

# **PROPERTY STANDARDS COMMITTEE MANUAL**

## **Background**

At the beginning of each term of Council, advisory committees are appointed under the authority of the *Building Code Act*, 1992, S.O. 1992, c.23 section 15.1. The **Property Standards Committee** is one of them. It is a **quasi-judicial tribunal** that hears appeals made to a Property Standards Order (“Order”) that was issued by a Property Standards Officer of the City of Vaughan (the “City”). The Committee has authority to confirm, modify or rescind a Property Standards Order, or to extend the time for complying. These hearings are governed by the *Statutory Powers and Procedures Act*, R.S.O. 1990, c.S.22.

When a Property Standards Order to Remedy a Violation is issued, the *Building Code Act* allows for property owners or occupants to appeal the Order by sending a notice of appeal and a cheque to the Committee Administrator within 14 days.

If there is no appeal within the prescribed time and no compliance with the Order, the matter is heard before the Provincial Offences Court. However, if the property owner/occupant chooses to appeal that order within the 14-day period, it is heard before the Property Standards Committee.

The By-Law that regulates Property Standards is [By-Law 231-2011](#). The following guidelines are considered rules governing practice and procedures, as per Section 25.1 of the *Statutory Powers and Procedures Act*, R.S.O. 1990, c.S.22.

## **Specified Roles and Responsibilities**

### **Property Standards Committee**

The Property Standards Committee shall:

- Hear, in accordance with the *Statutory Powers Procedures Act*, appeals relating to Property Standards Orders issued by a Property Standards Officer.
- Make decisions to confirm, modify, rescind or extend the time for complying with a Property Standards Order.

### **City Clerk/Committee Administrator**

- Notifies the Appellant, via e-mail, mail or other convenient method of the date, time and place of the Hearing.

- Provides a copy of the Committee's Decision to all parties, via e-mail, mail or fax, within seven (7) days of the Hearing.
- Liaises between City officials and Committee members.
- Prepares the agenda and minutes of Property Standards Committee meetings.

### **Property Standards Officer**

- Is the person who issued the Property Standards Order under appeal.
- Acts as a City witness at the appeal hearing and is accompanied by the City's Legal Representative.

### **City's Legal Representative**

- Represents the City at appeal hearings.
- Assists the Property Standards Officer through examination questions.
- Enters evidence through Property Standards Officer and conducts cross-examination of the appellant.

### **Authority of Licensing Committee and Chief License Officer**

1. Section 15 (3.1) of the *Building Code Act* provides the Property Standards Committee with its authority to act. Section 15 (3.1) states that:

#### *Powers of committee*

**(3.1)** *On an 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.*

## The Statutory Powers Procedure Act

2. The *Statutory Powers Procedure Act* sets out the procedural rules for the conduct of proceedings of administrative and quasi-judicial tribunals. Under the *Statutory Powers Procedure Act*, a tribunal acting on a quasi-judicial basis (as is the Property Standards Committee) may rely on the following provision to maintain order at the Hearing:

*Section 9(2) – A tribunal may make such orders or give such directions at an oral or electronic hearing as it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any such order or direction, the tribunal or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose.*

3. The *Statutory Powers Procedure Act* also provides for contempt proceedings as follows:

*Section 13(1) Contempt Proceedings*

*Where any person without lawful excuse...*

*c) does any other thing that would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court,*

*the tribunal may, of its own motion or on the motion of a party to the proceeding, state a case to the Divisional Court setting out the facts and that court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, **punish or take steps for the punishment of that person in like manner as if he or she had been guilty of contempt of the court.***

4. The above provisions are seldom required but can serve as a useful warning. Whether or not the Property Standards Committee applies to the Divisional Court for contempt depends upon the severity of the person's actions. If an individual is being particularly unruly or abusive, the Committee is entitled, after warning

the person, to proceed in his/her absence and order the individual to be excluded from the Hearing.

