

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 CHRISTOPHER COUCHMAN
OF THE EXECUTIVE OFFICER'S ORDER
ISSUED BY ALBERTA HEALTH SERVICES
ZONE 4 EDMONTON
DATED FEBRUARY 3, 2014
HEARING HELD MAY 28, 2014

Appearance:

Mr. Jamil Sawani, Legal Counsel, Owner/Appellant
Mr. Ivan Bernardo, Legal Counsel, Alberta Health Services/Respondent

Witness:

Mr. Dean Rombough, Executive Officer, Alberta Health Services Zone 4 Edmonton

Board Decision:

The Board's decision is the premises that were the subject of the Order were a private place as defined in the *Public Health Act*. The Board finds that the Premises were not a public place or both a public and private place. The entry and inspection of the premises were undertaken without the consent of the owner or a court order as is required in the *Public Health Act* for private places. The Order of an Executive Officer dated February 3, 2014 is reversed.

A. Introduction

Alberta Health Services was contacted by the Green Team, a Combined Forces Special Enforcement Unit of the police, on January 29, 2014 as they had seized a marijuana grow operation at 4 LaRonge Way, St. Albert, Alberta (the "Premises"). The protocol is for Alberta Health Services to attend at premises where marijuana is being grown and the police have intervened. Alberta Health Services was advised that the Premises were owner occupied prior to attending at the Premises.

Executive Officer, Dean Rombough with Alberta Health Services, entered the Premises on January 29, 2014 without seeking or obtaining the consent of the owner and occupant of the Premises. The Executive Officer entered the Premises when the Green Team was on site and the owner was not present. The Executive Officer inspected the Premises on January 29, 2014 and again on February 13, 2014 when the owner was present. An Order of An Executive Officer dated February 3, 2014 (the "Order") was issued by the Executive Officer. The Order is attached as Appendix "A".

The Order was issued pursuant to s. 62 of the *Public Health Act* (the "Act"). The Order set out a general description of nuisance conditions and deficiencies in the water supply, plumbing, heating, venting and electrical systems. It also set out a list of work that was to be completed by April 8, 2014. The work related to the alterations made to the Premises to grow marijuana and the possible existence of mould from growing marijuana. The Order set out details of the breaches of the *Public Health Act*, the *Housing Regulation* and the *Minimum Housing and Health Standards*.

The Premises were a single family residence owned by the Appellant and occupied by him and his spouse. The Appellant purchased the home in 2007 for \$720,000.00.

The Appellant had a valid license from Health Canada to grow marihuana on the Premises for personal medical purposes.

The Appellant received the Order by registered mail on February 7, 2014. The Notice of Appeal was received by the Board on February 19, 2014.

It should be noted that this appeal was originally heard by the Board on March 11, 2014 but the appointments of the majority of the members who were present at the first hearing ended before the Board could make a decision, requiring a new hearing. The rehearing of this appeal was heard on May 28, 2014 at ATB Place, South Tower 10020 100 Street N.W. Edmonton, Alberta.

B. Timing of the Appeal

Section 5(3) of the *Public Health Act* requires the Appellant to serve notice of the appeal within 10 days after receiving notice of the Order. The Appellant served notice 12 days after he received the Order by registered mail.

If the Notice of Appeal is not served within the 10 day time frame the Board may extend the time within which an appeal may be taken if it considers it appropriate to do so. There was no objection from Alberta Health Services to extending the time for receiving the Notice of Appeal. The Board finds that it is appropriate to extend this time period.

C. Jurisdiction

There were no objections to the Board's jurisdiction to rehear this appeal.

D. Facts

The facts as set out in the Introduction are not disputed by the parties.

E. Issues

1. Were the Premises a private place, a public place or both as defined in the *Public Health Act*; and
2. If the Premises were a private place as defined in the *Public Health Act*, how does this affect the Order given there was no consent from the owner to enter the Premises?

