

**PUBLIC HEALTH APPEAL BOARD
IN THE MATTER OF THE *PUBLIC HEALTH ACT*,
CHAPTER P-37, R.S.A.2000 AND ITS REGULATIONS**

**IN THE MATTER OF AN APPEAL TO THE PUBLIC HEALTH APPEAL BOARD
BY 1443028 ALBERTA LTD., GOHAR TASNEEM,
HOME PLACEMENT SYSTEMS, JENNIFER VUONG, AND
GOHAR (CARMEN) PERVEZ AKA ABDULLAH SHAH
OF THE ORDER OF AN EXECUTIVE OFFICER
ISSUED BY ALBERTA HEALTH SERVICES
ZONE 4 EDMONTON
DATED OCTOBER 7, 2015
HEARING HELD JANUARY 14 AND 20, 2016.**

APPEARANCES

Abdullah Shah, Appellant
Shairose Esmail, Witness for the Appellant

Ivan Bernardo Q.C., Legal Counsel, Alberta Health Services, Respondent
Ingrid Bohac, Executive Officer, Alberta Health Services, Respondent

BOARD DECISION

The Board confirms the Order of an Executive Officer dated October 7, 2015. At the time the Order was issued, the condition of the premises supported the Unfit for Human Habitation declaration, as well as the requirements for air quality/asbestos analysis and a structural engineer's report. The tenant was given adequate notice to vacate the premises.

In addition, as the requirements of the Order were not completed at the time of the hearing, the Board finds it justified that Alberta Health Services had not rescinded the Order.

A. INTRODUCTION

An Order of an Executive Officer dated October 7, 2015 was issued pursuant to the *Public Health Act* and its *Regulations* regarding the premises at 12040 – 65 Street, Edmonton, Alberta.

The Order declared the premises Unfit for Human Habitation and directed the occupants to vacate the premises on or before October 15, 2015. The Appellants received this Order via email on October 14, 2015. The Order directed the Appellants to undertake and diligently pursue the completion of certain work in and about the premises including retaining the services of an environmental consultant and a professional engineer.

The Board received the Notice of Appeal on October 21, 2015. The grounds cited “The Order was issued with false information and a misuse of authority.”

On October 30, 2015 Alberta Health Services requested a preliminary hearing to clarify the issues the Appellants were appealing. The Preliminary Hearing was heard on November 20, 2015 via teleconference.

The Board confirmed, in a decision dated December 8, 2015, the Appellants may raise the following issues at the appeal hearing:

- the premises should not have been found to be unfit for human habitation;
- air quality and asbestos analysis should not have been required;
- a structural engineer’s report should not have been required; and
- notice to the tenants to vacate the premises was inadequate.

The decision also stipulated that if the Appellants wished to raise any other matter, they must provide details to the Board and Alberta Health Services in writing prior to December 15, 2015.

The Appellants, in a letter to the Board dated December 14, 2015, submitted that the Executive Officer did not properly exercise her professional discretion in issuing the Order, leading to their four points of appeal.

The Appeal Hearing was held in Edmonton, Alberta on January 14 and 20, 2016.

B. TIMING OF APPEAL

Section 5(3) of the *Public Health Act* requires the Appellants to serve the notice of the appeal within 10 days after receiving notice of the decision being appealed. The Notice of Appeal was received within this time frame.

C. JURISDICTION

There were no objections to the Board’s jurisdiction to hear this appeal.

D. APPELLANTS' SUBMISSIONS

The Appellants submitted a binder, accepted as Exhibit 3, containing photographs, emails, correspondence, and reports in support of their submissions that the Executive Officer did not properly exercise her professional discretion in issuing the Order. In particular:

- 1.a. The premises should not have been found to be unfit for human habitation;
- 1.b. Air quality and asbestos analysis should not have been required;
- 1.c. A structural engineer's report should not have been required; and
- 1.d. The notice to the tenants to vacate the premises was inadequate.

