #2 until December 2015.

45. There was an on-site meeting on December 11, 2015 which the building inspector felt was a good meeting, during which it was agreed the fence was not to be removed and the appellant was told to obtain the necessary permits and retain a professional if they wished to proceed with the greenhouse structure.
46. A new development permit must be applied for as the existing permit is in general terms and does not provide for a structure such as the Earthship.
47. Numerous e-mails (not part of the record) have been exchanged between the respondent and the appellant in the City's efforts to achieve a satisfactory outcome.
48. While the appellant has cited the January 20, 2016 engineering report as confirmation that the structure is safe, the building inspector is concerned because it is not a stamped document and says the guard rail is safe. Photographic evidence shows clearly it is not compliant.
49. This has been a year-long effort on the part of the respondent and the appellant is not helping. The appellant is aware of what they must do to obtain the necessary permits but has not done so. The building inspector believes if the Safety Codes Council (the "Council") does not uphold the municipalities order, the matter will be back before the Council in six months.
50. Legal counsel for the respondent reminded the panel that the Order was based on the fact that construction of structure #2 occurred without permit(s) and therefore not in compliance with the Safety Codes Act (the Act). The building structure is such that professional involvement is required.
51. It is within the municipality's jurisdiction to order that this structure be demolished and they are asking that the Appeal Panel uphold this decision.
52. Legal counsel submitted that the fact that the Order was served also on the Province and they neither appealed nor attended the hearing suggests they accept the Order as presented and support the demolition of the Earthship.
53. In response to questions from the Appeal Panel, the Respondent said that while a development permit was in place, it limited development to three sheds or planters and one temporary greenhouse on wheels. It did not allow for a structure such as the Earthship.
54. When the Appeal Panel asked a question about the development permit, the Appeal Panel was reminded this matter was not before the panel and in fact, outside its jurisdiction. Whether or not the appellant needs another development permit is not the issue under appeal. The issue before the Appeal Panel relates to construction that occurred without a building permit.

55. Whether or not the City was aware this was an agricultural lease, and whether the lease would even allow permanent structures is again not an issue for the panel.
56. The building inspector said the province has been kept advised throughout this process, and while they are supportive of what the appellant is trying to achieve, they do not support building without permits, and are not willing to provide a letter of authorization to allow this matter to move forward.
57. There were many discussions with the appellant in the summer of 2015 regarding whether the Earthship was even worth saving. The municipality was unaware an engineering firm had been consulted until December 2015, despite that firm's involvement leading up to the September 15, 2015 report.
58. The fence that was installed around structure #2 is there at the expense of the taxpayers of the municipality and will remain in place until this matter is resolved.
59. The City believes the building falls under the classification of "special construction" requiring professional involvement. It cannot proceed as a variance or alternative solution. It definitely requires engineering. The City has never considered this a farm building.
60. In response to questions from the Appellant, the Respondent provided the following additional information.
 - a) They are familiar with Earthship type construction in general and do not deny it is a recognized and valid form of construction.
 - b) They are aware a similar structure has been successfully permitted in another municipality.
 - c) They did not do extensive research on the Earthship in general since without plans/drawings for a specific building it would not move the process ahead. Once they receive a pre-application/application, have a set of plans they can examine and appropriate permit(s) have been applied for, they can move ahead with this matter, but not before.
 - d) They are aware several officials have visited the site but the focus needs to be on this particular building and not the Earthship type construction in general.
 - e) The appellant has indicated on several occasions they will apply for development and building permits but this has not happened.
 - f) There are many volunteer/not-for-profit organizations in the municipality who construct buildings after obtaining the proper permits.
 - g) The City acknowledges that the appellant expressed willingness to "meet immediately", but without the appropriate plans/drawings and letter of authorization from the landlord, a meeting would not move this matter ahead. The City has gone over and above what is usual and while the appellant says he has a lot of information to present, they have no confidence the information is such that it will move the matter ahead.
 - h) They are aware a guard has been constructed and that the engineering firm says it is happy with the guard. Referring to photographic evidence on pages 226, 218 and 219

of the Respondent's Hearing Brief, the building inspector said what is shown is not what the City asked for, and it is not code compliant.