F. The Appellant's Submissions

The Appellant provided written submissions, the Notice of Appeal, the Personal-Use Production License Dried Marihuana For Medical Purposes and case law as follows:

- *Law Society of Alberta v Merchant*, 2011 LSDD No.29
- *Tartaglia v Alberta Workers' Compensation Board Appeals Commission*, 2012 ABCA 186
- *Boardwalk Equities Inc. v Capital Health Authority*, 2005 ABQB 34
- *R v Belnavis*, (1997) 3 SCR 41
- *R. Edwards*, (1996) 1 SCR 128 (Exhibit C).

The Appellant submitted that the Premises were a private place as defined in the *Public Health Act*. He disputed that these particular Premises could be both a private place and a public place as was found in the *BPCL Holdings Inc. v Alberta* case as that was with respect to apartment buildings that included both public places and private places.

The Appellant submitted that the Premises fit squarely within the definition of a private place as the Premises were the private dwelling place of the registered owner of the property and his spouse. No portion of the home was rented to the public and the public did not have access to the Premises.

The Appellant disputed Alberta Health Services' submission that the Premises were a public place or both a public and private place because the Appellant had a license to grow marihuana for personal medicinal use. He submitted that this type of license, like many other types of licenses required to obtain utilities and operate electrical and plumbing systems, did not fit within the public place definition scheme set out in the Act. He submitted that all Premises or their occupants are licensed in one way or another and to expand the definition of "licensed" this broadly would result in all Premises being included in the definition of public places.

He submitted that "licensed" as set out in the Act refers to the licensing of food and alcohol premises that serve the public and not to other licenses such as the license to grow marijuana for personal medical purposes.

The Appellant also disputed that the Premises were a place of business as defined in the Act as there was no evidence of business activity. The public was not invited to enter the Premises and the public had no access to the Premises. The growing of marijuana was a personal endeavor and there were no customers involved. He also disputed that it was a medical supply business that would be encompassed by s. 1(ii)(x) of the definition of public place in the Act. There were no medical services or treatment being provided to public.

The Appellant submitted that the powers for Executive Officers to enter a private place as set out in the Act are limited for good reason and that reason is to protect the privacy of people in their private homes. He submitted that a balance must be struck between the importance of privacy and the protection of the public from public health concerns. He submitted that it is not onerous for Alberta Health Services to obtain an order pursuant to s. 61 of the Act if there are premises where there may be a nuisance and the owner does not or cannot provide consent to enter the premises.

The Appellant submits that because the Premises were a private place and no consent was obtained to enter the Premises or court order obtained prior to the Executive Officer entering the Premises, the Order was unlawfully made and ought to be reversed.

G. Alberta Health Services Submissions

Alberta Health Services provided the following:

- Brief setting out its position on the issues, Excerpts of Key Evidence and Arguments that included *R v China BBQ Specialty* (1999) A.J. No. 1928, 1999 ABPC166 and 2 papers: *Domestic Marihuana Grow Operations; Understanding the Hazards* and *Grow Op Free Alberta Final Recommendations Report*. (Exhibit E)
- Binder with a Summary from the Executive Officer, Inspection Reports dated January 29, 2014 and February 13, 2014, the Order, photographs of the Premises, Land Title Certificate, Service Request Form, *Marihuana Grow Operation Repair, Rehabilitation and Remediation Requirements* and *Checklist for Phases of Remediation for Marihuana Grow Operations: Repair, Rehabilitation and Remediation Requirements* (Exhibit D)
- *BPCL Holdings Inc. v. Alberta*, 2006 ABQB 757 (Exhibit F)
- *BPCL Holdings Inc. v. Alberta*, 2008 ABCA 153 (Exhibit G)

Alberta Health Services referred to *R v China BBQ Specialty* which is a case that sets out a series of observations with respect to regulatory offences and the importance of regulatory legislation. Regulations are intended to protect members of society, especially those who are vulnerable, from activity that would result in dangerous conditions and to prevent future harm through enforcement of minimum standards of conduct and care. They submitted that although the Appellant had a license to grow marijuana for personal medical use, he was required to maintain minimum standards and to comply with the *Public Health Act* and its *Regulations*.