Generally, the Appellants submitted the Executive Officer had tunnel vision when she issued the Order in that she knew the property was owned by the Appellants. She had made up her mind beforehand to issue an Order because she had no faith in the owners. They submitted that the Executive Officer considered their history rather than the history of the property. The Appellants stated she did not properly exercise her professional discretion when she found the premises to be unfit for human habitation, and required air quality testing and a structural engineer's report.

- 1.a. The premises should not have been found to be unfit for human habitation:

The Appellants disputed several of the conditions of the premises set out in the Order. However, their main disagreements were with the basement rooms being referred to as bedrooms and the findings about the structure of the premises including the main support beam.

The Appellants contend the Executive Officer did not take the existing conditional Rescind Order into account when issuing this Order. An Unfit for Human Habitation Order for the premises was rescinded on September 6, 2012, subject to the following conditions:

- a. The ceiling in the basement at the bottom of the stairwell is to be properly finished.
- b. The north side of the basement and utility areas is not to be used for sleeping purposes or as a living space. The north side of the basement is to be used for storage and utilities only.
- c. The room located in south side of the basement is not to be used for sleeping purposes due to lack of a secondary means of emergency egress.

Many of the contraventions noted in the Order being appealed were regarding the basement. The Appellants submit the conditional Rescind Order allowed them to continue to use the basement, which the tenants were doing, but not for sleeping purposes. The Executive Officer did not witness any person sleeping in those rooms, and the Appellants submitted the mattresses that the Executive Officer saw and photographed were there simply for the tenant's children to play and watch T.V. The Appellants submitted that window egress and ceiling

height requirements in the Order did not apply as the rooms in the basement were not being used as bedrooms.

Regarding the structural concerns in the Order, they submitted the beam in the basement was not twisted, cracked or cut, and the telepost deficiency was easily remedied.

The Appellants submitted that many of the conditions noted and repairs required in the Order were insignificant and easily remedied, for instance missing screens, a wobbly toilet, an uneven sidewalk.

In summary, the Appellants submitted that the Executive Officer did not exercise proper professional discretion in declaring the property Unfit for Human Habitation. The Appellants submitted there were other options available that would have achieved the same result, for example a verbal order or work order, particularly since their companies have a history of acting on orders promptly. The Appellants contended, based on their experience as property owners, there was nothing in the Order to warrant an Unfit for Human Habitation declaration.

They submitted this Unfit for Human Habitation declaration, even if not included in the title of the Order, is registered on the title to the property at the Land Titles Office and reflects badly on property owners and the value of the premises. The Appellants found the name of the Order, "An Order of an Executive Officer" confusing as normally a statement is included in the title such as "Unfit for Human Habitation" or "Closed for Tenant Purposes".

1.b. Air quality and asbestos analysis should not have been required:

The Appellants questioned why the Executive Officer required asbestos/mould and air testing. The Order itself specified "As this home was built prior to 1970 you must retain the services of an Environmental Consultant....". They contend this did not appear to be Alberta Health Services' usual protocol based on other orders they submitted as evidence, all built prior to 1970 and not requiring environmental testing. The Appellants questioned why this is a requirement on their properties only.

1.c. A structural engineer's report should not have been required:

The Appellants questioned the expertise of the Executive Officer and the Safety Codes Officer in inspecting and determining structural concerns with the premises. They contended the teleposts were an easy fix, as were the joists and support beam. The Appellants submitted the beams were easily repaired and the minor issues did not pose a safety risk.

The Appellants submitted the Executive Officer had no reasonable justification for including such stringent requirements in the Order.

1.d. The notice to the tenants to vacate the premises was inadequate:

The Appellants submitted there was no imminent danger to the tenants, yet the Executive Officer ordered the tenant, with three children, to vacate the premises within one day of the Appellants receiving the Order. The timeline was varied by the Executive Officer but only at the Appellants' request.