- i) The City is aware of the stamped document from the engineer following a September 1, 2015 site visit, containing observations and recommendations, but the later (January 20, 2016) Project Report is not stamped. The City acknowledges some alterations have been made to the structure as identified in that report.
 - j) The City's concern is with site safety and while they acknowledge the appellant was granted access to the site to access items within the fenced area, the fence was breached on multiple other occasions without permission.
 - k) The City did not disagree when the appellant asked if it was aware that the proposed structure requires no heat source as it uses passive solar heating when complete.
 - l) The City's representatives confirmed that the City believes it is in the best interest of the citizens of the municipality to demolish this structure.
 - m) There has been a lot of communication between the government of Alberta and the City over this project, but the City is not prepared to provide the appellant with the details of such contact.
- 61.** In closing, the municipality reminded the Appeal Panel members that the appeal is of an Order to demolish a structure that is not code compliant. It is not a farm building as recognized in the Code, but rather requires a permit and professional involvement as it involves special construction.
- 62.** The municipalities concern is for the safety of the many volunteers and visitors to the site and if the Order to demolish is not upheld, the appellant has no incentive to comply.
- 63.** While the City supports initiatives such as this, the City does not believe further effort on its part will achieve anything. The appellants' suggestion that "they don't understand" is understood, but they need a set of drawings before they can do anything. The appellants' request for a letter he can take to the province attesting to the fact they are working together, is unheard of and it is up to the appellant to work with the province to get the necessary documentation to bring to the respondent.
- 64.** The appellant has been on that site for almost three years which is plenty of time for them to come to the City and provide the appropriate documentation for approval.
- 65.** The respondent asked the panel members to uphold the Order to demolish so that everyone could finally move ahead.

Both parties expressed a willingness to provide the panel with a record of the reportedly extensive e-mail communication surrounding this matter.

Reasons for Decision (Findings of Fact and Law):

The Appeal Panel makes the following findings:

66. While the Order was served to both the not-for-profit organization and Her Majesty The Queen In The Right of Alberta, that the Government of Alberta did not attend the hearing does not, in the Appeal Panel's opinion necessarily suggest acceptance of the Order and support for the demolition of the Earthship as suggested by the Respondent. The Appeal Panel understands that its non-attendance merely means that the provincial government is not taking a position in the matter.
67. The Earthship structure has been partially constructed but is not complete. Both parties agreed and the Appeal Panel finds as a matter of fact and law that construction of the Earthship was undertaken without a building permit and that such a permit is required under the Safety Codes Act.
68. The appellant admits its error in beginning construction prior to obtaining the necessary permits.
69. The Appeal Panel accepts the appellant's declared willingness to do whatever is necessary to save the Earthship structure and complete the greenhouse project and does not Order immediate demolition of the structure as requested by the Respondent.
70. While there was considerable discussion during the hearing regarding the need for professional involvement, classification of the building, and details of the lease agreement; without additional documentation, specifically building plans and information from the Appellants' landlord as to what type of structure(s) it authorizes to be built on the land, such discussion is both premature and moot.
71. The Appeal Panel does not however conclude structure # 2 can be considered a farm building given the possible uses of the structure, access to it by members of the public, and its proximity to a public way.
72. The decision of the Appeal Panel to vary the order can be summarized as follows:
 - a) The partially completed Earthship structure was constructed without a permit.
 - b) A development permit and building permit are required before construction can continue.
 - c) The Appellant is aware of what information is needed to obtain the necessary permits.
 - d) It is the appellant's responsibility to assemble and submit the necessary information, including plans/drawings.
 - e) Should it wish to continue construction on the Earthship greenhouse, it is the appellant's responsibility to engage a professional to oversee the project due to the special construction and size of the structure.
 - f) In its current state, the Earthship is a construction without permit and a construction site, and there is to be no occupancy or public access pending compliance with the above. As the structure is adjacent to the public way (public lands and parking lots)

Fencing is required and must remain in place until the AHJ grants occupancy or the structure is demolished in accordance with the requirements of this Order, and to the satisfaction of the AHJ.

- g) While the guard currently in place is sufficient for a construction site it is not sufficient to ensure the safety of public access or visitors to the site.
- h) In all of the circumstances, the Appeal Panel is prepared to provide the Appellant with one last opportunity to provide the City with an acceptable building permit application, failing which the demolition order comes into effect. The Appeal Panel believes ten weeks is a reasonable time in which to achieve this.

Dated at Edmonton, Alberta this 3rd day of March 2016

Chair, Building Sub-Council Appeal Panel