Alberta Health Services submitted that the Premises were both a private and public place as defined in the *Public Health Act* and as was found in *BPCL Holdings Inc. v. Alberta* wherein the Court of Queen's Bench found that apartment buildings could be both private and public places.

To support their submission that the Premises were both a public and private place they rely on the broad definition of public place in the *Public Health Act* and point out that the definition is inclusive and the list of public places set out in the Act is not exhaustive. In particular they submit that the definition is broad enough to include the subject Premises in the definition because:

1. It was a place of business where business activity was carried out as the Appellant supplied himself and his spouse with medical marijuana;
2. The Appellant was licensed to grow marijuana for personal medical purposes by Health Canada and that made it a licensed premises as defined in the Act; and
3. The Appellant produced medical supplies on site for the treatment of a medical condition and that brought the Premises within the definition of a public place in the Act.

Alberta Health Services also submitted that the test to determine whether the Premises is a public place is not whether a particular place presents hazards to the public's health but whether a particular type of place, such as a business, licensed premises or medical facility, is the type of place where the need to safeguard public health may arise. The Respondent submitted that premises where marijuana is grown are innately dangerous and are a risk to residents, neighbours and first responders in the event of accidents and that makes them a particular type of place presenting a hazard to public health.

To support the position that premises where marijuana is grown are intrinsically hazardous to public health the Respondent provided information about the risks of marijuana grow operations which included *Domestic Marijuana Grow Operations; Understanding the Hazards* and the Government of Alberta's report entitled *Grow Op Free Alberta, Final Recommendations*.

In addition, Alberta Health Services provided both photographs and oral evidence from the Executive Health Officer setting out the particular conditions of the Premises as was found during the inspection of the Premises.

Alberta Health Services submitted that if the Premises were found to be a private place as defined in the Act, the Order should not be reversed due to the lack of consent from the owner to enter the Premises for two reasons. The first is that the *Nuisance and General Sanitation Regulation* includes a positive duty for an Executive Officer who receives a complaint alleging the existence of a nuisance to inquire into the substance of the complaint. This positive duty required the Executive Officer to join the police and inspect the property which makes the Order authorized by law.

The second reason the Order should not be reversed due to the lack of consent from the owner to enter the Premises is that s.69 of the *Public Health Act* states that an order is not invalid due to an irregularity or insufficiency in connection with the issuance of the order and the lack of consent to enter the Premises was an irregularity or insufficiency in how it was issued.

H. Decision

Having considered all of the evidence and submissions of the parties, the Board has decided the Premises were a private place as defined in the *Public Health Act*. The Board finds that the Premises were not a public place or both a public place and a private place. The entry and inspection of the premises were undertaken without the consent of the owner or a court order as is required in the *Public Health Act* for private places. The Order of an Executive Officer dated February 3, 2014 is reversed.

I. Reasons

The requirements for an Executive Officer to enter a public place are different from the requirements to enter a public place in the *Public Health Act*. If a premise is a public place the Executive Officer may enter the premise and conduct an inspection without the consent of the owner or a court order. This is set out in s. 59 of the Act which states:

- s.59 (1) An executive officer may inspect any public place for the purpose of determining the presence of a nuisance or determining whether this Act and the regulations are being complied with.
- (2) An executive officer making an inspection under subsection (1) may
- (a) at any reasonable hour enter in or on the public place that is the subject of the inspection;
 - (b) require the production of any books, records or other documents that are relevant to the purpose of the inspection and examine them, make copies of them or remove them temporarily for the purpose of making copies;
 - (c) make reasonable oral or written inquiries of any person who the executive officer believes on reasonable grounds may have information relevant to the subject-matter of the inspection;
 - (d) inspect and take samples of any substance, food, medication or equipment being used in or on the public place;
 - (e) perform tests, take photographs and make recordings in respect of the public place.

