



**The Corporation of the Township of Tay
Property Standards Committee**

**Municipal Office, Council Chambers
Agenda**

January 15, 2020

5:30 p.m.

1. Call to Order

2. Disclosure of Interest

3. Requests for Deferral or Withdrawal

4. Public Hearing

4.1 85 Todd Lane

- a) Report from the Property Standards Officer
- b) Presentation – Appellant

5. Decision

6. Adjournment



STAFF REPORT

Department/Function: Planning and Development

To: Property Standards Appeal Committee Members

Meeting Date: January 15th, 2020

Subject: **85 Todd Lane-Notice of Appeal to Property Standards Committee regarding an Order to Remedy Non Conformity with the Property Standards By-law.**

RECOMMENDATION:

That the committee recommend that the order dated November 1st, 2019 be confirmed.

INTRODUCTION/BACKGROUND:

This is now the second Property Standards Order that has been appealed in regards to this property. The first appeal on a previous Order was scheduled and heard on March 21st, 2018. The decision rendered in that hearing was as follows:

- The owner was to contact the Building department within 5 days to see which items needed to be removed and repaired from the deck and then 14 days to have the deck repaired.
- A deadline of July 1st, 2018 to fix the roof
- A deadline of September 1st, 2018 to fix the siding on the dwelling unit.

On April 13th, 2018 Officer KENNEDY attended the address to find that the deck had been repaired but upon searching the property information there was no Building Permit taken out for deck repairs. This was forwarded onto the Building department to follow up on.

On two separate visits after each deadline, it was found that both the roof and the siding had not been repaired by the set deadlines and Mr. SEGUIN was subsequently charged for "Fail to Comply with an Order to Comply".

On December 6th, 2018 Mr. SEGUIN attended court and the matter was adjourned to February 14th, 2019 to give him additional time to comply with the Order. On February 14th, 2019 Mr. SEGUIN failed to appear in court and the matter was adjourned for an "ex-parte" trial on June 6th, 2019. On June 6th, 2019, Mr. SEGUIN failed to appear and the trial was conducted which resulted in a conviction and a fine imposed at \$1500.

On June 28th, 2019, Officer KENNEDY attended the address and found that the siding had been repaired but the roof was still outstanding. Over the next few months Officer KENNEDY obtained various quotes from roofing contractors to repair the roof. On August 9th, 2019 a roofing company attended to start to repair the soffit and fascia and when they started to do the work they noticed that the rafter tails inside were heavily rotted and they were unable to do any repair work as they couldn't fasten the roofing material. It was suggested, that the next step would be to have an engineer attend and do an assessment on the structural integrity of the roof.

With that suggestion another Order was issued to the owner on August 20th, 2019 under Section 15.2 and 15.8 of the Ontario Building Code Act. This Order stated that the owner must provide a professional engineers report on the structural integrity of the roof of the dwelling unit by September 6th, 2019 and then all necessary/recommended repairs from that report were to be completed by September 30th, 2019.

No professional engineers report was submitted to the Township by Mr. SEGUIN by the deadline and the Township subsequently hired a Professional Engineer to do the assessment at the homeowners cost. There was difficulty with this as the engineer was unable to go inside the house to look but did attend on September 27th, 2019 and gave a report which stated that "refurbishment would consist of removing the roofing and any sheathing and carefully examining the rafters. An assessment then could be made as to whether to reinforce rafters or totally remove and replace, perhaps with a truss roof." It further stated that "the remainder of the building should be carefully reviewed to see if it warrants repair or demolition."

With the recommendation of the full assessment of the dwelling, a new Order was then issued to the owner on November 1st, 2019 which stated that the owner must provide a professional engineers report on the structural integrity of the dwelling unit in its entirety by November 20th, 2019 and all necessary/recommended repairs to be completed by November 20th, 2019. The reason for the tight timeline in this Order is because the length of this file has been ongoing since November 2nd, 2017 and with the winter months approaching it was determined if work needed to be done on the dwelling it could hopefully start before too much snow had fallen. The

Order dated November 1st, 2019 is the Order that has been appealed by Mr. SEGUIN.

