

DECISION REPORT

OF THE CITY OF MEDICINE HAT **SUBDIVISION AND DEVELOPMENT APPEAL BOARD HEARING** **HELD ON THURSDAY, MAY 22, 2025, AT 9:00 AM**

REVIEW #2-2025 – REVIEW RESPECTING AN ORDER TO REMEDY **UNSLIGHTLY PROPERTY AT 675 INDUSTRIAL AVENUE SE** **ROBERT MIDDLETON (APPELLANT)**

MEMBERS PRESENT: J. Taylor, Chair
Councillor C. Hider, C. Acton, and W. Fischer

STAFF PRESENT: L. Sibanda, Legislative Coordinator (Secretary to the Board)
M. Wagner, Administrative Assistant, City Clerk Dept.
B. Potts, Supervisor– Municipal Bylaw and Enforcement
B. Skakun, Peace Officer
T. Vorra, Peace Officer

INTRODUCTORY COMMENTS

The hearing was called to order at 9.00 a.m. and Mr. Taylor introduced the Board and the city staff members present. He also advised that audio or video recordings of the hearing are not permitted. The Board nominated Mr. J. Taylor and Mr. W. Fischer for Chair and Vice-chair respectively.

At the commencement of the hearing, the Chair stated that the Board is an impartial body and that the members are not employees of the City of Medicine Hat. He noted that decisions of the Board are based strictly on the evidence presented at the hearing, taking into consideration the relevant legislation. The Chair advised that following the public hearing, the Board will review the issues, and a written decision will be rendered within 15 days. The Chair further advised that all information provided is public information and was available to all interested parties prior to the public hearing, which was publicly advertised. He also stated that both sides will have the opportunity state their case.

Prior to hearing submissions on the merits of the review, the Chair asked the Board members if they may have a conflict of interest or bias that may prejudice their decision regarding this review. There were no concerns expressed. He then asked if anyone present believes or has a concern that there may be a conflict of interest, or bias shown by any member of the Subdivision and Development Appeal Board which may prejudice any decision regarding Review # 02-2025.

Preliminary Issue of Bias

The Appellant alleged bias claiming that:

- The Board and its members are corrupt

The hearing adjourned for a consideration of allegations of bias by the Board.

The issue before the Board for consideration was whether the bias alleged was actual or perceived.

This issue was considered in a closed session and the Board returned with the decision that there was no basis for the allegations of bias. Having heard the decision on this issue, the Appellant affirmed that the hearing may continue.

BACKGROUND TO THE REVIEW

On April 4, 2025, Community Peace Officers issued an Order pursuant to s.546 of the Municipal Government Act RSA 2000, c. M-26, as amended, and the City of Medicine Unsightly Property Bylaw No. 3117 with respect to the following lands, Plan: 9011164, Block: 1, Lot: 4, as follows:

You are hereby ordered to remedy ***the dangerous and unsightly conditions*** by:
REMOVE AND/OR PROPERLY STORE/DISPOSE OF THE FOLLOWING ITEMS:

Item #:

- 1) Vehicle parts, upholstery, tires, rims, wheels, hubcaps, and castors
- 2) Power tools
- 3) Household materials and appliances (sink, bathtub, toilet, tables and chairs, mattresses, shelving)
- 4) Bike parts (tires, frames, rims, chains)
- 5) Totes/plastic storage bins/buckets/pails
- 6) Propane and gas tanks
- 7) Extension cords, electrical wires and rope
- 8) Building supplies (windows, doors, insulation, laminate flooring, eves troughing, garage doors, ladders)
- 9) Bags and suitcases
- 10) Electronics (TV's, computer parts, wires)
- 11) Power tools, snow blowers, lawnmowers
- 12) Strollers, wagons and carts
- 13) Rugs, blankets and carpet
- 14) Cinder blocks
- 15) Metals (pipes, wires, tin, steel, steel beams)
- 16) Plastic tubing
- 17) Miscellaneous tools

- 18) Water barrels, tanks, jugs
- 19) Wooden pallets, railway ties, planks, plywood, boards
- 20) Animal crates/carriers
- 21) Batteries
- 22) Concrete pieces/slabs
- 23) Cardboard, Styrofoam
- 24) Coolers
- 25) Large metal gear
- 26) Industrial machinery/appliances/equipment
- 27) Remove all tall weeds and grass
- 28) All trailers, motorhomes and/or vehicles not parked on an approved surface or do not have active registration
- 29) All other garbage/refuse/litter, broken or damaged items
- 30) All buildings, storage sheds and structures indicated in the June 22, 2023, Stop Order and decision upheld by the appeal board (2023-09-12)
- 31) All buildings, storage sheds and structures indicated in the June 22, 2023, Stop Order and decision upheld by the appeal board (2023-09-12)
- 32) Fencing: remedy any/all fencing materials so they are free from significant rot or other deterioration/free from significant damage

When that has been completed, you are hereby ordered to fill in any holes and level the site. Refuse and debris cannot be buried on the site.

1. The above work must be completed on or before April 22, 2025.

Further information is contained in the Background Information Report that was forwarded to the Board members, Planning & Development Services Department, and the Appellant on Friday, May 16, 2025.