Section 60 of the *Public Health Act* sets out the requirements for an Executive Officer to enter a private place if the Executive Officer believes, on reasonable and probable grounds, that a nuisance exists (emphasis added):

- s. 60 **Where an executive officer believes on reasonable and probable grounds that a nuisance exists in or on a private place or that the private place or the owner of it is in contravention of this Act or the regulations, the executive officer may, with the consent of the owner or pursuant to an order under section 61,**
- (a) **enter in or on the private place at a reasonable hour and inspect it;**
 - (b) make reasonable oral or written inquiries of any person who the executive officer believes on reasonable grounds may have information relevant to the subject-matter of the inspection;
 - (b) take samples of any substance, food, medication or equipment being used in or on the private place;
 - (d) perform tests, take photographs and make recordings in respect of the private place.

And section 61 of the Act sets out the requirements for obtaining a court order for the Executive Officer to exercise his or her powers to inspect a place:

- s.61(1) Where the owner of a public place or a private place refuses to allow an executive officer to exercise the executive officer's powers under section 59 or 60 or hinders or interferes with the executive officer in the exercise of those powers, the executive officer may apply to a judge of the Court of Queen's Bench for an order directing the owner to do or refrain from doing anything the judge considers necessary in order to enable the executive officer to exercise the executive officer's powers, and the judge may make the order accordingly.
- (2) An application under subsection (1) may be made ex parte where the judge considers it proper to do so.

This difference, the requirement of consent or a court order, between the requirements for an Executive Officer to enter and inspect public and private places means that if the subject Premises are a private place, the Executive Officer did not meet the requirements of the Act to enter and inspect the property. If the Premises are a public place, the Executive Officer did meet the requirements of the Act to enter and inspect the property.

The *Public Health Act* defines Private Place and Public Place as follows:

- s.1 (hh) "private place" means
- (i) a private dwelling, and
 - (ii) privately owned land, whether or not it is used in connection with a private dwelling;

s.1 (ii) “public place” includes any place in which the public has an interest arising out of the need to safeguard the public health and includes, without limitation,

- (i) public conveyances and stations and terminals used in connection with them,
- (ii) **places of business and places where business activity is carried on,**
- (iii) learning institutions,
- (iv) institutions,
- (v) places of entertainment or amusement,
- (vi) places of assembly,
- (vii) **dining facilities and licensed premises,**
- (viii) accommodation facilities, including all rental accommodation,
- (ix) recreation facilities,
- (x) **medical, health, personal and social care facilities, and**
- (xi) any other building, structure or place visited by or accessible to the public;

The definition of a public place in the *Public Health Act* is inclusive and the list of public places set out in the definition is not exhaustive. Alberta Health Services submitted that the Premises were a public place because it was included in the definition of public place as follows:

- place of business;
- licensed facility; or
- medical, health, personal and social care facility.

With respect to it being a place of business, there was no evidence that the Appellant sold any products to the public or that he was involved with any business dealings. The only submission to support this position was that Alberta Health Services understood that the Appellant supplied his spouse with marijuana. There was no evidence provided to support this submission and it is doubtful that this activity would qualify as a business activity or place of business as contemplated in the Act.

Alberta Health Services submitted that the Premises were licensed to grow marijuana and therefore a public place as set out in s.1 (ii)(vii) in the definition of public place. Although the definition of public places is broad it is not intended to cover all premises that are licensed. Many licenses do not involve activities that would affect public health. The license to grow marijuana for personal medical use is different than a license to grow marijuana for commercial purposes or a license to sell marijuana. This section of the definition of public place is with respect to providing food or alcohol to the public and is not broad enough to encompass a license to grow marijuana for personal medical purposes.

The Respondent submitted that the Premises were a public place as set out in s.1(ii)(x) of the definition: medical, health, personal and social care facilities. Alberta Health Services submitted that the Appellant was growing medical supplies to be used for the treatment of a medical condition on site. A facility is defined in the Act as any place where a person can receive treatment for communicable diseases. There was no evidence the Premises were a treatment facility for a communicable disease. No one was being treated other than the Appellant who was licensed to grow marijuana for personal medical purposes.