Photos of deficiencies are attached hereto as "Schedule A".

A copy of the Order is attached hereto as "Schedule B".

A copy of the professional engineers report is attached hereto as "Schedule C".

ANALYSIS:

The By-law department has had 2 Property Standards files on this property since November 2nd, 2017. One has since been closed as it was dealt with through the court system after the Property Standards Committee deadlines had passed. A new Property Standards file was opened on August 12th, 2019 which is where the most current Order is located. Staff have found it challenging in this situation as the work needed to repair the roof requires an assessment be done from inside of the house and the only way to enter the dwelling without the permission of the home owner is by way of a search warrant to do the assessment. Township staff were had concerns that a Justice of the Peace would grant a search warrant for such an action and therefore have relied on the Orders requiring the owner to provide the full report to the Township.

Since the date of December 6th, 2018 where Mr. SEGUIN attended court, there has been no contact made with Township staff for the duration of this file despite the Township's constant efforts by sending Orders and posting them on the front door of the house as well as making numerous phone calls and leaving numerous messages to return those phone calls. With no response to any form of communication, the Township did act on some portions of the Orders such as obtaining a professional engineers report on the roof and having the roofing contractors close up a side of the roof after not being able to do the necessary remedial actions to fix the roof in its entirety.

At the present time the owner has not provided any documentation from a professional engineer and the status of the building is unknown.

Staff feels that if there can be a way to have a professional engineer go into the dwelling to do an assessment it would provide clarity on the state of the dwelling and provide answers required as to if it is even feasible to fix the dwelling or if it would be cheaper to demolish the dwelling and start new. This will all be dependent on the owner and the willingness to work with the Township after the appeal is heard.

Provincial Legislation

The Ontario Building Code Act, 1992 allows municipalities to pass Property Standards By-laws, the following are excerpts from the Act that relate to orders and rights to appeal;

Content of order

(2) An officer who finds that a property does not conform with any of the standards prescribed in a by-law passed under section 15.1 may make an order,

- (a) stating the municipal address or the legal description of the property;
 - (b) giving reasonable particulars of the repairs to be made or stating that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and leveled condition;
 - (c) indicating the time for complying with the terms and conditions of the order and giving notice that, if the repair or clearance is not carried out within that time, the municipality may carry out the repair or clearance at the owner's expense; and
 - (d) indicating the final date for giving notice of appeal from the order.
- 1997, c. 24, s. 224 (8).

Service and posting of order

(3) The order shall be served on the owner of the property and such other persons affected by it as the officer determines and a copy of the order may be posted on the property. 1997, c. 24, s. 224 (8).

Appeal of order

15.3 (1) An owner or occupant who has been served with an order made under subsection 15.2 (2) and who is not satisfied with the terms or conditions of the order may appeal to the committee by sending a notice of appeal by registered mail to the secretary of the committee within 14 days being served with the order. 1997, c. 24, s. 224 (8).

Duty of Committee (Property Standards Committee)

(3) The committee shall hear the appeal. 2002, c. 9, s. 24

Powers of committee

(3.1) On appeal, the committee has all the powers and functions of the officer who made the order and the committee may do any of the following things if, in the committee's opinion, doing so would maintain the general intent and purpose of the by-law and of the official plan or policy statement;

1. Confirm, modify or rescind the order to demolish or repair.
2. Extend the time for complying with the order. 2002, c. 9, s. 24.

Appeal Court

(4) The municipality in which the property is situated or any owner or occupant or person affected by a decision under subsection (3.1) may appeal to the Superior Court of Justice by notifying the clerk of the municipality in writing and by applying to the court within 14 days after a copy of the decision is sent. 2002, c. 9, s. 24.

Municipal By-laws

The pertinent sections of Property Standards By-law # 2018-85 that relate to the order are;

STRUCTURAL ADEQUACY

4.1 Exterior Property Areas shall be kept in a neat and tidy condition, and free from:

- (i) dilapidated or collapsed building or accessory building and any unprotected well or other unsafe condition or unsightly condition out of character with the surrounding environment;

13.2 Every part of a building or accessory building shall be maintained in good repair and in a structurally sound condition so as:

- (a) to be capable of sustaining safely its own weight, and any additional load to which it may normally be subjected to;
- (b) to be capable of safely accommodating all normal structural movements without damage, decay or deterioration;
- (c) to prevent the entry of moisture that would contribute to damage, fungus growth, decay or deterioration;
- (d) to be capable of safely and adequately performing its function subject to all reasonable serviceability requirements.