2. Should Alberta Health Services have rescinded the Order based on the work completed and the reports supplied prior to the hearing?

The Appellants submitted that the Order ought to have been rescinded by Alberta Health Services prior to the appeal hearing. The work had been completed as stipulated in the Order and the required reports had been provided to the Executive Officer.

The Structural Engineer completed three reports dated October 15, 2015, November 2015 and January 9, 2016. The first report recommended corrective action for the beam and teleposts. The second reported the repairs had been completed to the timber columns and teleposts and recommended corrective action to the joists, stating "the building as a whole is in no danger of imminent distress from these split joists, and will be completely safe (as far as they are concerned) when mended as instructed". At the hearing, the Appellants submitted the last Engineer's report, dated January 9, 2016, Exhibit 4, verifying the repairs had been carried out to the Engineer's satisfaction. The Appellants submitted they had provided the required reports, yet the Executive Officer kept asking for more details. The Appellants submitted the Structural Engineer's authority should override that of the Executive Officer and the Safety Codes Officer.

The Appellants submitted that reports on air quality and mould had been submitted and the Executive Officer was not satisfied with the reports. They found this unreasonable in the circumstances. They provided an email from the Environmental Consultant dated January 18, 2016 stating he had spoken with the Executive Officer and obtained verbal consent to obtain two exterior samples instead of the three typically required. It was his professional opinion that a third exterior sample did not provide any additional information for the purposes of baseline sampling.

In their December 30, 2016 email, Alberta Health Services identified that mould/water infiltration was found along the basement wall during their November 16, 2015 inspection and "this problem is to be included in your environmental consultant's new report". The Appellants claimed it was not fair for Alberta Health Services to include the results of this inspection with requirements set out in the Order.

The Appellants submitted that Alberta Health Services was acting maliciously in not accepting the experts' reports, finding more contraventions and requiring extensive reports.

The Appellants stated they were ready for another inspection but the Executive Officer had not responded, submitting this is an example of Alberta Health Services not being willing to work with them.

E. ALBERTA HEALTH SERVICES' SUBMISSIONS

Alberta Health Services provided photographs, emails, inspection reports and other documents in a binder, accepted as Exhibit 6. They also submitted PHAB Hearing Authorities with case law that was accepted as Exhibit 8. Alberta Health Services contends the Executive Officer had been a Public Health Inspector for 22 years and in the housing area for 12 years.

1.a. The premises should not have been found to be unfit for human habitation:

On September 25, 2015 Alberta Health Services received a complaint from the tenant regarding the building's foundation and mould in the basement. The Executive Officer conducted an inspection of the premises on September 30, 2015. Due to her concerns about the building's structure, another inspection took place on October 6, 2015, with a Safety Codes Officer (Building Discipline) whom she retained to inspect the building's structure. The Executive Officer incorporated the Safety Codes Officer's recommendations regarding the structure of the premises into the Order of October 7, 2015.

Alberta Health Services submitted the totality of the conditions found during the inspection supported a declaration of Unfit for Human Habitation. The issues in the Order were serious – structural, mould/asbestos, and egress concerns, requiring remediation and further investigations by experts. Alberta Health Services submitted it was reasonable and appropriate for the Executive Officer to issue the Order.

Alberta Health Services addressed the conditions of the Order the Appellant disputed and submitted photographic evidence of a twisted, cracked and cut support beam, cracked floor joists and incorrectly installed teleposts. They submitted the damage to the support beam alone justified the declaration of Unfit for Human Habitation. Simply put, the Order directed that until the matter could be reviewed by a professional structural engineer, people could not live there.

Alberta Health Services pointed to photographic evidence of the rooms in the basement being used as bedrooms, contrary to the conditions of the September 6, 2012 Rescind Notice; also to the unfinished wall in the basement ceiling at the bottom of the stairwell that was supposed to have been repaired as directed in the Rescind Notice. The window egress in the basement was not sufficient for bedrooms as per the *Minimum Housing and Health Standards*.