Alberta Health Services also submitted that the key question is whether the need to safeguard public health arises in the premises and that marijuana grow operations present public health risks and are therefore public places. Evidence of the risks associated with growing marijuana was provided to the Board. The Board finds that even if there are public health risks inherent in a marijuana grow operation and this one in particular, if the operation is located in a private place the Executive Officer is required to obtain consent from the owner to enter the premises and inspect them or is required to obtain a court order permitting entrance onto the premises to inspect them for public health risks. The possible risks associated with growing marijuana do not make the Premises a public place as defined in the Act. Determining that there is a marijuana growing operation may be reasonable grounds to believe a nuisance exists but it does not change the requirements of the Executive Officer to enter and inspect a private place.

The Act contemplates that an inspection may occur if the requirements outlined in section 59 or 60 have been met which, in the case of a private place requires the consent of the owner to enter or a court order permitting the entrance onto a private place. The Act further contemplates what can happen once an inspection has been undertaken in s.62 of the *Public Health Act* which states (emphasis added):

s.62(1) 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.

Alberta Health Services submitted that the Premises could be both a public and private place as was found in *BPCL Holdings Inc. v. Alberta* with respect to apartment buildings. Although premises can be both, there must be some element of a public place for the premises to be found to be both. In these circumstances, the Appellant owned the Premises and resided there with his spouse. It was a single family residence and he did not rent any portion of the Premises to the public. The Act does provide for a broader meaning to be given to public place than is given to a private place but the Board contends that the Act was not written to include any and all private dwellings in the definition of public place if there was a possible hazard to the public occurring in that private dwelling. The Act includes a procedure for Executive Officers to follow in these circumstances: obtaining consent from the owner or obtaining a court order. If a person's private dwelling was meant to be part of the inclusive definition of public place then there would be no requirement to define private place or to have different requirements to enter and inspect private and public places for a possible nuisance.

The Board finds that the Premises were a private place and not a public place as defined in the Act and as such, the Executive Officer was required to obtain consent from the owner or a court order to enter and inspect the premises for a possible nuisance.

Alberta Health Services referred to *R v China BBQ Specialty*, a case that sets out a series of observations with respect to regulatory offences and the importance of regulatory legislation. The Board agrees that regulatory legislation is required to protect the public from possible health risks and that in this instance the Appellant was required to comply with the *Public Health Act* and its *Regulations* notwithstanding that he had a license to grow marijuana for personal medical use. The Board finds that this requirement to comply with the Act and its *Regulations* does not alter the requirements for Alberta Health Services to enter a private place to inspect for a possible nuisance.

Effect on the Order of finding that the Premises were a Private Place only and not a Public Place or Both a Public and Private Place

The *Nuisance and General Sanitation Regulation* includes a positive duty for an Executive Officer who receives a complaint alleging the existence of a nuisance to inquire into the substance of the complaint as was submitted by Alberta Health Services. But the Board finds that the positive duty is to inquire which is different from a duty to enter the premises. An inquiry can include many forms of investigation other than entering the premises. If this *Regulation* permitted the entry into a private place without the consent of the owner or a court order, it would be *ultra vires* the Act. The positive duty to inquire found in the *Regulation* does not make the Order authorized by law.

Section 69 of the *Public Health Act* states that an order is not invalid due to an irregularity or insufficiency in connection with the issuance of the Order as follows:

s.69 A certificate, notice, order, warrant or other form issued under this Act or the regulations shall not be held to be insufficient or invalid by reason only of any irregularity, informality or insufficiency in it or in any proceedings in connection with its issuance.

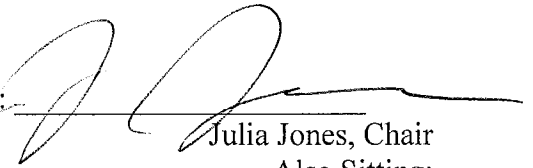
The Board finds that the lack of consent or court order for the Executive Officer to enter and inspect the Premises cannot be considered an irregularity, informality or insufficiency in connection with the issuance of the Order. Section 69 pertains to minor errors such as incorrect dates or typographical errors and does not apply to procedural fairness matters as was the circumstances in this appeal.