Public Input:

N/A

Internal/External Consultation:

N/A

CONCLUSION:

The violations outlined in the order must be addressed to bring the building/property into compliance with the Property Standards By-law 2018-85. There also needs to be a decision made by the owner of whether or not it is worth fixing the dwelling or having the dwelling demolished. With the dwelling being heavily dilapidated and no appropriate level of maintenance being done in a number of years, it could be dilapidated beyond repair and the option of demolishing the building may end up being the cheaper option.

If the Committee upholds the order, the owner does have the right to appeal to the Superior Court of Justice.

As has been mentioned within the staff report, the Township has been dealing with this property since 2017 and it has already been subject to one appeal on a previous Order as well as been subject to a trial in court which found the owner guilty of Failing to Comply with an Order. The opinion of the Municipal Law Enforcement Officer is that this Order be confirmed as written and the owner of the property provide a full assessment made by a professional engineer on the structural integrity of the dwelling forthwith.

Prepared and Recommended By: Date Prepared: January 8th, 2020

Rob Kennedy
Municipal Law Enforcement Officer
Property Standards Officer

Reviewed By: Date: January 8th, 2020

Steven Farquharson, BURPI, MCIP, RPP
Director of Planning and Development

Schedule "A"- INSPECTION PHOTOGRAPHS



INSPECTION PHOTOGRAPHS

Date: August 20th, 2019

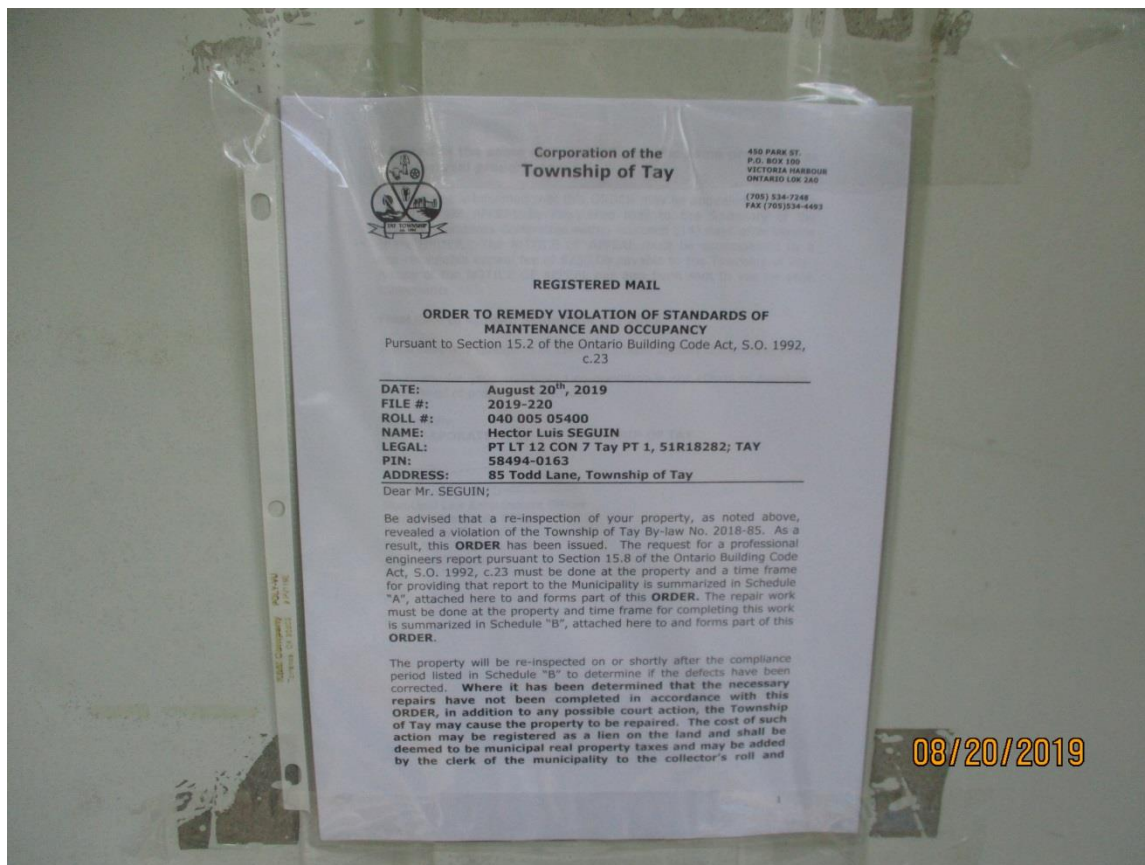
Address: 85 Todd Lane

Reporting Officer: Rob Kennedy

Roll Number: 040 005 05400

File Number: 2019-220

1520hrs: Attended property, posted Order on front door (registered mail as well) and took updated photos of the roof.

