Alberta Health Services confirmed that the name or title of the Order does not include the words "Unfit for Human Habitation" because in the past the Appellants have been opposed to orders that included those words in the title. The Executive Officer stated that when she

prepared the Order she intended to also remove the Unfit for Human Habitation declaration for this reason but it was included in the Order inadvertently. Alberta Health Services submitted that a Notice of Health Hazard would have been registered on the title to the property at Land Titles whether the property was declared Unfit for Human Habitation or not.

Alberta Health Services submitted the property was Unfit for Human Habitation and that was a reasonable declaration given the serious concerns about the structure of the building. They submitted it was the result or intent of the Order that was important – to ensure tenants were safe. This required vacating the premises and then having the structure of the premises evaluated by an engineer and the air quality tested.

Alberta Health Services submitted that a repair order or a verbal order would not have sufficed due to the concerns set out by the Safety Codes Officer in his report regarding the building's structure.

1.b. Air quality and asbestos analysis should not have been required:

Alberta Health Services presented evidence of why they requested asbestos and air testing in addition to the age of the house. This included photographic evidence of water infiltration in the basement ceiling and wall and that mould/asbestos would be disturbed during the required renovation work. Further, mould was found in the premises during the inspection in November 2015, confirming the Executive Officer's concerns about mould due to water infiltration. Asbestos was also found in one of the layers of the floor as a result of the testing.

1.c. A structural engineer's report should not have been required:

Alberta Health Services submitted it was reasonable for the Executive Officer to consult with a Safety Codes Officer (Building Discipline) to inspect the property regarding the structural issues she found during her first inspection. This is provided for in the *Minimum Housing and Health Standards*.

The Safety Codes Officer provided a report to the Executive Officer stating concerns about the building weight being concentrated in one area of the building as well as damages to the joists and support beam. His report also recommended the following from a professional structural engineer:

“a full report outlining the structural integrity of the entire building with specific comment on the individual components thereof (including the foundation, support structure, ceilings, floors and roof)”.

Alberta Health Services provided photographs of the support beam, joists and teleposts to support their submissions that there were cracks, cuts and twisting of the beam.

1.d. The notice to the tenants to vacate the premises was inadequate:

Alberta Health Services submitted that the tenant had over 20 days to arrange for alternate accommodation, not one day as stated by the Appellants. The tenant was told by the Executive Officer on the day of the original inspection, September 29, 2015, to start looking for alternate accommodation. The Appellants received the Order on October 14, 2015 with vacancy set for the next day; however, the Executive Officer then extended the time period for the tenants to vacate to October 23, 2015. Alberta Health Services submitted that Executive Officers perform a balancing act regarding tenant welfare in such cases, safety issues in the premises versus locating alternate accommodation.

2. Should Alberta Health Services have rescinded the Order based on the work completed and the reports supplied prior to the hearing?

Alberta Health Services submitted that, although the Appellants argued the reports asked for in the Order should not be required, the Appellants did partially comply with these requirements. Alberta Health Services is awaiting compliance on the following issues prior to re-inspecting the premises to possibly rescind the Order:

Environmental testing: A report following Alberta Health Services' protocol for outdoor air samples. Three samples are required in their protocol instead of the two samples that were provided. The Executive Officer stated the Environmental Consultant's discussion with her about two samples being sufficient was a miscommunication. Alberta Health Services also require submissions from the Appellants about how they will manage the asbestos found in one of the layers of the floor and an evaluation of the water damaged materials. Finally, they require a report on mould clearance sampling for the house after all the water damaged materials have been removed.

Structural Engineer's report: A report addressing structural stability of the entire premises, the foundation, support structure, ceilings, floors and roof, is required. None of the Engineer's reports provided address the specific matters set out in the Order for an engineer to address.

Alberta Health Services submitted the Appellants were fully aware that if they completed the work and testing required, the Order would be rescinded. There was no point re-inspecting the property until the required reports were provided.