REVIEW HEARING

The Secretary advised the Board that Public Notice of the hearing was published in the Wednesday, May 12, 2025, edition of the *Medicine Hat News*, that six notifications were sent out to adjacent/abutting property owners, and no submissions were received. She also advised that the procedure is that representatives from Bylaw and Municipal Enforcement will provide an introduction and overview, the Appellant will be given the opportunity to speak in support of the review, any other interested persons will be given the opportunity to address the Appeal Board, the Appellant will be given the opportunity for rebuttal. Parties will then provide their closing comments, and the Board will confirm whether they have received enough evidence to make a decision. The Board will then consider the matter in a closed session. A decision in writing will be provided within 15 days. Details respecting the review are included in the review package and were provided to the Appellant and the Board members on Friday May 16, 2025.

The Board reviewed the Appellant's Notice of Review, and the following verbal presentations were then heard.

Brad Potts, Supervisor Bylaw and Municipal Enforcement provided an overview of the Order to Remedy Unsightly Property.

- The unsightly property order was issued by Medicine Hat Bylaw and Municipal Enforcement on April 4th, 2025.
- On Monday, March 17th, 2025, an e-mail was sent to Mr. Middleton by CPO Skakun, advising him that on Wednesday, March 19th, City of Medicine Hat Bylaw personnel would be attending his property at 675 Industrial Ave. to follow up on a stop order that was previously issued in 2023.
- On March 19th, 2025, after attending the inspection at 675 Industrial Ave Southeast to follow up on a Planning and Development stop order issued in 2023, it was determined that an unsightly property order would need to be created as the property had fallen into further disrepair.
- Pursuant to Section 3 of Bylaw No. 3117 of the City of Medicine Hat, the property in question was deemed to be detrimental to the surrounding area.
- In conclusion, an order to remedy unsightly property was mailed and emailed to the property owner, Robert Middleton, dated April 4th, 2025, with a compliance date of April 22nd, 2025.

Question: the date of the order was the 4th, the compliance date was the 22nd, so that's an 18-day period. Is that fairly standard?

Response: That's correct.

Question: What is the process if the order isn't followed and the issues rectified, what's the process moving forward?

Response: The process moving forward, an order of enforcement would be issued to Mr. Middleton with a date that the city would hire a contractor to come and clean up the property.

Robert Middleton, Appellant was called upon for his presentation.

- I was ordered to put up the fence years ago, and the fence was put up and it is containing what's inside from public view, making it not unsightly.
- The Boulevard has been kept up.
- There was no graffiti except what the city's graffiti artist put on my fence.

- There is no uncut grass, and no weeds present currently.
- The presence of one or more dilapidated vehicles, including vehicles that are inoperable and unregistered, there is one vehicle on the property. It's a motor home.
- There is a lot of garbage, litter and refuge from people who have been bringing it onto my property.

Question You said currently that the only vehicle on site is a motor home?

Response: That's right.

Question: And that belongs to you?

Response: No, it doesn't. It belongs to two people who are trying to make ends meet, homeless people, that is their home.

- There are no casters on the property as far as I know.
- There's lots of bicycle wheels all piled up, ready to go to scrap yard and no rims.
- There were a few vehicle parts, but they're not there anymore.
- There are a few tools which are not unsightly.
- There is a sink and two bathtubs.
- There are no toilets.
- There might be tables and chairs.
- There is shelving.
- I don't see how shelving can be unsightly, but there might be a shelf on the property.
- Bicycle parts, tires, frames, rims and chains have been all piled up ready to go to the scrap yard.
- There are propane tanks, the same person who's dealing with the scrap is dealing with the propane tanks to go to the scrap yard.
- The garage at the front is jammed full of garbage as people have been bringing garbage onto the property.
- There are cinder blocks on the property, enough to build a building 2000 square feet big. These are not unsightly as they are not visible from the road.
- The metal pipes and steel beams are unsightly as they are not visible unless the property were under drone surveillance.

Other interested parties

Robert Sissons

- Speaking against the review.
- Introduced himself as the Manager of Planning and Development with the City of Medicine Hat and expressed the City's interest in this property.

- On September 12th, 2023, the SDAB upheld a Stop Order against the same property, following which two inspections were conducted and a violation ticket issued.
- He requested the Board to note on record that the Appellant mentioned that at least two people are living on-site.

DECISION OF THE BOARD

The Subdivision and Development Appeal Board noted the following:

1. The Stop Order was issued appropriately, and the conditions were appropriate and reasonable.
2. The property is unsightly.
3. The site is zoned for industrial use, but Appellant admitted there are at least two people living onsite.
4. The order gave the Appellant 18 days, which was sufficient time to remedy.
5. The Appellant's evidence shows that the site remains unsightly, and no evidence was given to the contrary.

Given these considerations and pursuant to S.547(2) of the MGA, it is the decision of the Board to:

1. Confirm the order and deny the review.

A review of this decision may be made to the Court of King's Bench in accordance with the *Municipal Government Act*.

Dated this 29th day of May 2025.

Lovejoy Sibanda
Lovejoy Sibanda, SDAB Clerk, on behalf of
Jim Taylor, Chair
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

cc. Brad Potts, Supervisor – Bylaw and Municipal Enforcement
Robert Middleton (Appellant)