INSPECTION PHOTOGRAPHS

Date: November 12th, 2019

Address: 85 Todd Lane

Reporting Officer: Rob Kennedy

Roll Number: 040 005 05400

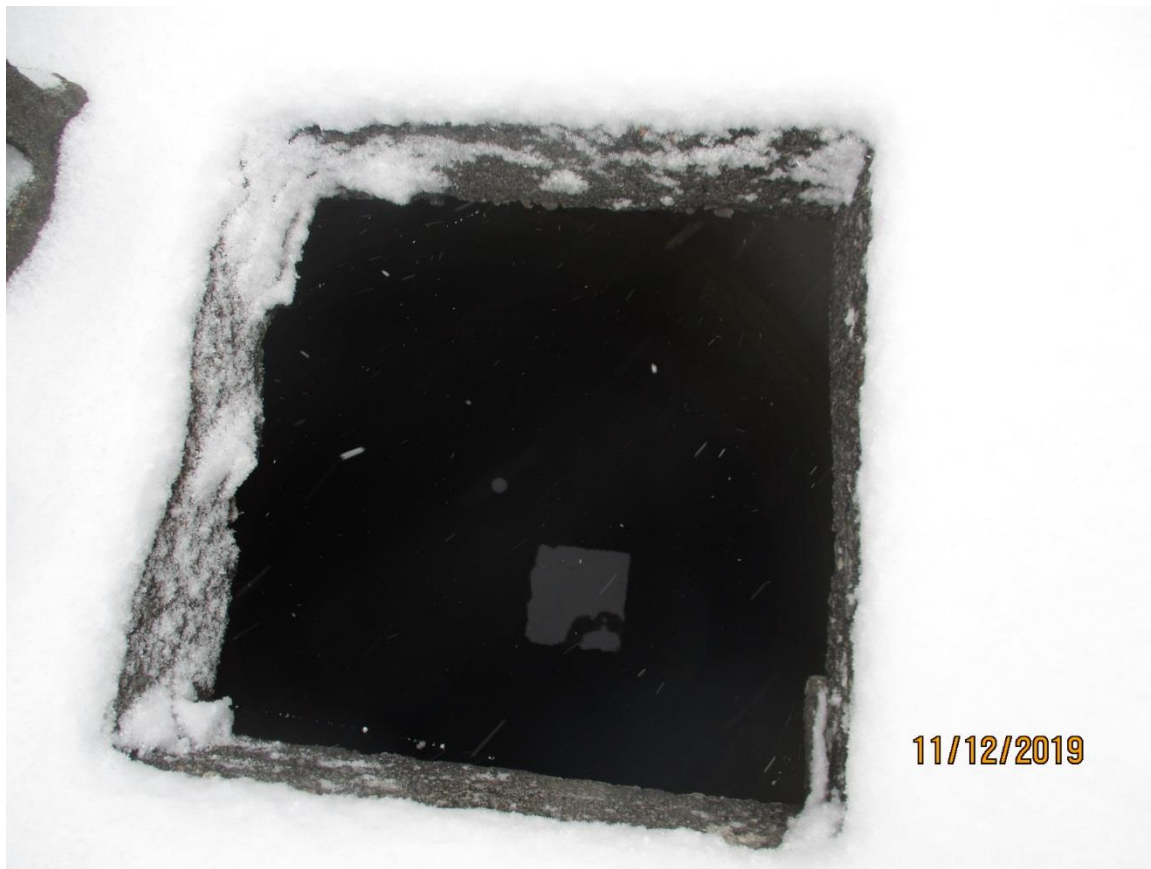
File Number: 2019-220

1436hrs: Attended property to take updated photos of the dwelling and the uncovered well.

















Schedule "B"- COPY OF PROPERTY STANDARDS ORDER



Corporation of the Township of Tay

450 PARK ST.
P.O. BOX 100
VICTORIA HARBOUR
ONTARIO L0K 2A0

(705) 534-7248
FAX (705) 534-4493

REGISTERED MAIL

ORDER TO REMEDY VIOLATION OF STANDARDS OF MAINTENANCE AND OCCUPANCY

Pursuant to Section 15.2 of the Ontario Building Code Act, S.O. 1992, c.23

DATE:	November 1st, 2019
FILE #:	2019-220
ROLL #:	040 005 05400
NAME:	Hector Luis SEGUIN
LEGAL:	PT LT 12 CON 7 Tay PT 1, 51R18282; TAY
PIN:	58494-0163
ADDRESS:	85 Todd Lane, Township of Tay

Dear Mr. SEGUIN;

Be advised that a re-inspection of your property, as noted above, revealed a violation of the Township of Tay By-law No. 2018-85. As a result, this **ORDER** has been issued. The request for a professional engineers report pursuant to Section 15.8 of the Ontario Building Code Act, S.O. 1992, c.23 must be done at the property and a time frame for providing that report to the Municipality is summarized in Schedule "A", attached here to and forms part of this **ORDER**. The repair work must be done at the property and time frame for completing this work is summarized in Schedule "B", attached here to and forms part of this **ORDER**.

The property will be re-inspected on or shortly after the compliance period listed in Schedule "B" to determine if the defects have been corrected. **Where it has been determined that the necessary repairs have not been completed in accordance with this ORDER, in addition to any possible court action, the Township of Tay may cause the