Alberta Health Services pointed to a number of emails between the Appellants and the Executive Officer, the most recent being December 22 and 29, 2015 which they submitted

demonstrated that the Executive Officer provided detailed information to the Appellants. This was contrary to the Appellants' statement that the Executive Officer was not willing to communicate with them in resolving the requirements of the Order.

F. ISSUES

1. At the time the Order was issued, did the condition of the premises support:
 - a. the Unfit for Human Habitation declaration?
 - b. the requirements for air quality/asbestos analysis?
 - c. the requirement for a structural engineer's report? and
 - d. was the tenant given adequate notice to vacate the premises?

2. Should Alberta Health Services have rescinded the Order based on the work completed and the reports supplied prior to the hearing?

G. REASONS

During the hearing, the Appellants raised several topics not directly related to the issues that were being appealed. The Board will address those matters in this section.

First, the Appellants submitted the Order was confusing as the name or title of the Order was "An Order of an Executive Officer". The Board finds that Alberta Health Services was merely attempting to accommodate the Appellant's concerns stated in the past that they did not like orders that included "Unfit for Human Habitation" in the name or title of the Order. The content of the Order is what is important for the Appellants to consider.

Second, the Appellants contend that the conditional Rescind Order was not taken into account by Alberta Health Services when issuing the Order. The Board has reviewed the Rescind Order that stated the Unfit for Human Habitation Order was only rescinded on the condition the basement rooms were not being used as bedrooms and if the ceiling was repaired. The Appellants claimed the rooms were not being used as bedrooms, rather lounge areas for the tenant's children. Based on the evidence submitted by Alberta Health Services, in particular the photographs of the basement, rooms complete with mattresses, blankets, pillow and a dresser, the Board concludes the rooms were being used as bedrooms. As such, the Rescind Order was not being complied with and there was no need for the Executive Officer to take the Rescind Order into account in issuing the Order.

Third, the Appellants claimed it was not fair for Alberta Health Services to include the results of a subsequent inspection in this Order. Both parties agreed a further inspection of the premises took place on November 16, 2015 where mould/water infiltration was found along the basement wall. Alberta Health Services, in an email to the Appellants, stated: "this problem is to be included in your environmental consultant's new report". In reviewing the Order, the

Board concludes the Order itself warned the Appellants that a further inspection may take place and further work may be required: “The above conditions were noted at the time of inspection and may not necessarily reflect all deficiencies. You are advised that further work may be required to ensure full compliance with the *Public Health Act* and its *Regulations*, or to prevent a public health nuisance.”

The Board will now address the appeal issues.

1. a. At the time the Order was issued, did the condition of the premises support the Unfit for Human Habitation declaration?

The *Public Health Act* gives the Executive Officer the legislative authority to inspect the premises and issue the Order. All of the breaches listed in the Order were contraventions of the *Public Health Act* and *Minimum Housing and Health Standards*.

The Board concludes there were several critical contraventions set out in the Order that were supported by evidence submitted at the appeal hearing as follows:

- unfinished drywall with water staining on the ceiling in the basement bathroom and moisture detected along the south wall of the recreation room in the basement;
- low head clearance for bulkhead and basement bedroom and unacceptable window egress in basement bedrooms; and
- several cracked floor joists, a twisted, cracked and cut main support beam and incorrectly installed support teleposts.

Based on the photographic evidence presented by Alberta Health Services, the Board concludes the rooms in the basement were being used as bedrooms. People were sleeping in rooms with low head clearance, inadequate emergency egress and moisture infiltration, all contraventions of the *Minimum Housing and Health Standards*.

The photographs and the report of the Safety Codes Officer confirmed the issues and concerns with the structural integrity of the building.

Both of these contraventions, combined with the possibility that mould and asbestos could be disrupted during renovations, support the declaration that the property was Unfit for Human Habitation.

