The Corporation of the Municipality of Red Lake

PROPERTY STANDARDS COMMITTEE
Terms of Reference

Purpose

The Property Standards Committee is a quasi-judicial body with authority under the provisions of Section 15.1 and 15.6 *Building Code Act, 1992, S.O. 1992*, c. 23, to hold public hearings on appeals submitted to the Municipality for matters related to The Corporation of the Municipality of Red Lake's *Property Standards By-Law and Yard Maintenance By-Law.*

The committee operates independent Council and the decisions of the Property Standard Committee may be appealed to the Superior Court of Justice.

Mandate

The mandate of the Property Standard's Committee is to hear and determine all appeals in accordance with the procedures established under the provisions of the *Statutory Powers Procedures Act.*

An owner or occupant who has been served with an order made under subsection 15.2 (2) of the Building Code Act and who is not satisfied with the terms or conditions of the order, may make an appeal to the Property Standards Committee by sending a notice of appeal by registered mail to the Secretary of the Committee within 14 days after being served with the order.

The Committee considers appeals to Property Standards Orders and Yard Maintenance Notices issued by Property Standards Officers. It is the responsibility of the Secretary of the Property Standards Committee to accept all applications for processing, upon submission by an Appellant.

When an appeal has been taken, the Secretary shall give of a hearing to the Appellant and to affected parties (as determined by the Secretary).

The Committee is authorized under the *Building Code Act* to:

- Hear an appeal, properly and duly filed by an Appellant
- On an appeal, exercise all the powers and functions of the officer who made the Order or Notice and the committee may confirm, modify or rescind the Order or Notice, if in the committee's opinion doing so would maintain the general intent and purpose of the *Property Standards By-Law, Yard Maintenance By-Law* and the *Official Plan*.

Operation

The Property Standards Committee (PSC) is responsible for the observance and protection of applicable building law and for protecting the rights of individuals affected by its decisions.

The common law principles of natural justice require the PSC to ensure that individuals affected by their decisions have their equivalent of "a day in court".

The Committee must also satisfy legal requirements concerning notice, public hearings, calling of those who desire to be heard in favour of or against the application, notice of decisions and recording of proceedings.

The legal procedures detailed in the *Building Code Act, Municipal Act, Statutory Powers Procedures Act, Municipal Conflict of Interest Act* and *Municipal Freedom of Information* and *Protection of Privacy Act* govern the Property Standards Committee.

The PSC is guided by policies and controls established by Council through the *Property Standards By-Law, Yard Maintenance By-Law, Official Plan* and *Building Code Act.*

Hearings

PSC public hearings are held on an as required basis at the call of the Secretary, in consultation with the Committee Chair. When called, the public hearing is held in the Council Chambers, Municipal Office.

Reporting

The Secretary shall keep on file the records of all official business of the committee, including records of all applications and minutes of all decisions respecting those applications, and Section 253 of the Municipal Act, 2001 applies with necessary modifications to the minutes and records, pursuant to Section 15.6 (7) of the Building Code Act.

Minutes are circulated to Council for their information.

The Committee may make recommendations on issues within their Terms of Reference that warrant Council's consideration.

Organization

The PSC is composed of three (3) members appointed by resolution of Council. One of the members may be a member of Council. An alternate member may be appointed to serve on the committee when a regular member of the Committee is not available.

Members appointed to the Property Standards Committee may also be members who are appointed to the Committee of Adjustment.

Pursuant to Section 15.6 (4), the members of the committee shall elect one of themselves as Chair, and, when the Chair is absent through illness or otherwise, the committee may appoint another member to act as Acting Chair.

Term of Appointment

The members of PSC shall hold office for the term of the council that appointed them.

Council maintains the right to rescind appointments where Council deems it to be in the best interest of the Municipality.

Members are eligible for reappointment. Where a member ceases to be a member before their expiration of their term, Council may appoint another eligible person for the unexpired portion of the term.

No honorarium will be paid to members

Member Eligibility/Application/Appointment/Vacancies

In accordance to the "Appointments of Citizens to Boards and Committee's Policy".

Absenteeism

Members who are unable to attend hearings are required to report their absence to the Secretary prior to the hearing date and/or time. Members having three (3) consecutive unexcused absences shall be deemed to have resigned from the Committee and shall be replaced through the member appointment process.

