
**UNSIGHTLY PROPERTY ABATEMENT COMMITTEE OF
MOUNTAIN VIEW COUNTY**

DECISION

Hearing held at: Mountain View County Office
Council Chambers

Date of Hearing: October 4th 2018

Members Present: Alana Gibson
Gil Hegel
Jason Shantz

Basis of Appeal: This is an appeal from an Unsightly Property Abatement Notice (The “**Notice**”) issued by Mountain View County under Section 4.02 of Unsightly Property Bylaw 04/09 on the SE 2-33-1-5; Plan 7656 JK Block C (The “**Lands**”) on August 22nd 2018. The Appellant stated the following as the Reason for Appeal, amongst others included within the Notice of Appeal:

- The Appellant intends to remove the items identified as B, C, D, E in Photos of Schedule “A” (of the Notice);
- The Appellant intends to paint to cover the graffiti on the buildings/items identified as A and G in Photos of Schedule “A” (of the Notice);
- The Appellant intends to paint and repair the pipes and fence identifies as F in Photo of Schedule “A” (of the Notice); and
- The Appellant is opposed to the requirement of demolishing the main buildings and chain link fences as they are going to fix them up and keep them for good usage.

Appellant: Yun, Haoyu Michael
Landowner: 1080489 Alberta Ltd. c/o Yun, Haoyu Michael and Yun, Xiaoping Susan
Investigator: Community Peace Officer – Bylaw Compliance and Enforcement, Mountain View County

Description of Appeal

The Unsightly Property Abatement Notice was issued on August 22nd 2018 and served on August 28th 2018 (the “**Notice**”) by Mountain View County. The Notice of Unsightly Property Abatement Appeal was filed by the Appellant with the Board on September 10th 2018 (the “**Notice of Appeal**”). The Notice required the Landowner to demolish and remove the building with the two (2) additions attached to the building; remove the small accessory building, three (3) signs, fencing, concrete barriers, metal structure, and two (2) lighting standards and any related debris from the premises; level the site; and place jersey barriers along the east and part of the north property boundary. The Notice required all of the action to occur no later than ninety (90) days of the date of the service of the Notice.

On October 4th 2018, the Unsightly Property Abatement Committee (the "**Board**") opened the appeal hearing in accordance with Section 4.06 of Mountain View County Bylaw 04/09 for the appeal filed by the Appellant in regard to the issuance of an Unsightly Property Abatement Notice.

Findings of Fact:

1. The Lands are located at SE 2-33-1-5; Plan 7656 JK Block C;
2. The Lands are 2.70 acres;
3. That Lands are currently zoned Local Commercial (C-LC);
4. Mountain View County Bylaw 04/09 defines an Unsightly Premises as any use of, or activity upon any premises which is offensive to any person acting reasonably, or has or may be reasonably expected to have a detrimental impact upon any person or other premises in the neighbourhood or is dangerous or an imminent danger to public health or safety, or materially depreciates the value of other land or improvements on adjacent land;
5. The Investigator last attended the Lands on June 1st 2018 and declared the Lands to be unsightly in accordance with Mountain View County Bylaw 04/09;
6. The Board accepts the evidence provided by the Investigator and confirmation by the Appellant that the Lands are appropriately defined as an Unsightly Premises;
7. Mountain View County Bylaw 04/09 lists several potential examples of an Unsightly Premises. The Board accepts the evidence provided by the Investigator and confirmation by the Appellant that the Lands are in contravention of the following sections: 2.01(i)(i) The failure to cut or control grass and vegetation on the premises; (ii) Permitting a building or structure to deteriorate, become damaged or exist in a ruinous or dilapidated state; (vii) The failure to dispose of any rubbish, garbage, or other article of material including but not restricted to, discarded or dilapidated furniture, or household appliances, scrap metals, scrap lumber, tires, motor vehicle parts and other like objects; and (xi) The posting or exhibiting of any poster, sign, billboard, placard, writing, drawing or painting, or any signs or messages or pictures upon the premises, where the same becomes in a dilapidated state or unsightly condition;
8. Mountain View County Bylaw 09/12 – Municipal Development Plan Section 5.2.2 states that it is an Objective of the Plan “To ensure appropriate development standards are achieved, particularly within Economic Growth Nodes and within the growth centres to ensure high quality visual aesthetics of the County’s gateways and well-travelled areas”;
9. The Lands are located within the Highway 2 and 27 Area Structure Plan;
10. Mountain View County Bylaw 01/07 – Highway 2 and 27 Area Structure Plan Section 4.1 states that “The Highway 2/27 ASP will emphasize the importance of preserving agricultural land, provide for a balance of residential, business, and institutional uses, and will create an attractive gateway to the Town of Olds, all within the context of being sensitive to the plans for development of Olds College and the Town of Olds.”
11. The Lands have a history of unsightly complaints documented from October 15th 2015;
12. The Board accepts the Landowners submission that they have attempted to remediate the unsightly issues on the Lands on several occasions with continued vandalism after each remediation effort;
13. The Lands would require a new development permit to be issued by Mountain View County for any future development. The Board accepts that a condition of any future development permit would likely result in remediation of the lot;
14. The Appellant accepted responsibility for the remediation of the Lands and intends to fix all windows and doors, add rolling shutters to all windows, remove the two (2) additions, paint the property and clean up all vegetation on the property within one (1) year;
15. The deadline contemplated by the Notice to complete the demolition and removal of any related debris was ninety (90) days from the service of the Notice.