property to be repaired. The cost of such action may be registered as a lien on the land and shall be deemed to be municipal real property taxes and may be added by the clerk of the municipality to the collector's roll and collected in the same manner and with the same properties as municipal real property taxes.**

You are hereby informed that this ORDER may be appealed by sending a NOTICE OF APPEAL by registered mail to the Secretary of the Property

Standards Committee within fourteen (14) days after service of the ORDER. The NOTICE OF APPEAL must be accompanied by a non-refundable appeal fee of \$250.00 payable to the Township of Tay. A copy of the NOTICE OF APPEAL has also been sent to you for your convenience.

Final date to Appeal: November 20th, 2019

If you have any questions or concerns please contact the undersigned.

Thank you for your anticipated co-operation in our efforts to maintain a high level of property standards.

Respectfully,

THE CORPORATION OF THE TOWNSHIP OF TAY

Rob Kennedy, MLEO
Municipal Law Enforcement Officer
Property Standards Officer
Township of Tay
(705) 534-7248 ext. 237
rkennedy@tay.ca

SCHEDULE "A"

FILE NUMBER 2019-220

PROPERTY STANDARDS DIRECTION TO PROVIDE A PROFESSIONAL ENGINEERS REPORT TO THE MUNICIPALITY

PURSUANT TO Section 15.8 of the Ontario Building Code Act, S.O. 1992, c.23

Directions and Time

Compliance

Direction	Compliance Time/Deadline
Item 1- Provide a professional engineers report to the Property Standards Officer named in this Order on the structural integrity of the main dwelling unit to determine if it is a structurally safe building or not and to also have the professional engineer outline a remedial recommendation in order to fix the deficiencies or have the dwelling unit demolished if deemed an unsafe building.	November 20th, 2019

SCHEDULE "B"