Quorum

Pursuant to Section 15.6 (1) of the Building Code Act, a by-law passed under Section 15.1 shall provide for the establishment of a committee composed of such persons, not fewer than three (3), as the council considers advisable to hold office for such term and on such conditions as the by-law may establish.

Pursuant to Section 15.6 (5) of the Building Code Act a majority of members constitutes a quorum for transacting the committee's business.

For the purposes of the three (3) members appointed to the Corporation of the Municipality of Red Lake Property Standards Committee, the quorum is two (2) members.

Duties and Responsibilities

Chair

- Presides at all public meetings and exercises authority and performs duties as required.
- Provides guidance and leadership to the committee in the completion of its mandate.
- Ensures that decorum is maintained at each meeting and that rules of procedure and conduct are observed.

Acting Chair

- Acts in the Chair's absence and assumes the roles and responsibilities of the Chair.

Members

- Attend hearings, consider applications for appeal
- Attend site inspections for properties subject to appeals.

Administrative Support Staff

- Secretary (Municipal Clerk) or Designate) (Non-Voting)
- Recording Secretary (Executive Assistant) (Non-Voting)
- By-law Enforcement Officer (Non-Voting)
- Chief Building Official (Non-Voting)

Agenda

The Secretary-Treasurer shall arrange to have the agenda prepared. Insofar as practicable, agendas, along with supporting material shall be prepared and emailed or made available to PSC members five (5) days prior to the scheduled meeting.

Agendas along with supporting material shall be posted on the Municipal website four (4) days prior to the scheduled meeting.

Legislation

Municipal Act, Building Code Act, Statutory Powers Procedures Act

Property Standards Committee decisions will be made at a public hearing. All information pertaining to an application will be presented at the hearing and all discussion on the specifics of an application will take place at the hearing.

Municipal Conflict of Interest Act

Members may have pecuniary conflict of interest as they have decision-making ability. Members should be cognizant of conflict of interest or perceived conflict of interest in terms of issues which may serve to benefit them personally.

i) a) When present at a hearing at which matter considered

Where a member, either on their own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a Property Standards Committee public hearing at which the matter is considered, the member:

- Shall, prior to any consideration of the matter at the hearing, disclose the interest and the general nature thereof;
- Shall not take part in the discussion of, or vote on any question in respect of the matter;
- Shall not attempt in any way whether before, during or after the hearing to influence the voting on any such question.

b) When present at a "closed" hearing at which matter considered

Where a hearing is not open to the public, in addition to complying with the requirements set out above, the member shall forthwith leave the hearing or the part of the hearing which the matter is under consideration.

ii) When absent from hearing at which matter considered

Where the interest of a member has not been disclosed by reason of the member's absence from the hearing, the member shall disclose the interest and the general nature thereof, and comply with the requirements listed above, at the first hearing attended by the member after the hearing at which the matter was considered.

iii) Disclosure to be recorded in the minutes

Every declaration of interest and the general nature thereof shall be recorded in the minutes of the hearing.

Municipal Freedom of Information and Protection to Privacy Act

Members will act to protect the privacy of individuals with respect to personal information contained in application forms and information circulated to the Committee and to ensure that the personal information is used solely for the processing of the application.

Other Items of Reference

Except as otherwise provided in the Terms of Reference, all other procedural matters respecting the calling, place and proceedings of meetings shall be governed under the Municipal Procedural By-Law. Where there is a contradiction between the Terms of Reference in terms of hearing procedure rules, the Municipal procedural by-law and applicable legislation shall prevail.

The Property Standards Committee is subject to the Open and Transparency and Accountability By-Laws/Policies of the Municipality of Red Lake.

Terms of reference shall be reviewed during the term of each Council or more frequently, as required.

Code of Conduct for Council Appointed Board Members

1. Members shall attend and actively participate in all hearings.

2. Members shall not interfere with the operational decisions and responsibilities of the day to day operation of the municipal workforce.

3. Members are encouraged to undergo any training that may be provided for them through the Ministry of Municipal Affairs and Housing.

4. Members shall keep confidential any information deliberated in the absence of the public, Property Standards Officer, and the Appellant.

5. Members shall discharge their duties loyally, faithfully, impartially and according to the Municipal Act or any Regulation, Rule or By-Law.

6. Members shall not use their office to advance their interests or the interests of any person or organization with whom or with which they are associated.