These are all critical contraventions that could not be addressed while the property was inhabited by tenants. They are all contraventions that would put tenants’ health and safety at risk. A work order or a verbal order would not have adequately addressed those risks.

Finding the premises Unfit for Human Habitation was a proper exercise of the Executive Officer's professional discretion. She relied on an expert in building structures to assist in forming her opinion about what was required to address the structural issues which is a professional approach.

1.b. At the time the Order was issued, did the condition of the premises support the requirements for air quality/asbestos analysis?

The Executive Officer requested air quality testing for mould and asbestos partially due to the house being built prior to 1970 but also because some of the work required "Ensure that all walls, windows, ceilings, floors and floor coverings shall be maintained in good repair, free of cracks, holes, loose or lifting coverings" could potentially disturb asbestos or mould. She also had concerns with water infiltration in the basement wall and ceiling, suggesting mould contamination, which was later substantiated in the November 2015 inspection. The Board finds the Executive Officer's directive to retain the services of an environmental consultant to have the premises tested for air quality and asbestos containing materials was reasonable given all of these factors. This was a proper exercise of the Executive Officer's professional discretion.

1.c. At the time the Order was issued, did the condition of the premises support the requirement for a structural engineer's report?

The Board finds the Executive Officer had valid concerns about the structure of the premises which were formed in part by the report from a Safety Codes Officer in the building discipline. The Board has reviewed Alberta Health Services' submissions, including the Safety Code Officer's report and photographs of the faulty teleposts, cracked, twisted and cut floor beams and evidence of movement and twisting of the floor structure. The recommendations of the Safety Codes Officer were incorporated into the requirements of the Order. This included obtaining an opinion from a structural engineer. Based on this and the photographic evidence, the Board finds the requirement for a structural engineer's report to be reasonable. It was a proper exercise of the Executive Officer's professional discretion.

1.d. At the time the Order was issued, was the tenant given adequate notice to vacate the premises?

Based on the submissions from Alberta Health Services and the Appellants, the Board concludes that the tenant had at the least a week to vacate the residence and more likely over 20 days. The Board finds this to be adequate notice in view of the conditions found in the premises and the Executive Officer's concerns for tenant safety.

Section 62(1) of the *Public Health Act* states:

Where, after an inspection under section 59 or 60, the executive officer has reasonable and probable grounds to believe that a nuisance exists in or on the public place or private place that was the subject of the inspection or that the place or the owner of it or any other person is in contravention of this Act or the regulations, the executive officer may issue a written order in accordance with this section.

62(2) An order shall be served on the person to whom it is directed and shall set out the reasons it was made, what the person is required to do and the time within which it must be done.

And section 62(4) states:

An order may include, but is not limited to, provisions for the following:

- a. requiring the vacating of the place or any part of it;
- b. declaring the place or any part of it to be unfit for human habitation;
- c. requiring the closure of the place or any part of it;
- d. requiring the doing of work specified in the order, on or about the place;
- e. requiring the removal from the place or the vicinity of the place of anything that the order states causes a nuisance;
- f. requiring the destruction of anything specified in the order;
- g. prohibiting or regulating the selling, offering for sale, supplying, distributing, displaying, manufacturing, preparing, preserving, processing, packaging, serving, storing, transporting or handling of any food or thing in, on, to or from the place.

The Board finds that the Executive Officer had the legislative authority to inspect the premises and issue the Order, including provisions for vacating the residence and doing the work specified in the Order (a.b.d.above). The Board concludes that Alberta Health Services acted in accordance with the legislation in issuing the Order. As decided above, the Order, complete with conditions and requirements, was a proper exercise of the Executive Officer's professional discretion.

2. Based on the work completed and the reports supplied, should Alberta Health Services have rescinded the Order prior to the hearing?

The Board heard a great deal of evidence from the Appellants regarding the reports they have provided to Alberta Health Services and the work that had been completed on the property. They submitted that this was sufficient for Alberta Health Services to rescind the Order. Alberta Health Services also provided evidence supporting their position that the Appellants had not complied with the requirements of the Order, therefore the Order should not be rescinded.