5. The Property Standards Committee does not hear charges of any kind and is not making final dispositions of guilt in the sense that convictions are to be registered; instead, the Committee is sitting in review of the Property Standards Order.
6. Under the *Statutory Powers Procedure Act*, the Committee is obliged to follow certain basic rules of “natural justice”:
  - a) The Committee’s directions and decisions must be impartial, give the appearance of fairness, and not be biased as to create prejudice against the Appellant or the City;
  - b) The Committee is not a representative of the City but is a tribunal with statutory power of decision conferred to it by City Council;
  - c) The appeal hearing must be in public except where intimate personal or financial matters may be disclosed, or where it is impractical to hold the hearing in an open forum;
  - d) Public participation is not permitted during appeal hearings unless the person has been previously identified as a witness through the Committee Administrator;
  - e) The City and the Property Owner are entitled to be represented by an agent or counsel;
  - f) Both parties are entitled to fully present evidence, receive copies of any evidence entered as exhibits during the hearing (disclosure), cross-examine witnesses and present oral arguments;
  - g) The members of the Committee should be present throughout the appeal hearing. If a member must leave the appeal hearing for any reason, the Chair should adjourn the hearing until the member returns. A member of the Committee who arrives after the hearing has commenced should not be permitted to join proceedings in progress;
  - h) Once the Committee has been established, the members hearing the matter should listen to all of the evidence and must not absent themselves for any portion of the Hearings; and

- i) The Committee may give its decision orally and in writing within seven days of the Hearing.

### **Explanatory Notes Related to Procedures**

7. Hearings are conducted pursuant to the principles of administrative law, and not those of criminal law. The following is a comparison of relative terms:

#### **Administrative Law**

Hearing Room/Committee Room

Hearing

Tribunal/Committee

Evidence

Directions during proceedings

Property Owner (Appellant)

Decision

#### **Criminal Law**

Court Room

Trial

Judge

Evidence

Rulings during proceedings

Accused

Sentence

8. It is important that the proceedings of the Committee be in accordance with the *Statutory Powers Procedure Act*. A decision of the Committee can be appealed to the Superior Court of Justice within 14 days of the decision, as provided under section 15.3(4) of the *Building Code Act*.

### **Hearing Attendance**

9. Attendance at a Hearing is mandatory, regardless of whether the Appellant represents themselves or is represented by an agent or counsel pursuant to paragraph 6.e) of this manual.
10. Failure by the Appellant or their appointed representative to attend the Hearing will result in dismissal of the appeal.

### **Presentation of Evidence**

11. Presentation of the evidence will generally proceed as follows:
  - a) City's Legal Representative will enter evidence through witnesses who are either sworn under oath or affirmed. The Appellant is given the opportunity to cross-examine these witnesses. The City's Legal

Representative is given the opportunity to re-examine these witnesses on any point raised during the cross-examination.

- b) Upon request, any documentary evidence entered in during oral testimony should be provided to the appellant after conclusion of the hearing.
- c) The Appellant will be sworn in under oath or affirmed and have an opportunity to present evidence with the same right of re-examination on the cross-examination.
- d) The Appellant has the right to call witnesses who are either sworn under oath or affirmed. The City's Legal Representative is given the opportunity to cross-examine the witness(es). The Appellant is given the opportunity to re-examine the witness on any point raised in the cross-examination.
- e) All witnesses must pre-register with the Committee Administrator prior to commencement of the hearing to ensure the correct contact information is on file and to ensure they are provided with relevant hearing information.
- f) The Committee Administrator will keep all evidence as numbered and presented for the record.
- g) After examination, cross-examination and re-examination, members of the Committee have the right to ask supplementary questions of the witnesses, to ensure that each member of the Committee has a fulsome comprehension of the evidence as presented.

### **Closing Arguments**

- 12. Closing arguments or submissions generally proceed as follows:
  - a) The City's Legal Representative gives a summation of the case, stating the specific terms of the recommendation.
  - b) The Appellant then sums up their position, stating the specific terms of the objections and likely arguing against the recommendation.

### **Appellant's Evidence**

- 13. Evidence the Appellant intends to rely on during a hearing must be provided to the Committee Administrator at least three business days prior to the date of the hearing.

14. If the Appellant fails to provide their evidence pursuant to paragraph 11, they may not be permitted to rely on such evidence during a hearing.
15. The City's Legal Representative reserves the right to notify the Property Standards Committee of the Appellant's failure to provide their evidence in accordance with paragraph 11 and object to the evidence being presented by the Appellant on that basis.

### **Conflicting Evidence**

16. In a situation where there is conflicting evidence, the Committee should make a finding of fact as to which evidence they accept and make a formal decision stating such.
17. Should there be complex issues, the Committee may move to have the hearing adjourned to another date and time.
18. If one party states an objection related to procedure or evidence, the Property Standards Committee must give the other party the opportunity to state its position before the Committee renders its direction on the issue. If required, the Committee is free to adjourn into a closed session to consult amongst its members prior to rendering its direction.

### **Onus**

19. The Appellant bears the onus of establishing, on a balance of probabilities, that the Property Standards Order should be modified or rescinded, or that the time to comply be extended.