Public Hearing Procedure

Notice of Appeal

1. A Notice of Appeal may be filed by a property owner, an agent authorized by the property owner or an occupant.

2. A Notice of Appeal must be sent by registered mail or personally delivered to the Secretary of the Property Standards Committee on or before the appeal deadline date set out in the Order or Notice to Comply.

Notice of Hearing

1. Upon receipt of a Notice of Appeal, the Secretary will send a Notice of Hearing to the Appellant and to affected parties (affected parties will be determined by the Secretary), by registered mail at least 21 days prior to the hearing.

2. The Notice of Hearing includes the date, time and location of the hearing, and advises the Appellant that the matter may be heard and decided by the Property Standards Committee in their absence if they do not attend the hearing.

3. Property Standards Committee public hearings are held on as a required basis at the call of the Secretary, in consultation with the Chair. When called, the public hearing is held in the Council Chambers, Municipal Office.

Disclosure

1. The Property Standards Officer, who attends the hearing in support of the Order or Notice, will send a disclosure package to the Appellant, which may include the following:

    - A copy of the title search showing ownership of the property
    - A copy of the signed Order or Notice
    - A copy of the signed courtesy letter sent to the Appellant (if applicable)
    - A copy of the Property Standards Officer’s notes.

- A copy of the photographs taken by the Property Standards Officer.
- A copy of any relevant maps, drawings or other documents
- A list of additional material that may be used at the hearing such as additional photographs of the property
- A request for disclosure from the Appellant including the deadline date.

2. If the Appellant has any material, such as documents or photographs, that he/she wishes to use during the hearing, the Appellant should disclose the information/document(s) to the Property Standards Officer in advance of the hearing, as requested in the disclosure package.

3. If either the Property Standards Officer or the Appellant brings forward material during the hearing that has not been disclosed to the other party in advance, the Chair of the Committee will recess the hearing to allow the other party to review the material. When the hearing resumes, the other party will be given the opportunity to state any objections to the use of the material during the hearing. The Committee will decide, based on the submissions of the parties, whether or not the material may be referred to or introduced into evidence.

Committee Agenda

An Agenda is available for the public at the hearing.

Legal Counsel

The Appellant may choose to be represented by a lawyer or an agent (who, in accordance with the Law Society Act and its regulations may provide representation), or may be self-represented.

Public Hearing

1. All Appellants and/or their representatives must sign in.

2. The Chair will call the hearing to order to ask Committee members to declare any conflicts of interest.

3. The Secretary will advise of any changes to the Agenda. The Committee will approve the Agenda and adopt the previous hearing minutes.

4. The Chair will ask the Property Standards Officer whether or not any requests for adjournment or Orders or Notices that have been complied with. The Committee deals with these matters first.

5. The Chair will state the municipal address of the property for which the appeal is being heard.

6. The Property Standards Officer will present its case first. The Property Standards Officer may make an opening submission.

7. The Property Standards Officer will call his/her witnesses. Once called, a witness is sworn in, either under oath or by affirmation by the Secretary.

8. At the conclusion of the testimony of each of the Property Standards Officer's witnesses, the Appellant and then the Committee may ask their own questions of the witness(es).

9. After the Property Standards Officer has called all of his/her witnesses, the Appellant will call their witnesses who may be the Appellant themselves and/or other witnesses. Again, once called, a witness is sworn in, either under oath or by affirmation.

10. At the conclusion of the testimony of each of the Appellant's witnesses, the Property Standards Officer and then the Committee may ask their own question of the witnesses.

11. The Appellant and then the Property Standards Officer will make final submissions. The final submissions should include what each party is requesting of the Committee with respect to confirming, modifying or rescinding the Order or Notice and/or extending the time for complying with the Order or Notice.

12. The Property Standards Committee may retire to deliberate in the absence of the public, the Property Standards Officer, and the Appellant. The Secretary shall retire with the Committee.

Decision

1. The Committee renders its decision on the matter in the presence of the public, the Property Standards Officer and/or designate and the Appellant. If Committee determines that additional information is required to render a decision, it may adjourn the matter to a future hearing date.

2. In its decision, the Property Standards Committee may confirm, modify or rescind the Order or Notice and/or extend the time for complying with the Order or Notice.

3. A copy of the decision of the Property Standards Committee will be sent to the Appellant by Registered Mail within 2 weeks of the public hearing.