FILE NUMBER 2019-220

ORDER TO REMEDY VIOLATION OF STANDARDS OF MAINTENANCE AND OCCUPANCY

PURSUANT TO Section 15.2 of the Ontario Building Code Act, S.O. 1992,
c.23

Defects/ Deficiency and Section Number	Options to Remedy	Time to Comply/ Deadline
Item 1- The dwelling unit appears to be in a state of disrepair and a previous professional engineers report has recommended that a full assessment of the dwelling unit be conducted to ensure the dwelling unit on the property is structurally sound. Section 13.2	Repair all deficiencies outlined in the Professional Engineers report or if the Professional Engineer deems the building as unsafe, the building also has the option to be demolished.	November 20th, 2019
Item 2- The well in the rear yard is uncovered and has an opening in the cap that an animal or person could fall into. Section 4.1 (i)	Re-cap the well so there are no longer any openings or decommission the well	November 20th, 2019

Rob Kennedy, MLEO
Municipal Law Enforcement Officer
Property Standards Officer
Township of Tay

THE ISSUANCE OF THIS ORDER DOES NOT RELIEVE THE OWNER FROM THE NECESSITY OF ACQUIRING ANY AND ALL REQUIRED PERMITS AND APPROVALS. A BUILDING PERMIT OR A DEMOLITION PERMIT MAY BE REQUIRED PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, DEMOLITION, INSTALLATION, OR ALTERATION TO A BUILDING OR STRUCTURE. FOR FURTHER INFORMATION CONCERNING SUCH PERMITS PLEASE CONTACT THE TOWNSHIP OF

**TAY BUILDING DEPARTMENT AT 705-534-7248 BETWEEN 8:30 A.M.
AND 4:30P.M. MONDAY THROUGH FRIDAY EXCEPT HOLIDAYS.**



Corporation of the Township of Tay

450 PARK ST.
P.O. BOX 100
VICTORIA HARBOUR
ONTARIO L0K 2A0

(705) 534-7248
FAX (705) 534-4493

NOTICE OF APPEAL TO PROPERTY STANDARDS COMMITTEE Pursuant to Section 15.3 of the Ontario Building Code Act

Secretary, Property Standards Appeal Committee
Corporation of the Township of Tay
450 Park Street
P.O. Box 100
Victoria Harbour, Ontario
L0K 2A0

RE: Order to Remedy Violation of Standards of Maintenance and Occupancy at: 85 Todd Lane, Township of Tay

TAKE NOTICE of the appeal of the undersigned to the Property Standards Appeal Committee because of dissatisfaction with the above referenced **ORDER** to remedy violation of maintenance and occupancy served upon the undersigned on

Name:

Address:

Telephone Number:

APPEAL TO PROPERTY STANDARDS COMMITTEE

If an owner or occupant whom an **ORDER** has been served is not satisfied with the terms or conditions of the **ORDER** they may appeal to the committee by sending a **NOTICE OF APPEAL** by registered mail to the Secretary of the committee within fourteen (14) days after service of the **ORDER**. In the event that no appeal is taken, the **ORDER** shall be deemed to have been confirmed and final and binding.

The Building Code Act, S.O. 1992, Chapter 23 section 15.3(1)

Signature of Owner or Authorized Agent

**Wm. N. Thompson P.Eng.
713 Penetanguishene Rd.,
Barrie, ON
L4M 4Y8**

Friday, September 27, 2019

Township of Tay

450 Park St.,

Victoria Harbour, Ontario

L0K 2A0

Attn: Rob Kennedy, Municipal Law Enforcement

Dear Rob,

Re: Roof 85 Todd Lane, Victoria Harbour

I must first qualify that this report is based on observations from the exterior of the building only since the interior was not accessible.

The fascia board is totally rotten as are the tails of the rafters. I expect the roof is leaking and there may be extensive rot.

Refurbishment would consist of removing the roofing and any sheathing and carefully examining the rafters. An assessment then could be made as to whether to reinforce rafters or totally remove and replace, perhaps with a truss roof.

The remainder of the building should be carefully reviewed to see if it warrants repair or demolition.

Yours truly,



Wm. (Bill) N. Thompson P.Eng.