The Order was very specific as to what was required for the environmental testing:

"As this home was built prior to 1970 you must retain the services of an Environmental Consultant or Industrial/Occupational Health Hygienist, be approved by Alberta Health Services and prior to any renovations being completed you must have the Environmental Consultant assess the conditions within the above noted premises including performing applicable sampling for asbestos containing materials and carrying out of environmental air quality analyses of the interior spaces (including if applicable the attic,

wall and floor cavities, and crawlspaces) for water and mould damage. Ensure that any additional renovation work, including painting, reinstallations of drywall and laying of new flooring and/or sub floors does not occur until suitable air sample results are received and are to the satisfaction of Alberta Health Services.”

The Board finds the Appellants submitted environmental testing reports but some requirements remain outstanding: a report following protocol for outdoor air samples, submissions about how repairs will be managed regarding the asbestos that was found in one layer of the kitchen floor, an evaluation of the water damaged materials and mould clearance sampling for the premises after all water damaged materials have been removed.

The Board finds the email from the Environmental Consultant to be convincing in that the Executive Officer told him two outdoor samples were sufficient. However, that was only one deficiency that had to be addressed among many others regarding air quality of the premises.

The Order was specific as to what was required in a structural engineer’s report:

“Due to the structural conditions notes, a full report from a Professional Engineer outlining the structural integrity of the entire building, with specific comment on the individual components thereof (including the foundation, support structure, ceilings, floors and roof) and whether the building is safe for occupancy. The report must be affixed with the Engineer’s signature and professional seal, be accompanied by a detailed design repair method, complete with drawings or plans and if the Engineer’s Report identifies required repairs you must provide a written construction schedule outlining the start and completion date for each item identified in the Engineer’s design repair method. Where applicable these repairs must be carried out by qualified individuals under the direction of a Professional engineer. You must request a structural certification report and provide copies to Alberta Health Services and to a Safety Codes Officer (building Discipline) with the municipality having jurisdiction.”

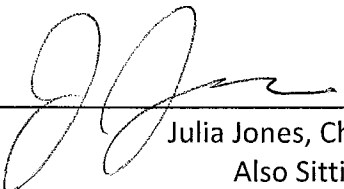
The Appellant provided three Engineer reports dated October 15, 2015, November 2015 and January 9, 2016. None of them addressed the full scope of the assessment that was required in the Order. The report dated January 9, 2016 was not received by Alberta Health Services before the hearing. The report stated “That being the last of the structural matters raised by the City inspector, we are now satisfied that the property is safe for habitation and, as far as the structural matters brought to our attention are concerned, it is fit for residence”. This report did not address the ceilings, floors or roof. It is not clear whether the Engineer had been retained by the Appellant to complete the full scope of the required assessment because all the reports were deficient and did not meet the requirements as set out in the Order.

The Board concludes that the Order should not have been rescinded prior to the appeal hearing as both the air quality analysis requirements and the Structural Engineer’s reports were deficient and did not meet the requirements as set out in the Order.

H. DECISION

At the time the Order was issued, the condition of the premises supported the Unfit for Human Habitation declaration, as well as the requirements for air quality/asbestos analysis and a structural engineer's report. The tenant was given adequate notice to vacate the premises. The Board confirms the Order of an Executive Officer dated October 7, 2015.

The specific air quality analysis/testing requirements and the structural engineer's report requirements had not been provided to Alberta Health Services at the time of the appeal hearing. Therefore, the Board finds it justified that Alberta Health Services had not rescinded the Order prior to the appeal hearing.

Per: 
Julia Jones, Chair
Also Sitting:
Linda Cloutier, Alternate Vice Chair
Linda Klein, Member
David Thomas, Member

Date: March 14, 2016
Decision written by Linda Klein