Decision:

The decision of the Unsightly Property Abatement Committee is to **uphold the Unsightly Property Abatement Notice** issued by Mountain View County Investigator dated August 22nd 2018 **with amended conditions:**

- 1) Within thirty (30) days of receipt of this Abatement Notice apply for a demolition permit;
- 2) Within ninety (90) days of receipt of this Abatement Notice demolish the two (2) additions as identified in Photo B as per the Alberta Building Code Requirements. Remove all components related to the demolition of the two (2) additions to a designated waste facility;
- 3) Within ninety (90) days of receipt of this Abatement Notice remove the two (2) signs and metal posts identified in Photo C to a designated waste facility;
- 4) Within ninety (90) days of receipt of this Abatement Notice remove all concrete curbs and sign identified in Photos D and E to a designated waste facility;
- 5) Within ninety (90) days of receipt of this Abatement Notice remove the metal structure and chain link fencing identified in Photo F to a designated waste facility;
- 6) Within ninety (90) days of receipt of this Abatement Notice remove the two (2) lighting standards including the poles and concrete platforms, two concrete barriers, small accessory building and metal posts identified in Photo G to a designated waste facility;
- 7) Within ninety (90) days of receipt of this Abatement Notice ensure that there are no excavations and level the site in the event that there is;
- 8) Within ninety (90) days of receipt of this Abatement Notice place concrete jersey barriers as required to protect the underground tank infrastructure;
- 9) Within thirty (30) days of receipt of this Abatement Notice paint building appropriately to completely cover up any graffiti to the satisfaction of the Investigator;
- 10) Within thirty (30) days of receipt of this Abatement Notice clean up all vegetation on site to the satisfaction of the Investigator;
- 11) Within ninety (90) days of receipt of this Abatement Notice repair all doors and windows including the installation of roll down shutters on windows.

Reasons for Decision:

1. The Board determined that the Lands are appropriately defined as an Unsightly Premises by Mountain View County Bylaw 04/09;
2. The Board determined that the Lands are in contravention of Mountain View County Bylaw 09/12 and Mountain View County Bylaw 01/07 by remaining in an unsightly condition;
3. The Board determined that the condition listed in the Notice requiring complete demolition of the building is an abnormally punitive request in response to graffiti on a property;
4. The Board determined that the requirement for the Landowner to cover the existing graffiti with paint satisfactory to the Investigator is an adequate and consistent response to graffiti on a property;
5. The Board determined that the conditions listed will adequately remediate the property to no longer be in an unsightly state.

Evidence:

The Board considered the following evidence in making its decision:

1. The Agenda and Notice of Appeal;
2. Report and verbal presentations to the Unsightly Property Abatement Committee including all attachments presented to the Board by the Appellant;
3. Report and verbal presentations to the Unsightly Property Abatement Committee including all attachments presented to the Board by the County's Planning and Development Department;

4. ***Municipal Government Act***, R.S.A. 2000, Chapter M-26;
5. Mountain View County Municipal Development Plan Bylaw 09/12;
6. Mountain View County Highway 2 and 27 Area Structure Plan Bylaw 01/07;
7. Mountain View County Bylaw 04/09 – Unsightly Premises.

Appeals:

If you wish to appeal this decision, you must follow the procedure prescribed in Section 548 of the ***Municipal Government Act*** as follows:

Appeal to Court of Queen's Bench

548(1) A person affected by the decision of a council under section 547 may appeal to the Court of Queen's Bench if:

- (a) the procedure required to be followed by this Act is not followed, or
- (b) the decision is patently unreasonable.

(1.1) The appeal must be made,

(a) in the case of an appeal of an order under section 545, within 30 days after the date the decision under section 547 is served on the person affected by the decision, and

(2) The application for the appeal must state the reasons for the appeal.

(3) The Court may

- (a) confirm the decision, or
- (b) declare the decision invalid and send the matter back to the council with directions.

**UNSIGHTLY PROPERTY ABATEMENT COMMITTEE
OF MOUNTAIN VIEW COUNTY**

Per:


Chair

Date Signed: October 15, 2018