In addition, the Order referred primarily to contraventions found in the *Housing Regulation* and the *Minimum Housing and Health Standards* both of which do not apply to owner occupied premises. The Regulation states:

s. 2 This Regulation does not apply to housing premises or to that part of the housing premises that is occupied solely by the owner and the owner's dependants.

For the above reasons, the Board has reversed the Order.

Per: _____



Julia Jones, Chair

Also Sitting:

Linda Cloutier, Member

David Thomas, Member

Date: June 30, 2014

ORDER OF AN EXECUTIVE OFFICER

To: Christopher Couchman
"the owner"

RE: The "housing premises" located in St Albert, Alberta and municipally described as:
4 LaRonge Way

WHEREAS I, an **Executive Officer** of **Alberta Health Services**, have inspected the above noted premises pursuant to the provisions of the Public Health Act, RSA 2000, c. P-37, as amended;

AND WHEREAS such inspection disclosed that the following conditions exist in and about the above noted premises which are or may become injurious or dangerous to the public health or which might hinder in any manner the prevention or suppression of disease, namely:

General Description:

Marihuana grow operation in a residential building with unapproved and modified ventilation, plumbing, and electrical systems. Potential chemical contamination resulting in hazardous conditions, excessive moisture throughout, and potential mould growth.

1. **Nuisance conditions:** basement being used for the purposes of growing and cultivating marihuana plants, with increased levels of temperature and humidity which may contribute to potential mould growth.
2. **Water supply and plumbing deficiencies:** modifications to water supply plumbing and fixtures within the residence with hoses resting in containers containing unknown solutions creating the risk of back-siphonage of chemicals and contaminated water into public water supply.
3. **Heating and ventilation deficiencies:** modifications and/or contamination to heating air filtration and/or air handling systems (furnace and ventilation system) due to entrainment of chemicals and bioaerosols from the marijuana grow operation into the heating system.
4. **Electrical deficiencies:** unsafe electrical system resulting from unapproved modification of building fixtures, components and installation of unapproved electrical connections including the electrical panel within premises to electrify equipment used in the marihuana grow operation.
5. **Nuisance conditions:** hanging and entrapment hazards due to electrical cords, hoses and other apparatus used in the illegal operation, suspended from the ceilings and strung along walls and floors of the basement.
6. **Nuisance conditions:** excessive use and storage of chemicals with surfaces throughout the growing and mixing areas contaminated from the use and spillage of chemicals including growth enhancers, fertilizers and pesticide solutions.
7. **Mould contamination:** potential mould contamination of walls, ceilings, and cavities throughout the premises due to high moisture levels.

AND WHEREAS such inspection disclosed that the following breaches of the Public Health Act and the Housing Regulation, Alberta Regulation 173/99, and the Minimum Housing and Health Standards exist in and about the above noted premises, namely:

1. Water supply and plumbing deficiencies, resulting from modifications to water supply plumbing and fixtures within the residence, creating the risk of back-siphonage of chemicals and contaminated water into public water supply, which is in contravention of the Minimum Housing and Health Standards section IV(6)(a) which states that: The plumbing system and the sanitary drainage system or private sewage disposal system, as the case may be, including drains, fixtures, traps, vents, stacks, waste disposal facilities, pump-out sewage holding tanks, septic tanks and the disposal system shall be maintained in a proper operating condition.
2. Heating and ventilation deficiencies, resulting from modifications and/or contamination to heating, air filtration and/or air handling systems (furnace and ventilation system) within residence including duct work, which is in contravention of the Minimum Housing and Health Standards section IV(8)(a)(i) which states that: All heating facilities within a housing premises are to be properly installed and maintained in good working condition, and be *capable* of safely and adequately heating all habitable rooms
3. Electrical deficiencies including unsafe electrical system resulting from unapproved modification of building fixtures, components and installation of unapproved electrical connections within residence to electrify equipment used in the marijuana grow operation, which is in contravention of the Minimum Housing and Health Standards section IV(11) which states that: Every housing premises shall be supplied with electrical service. Outlets, switches and fixtures shall be properly installed and shall be maintained in a good and safe working condition.

NOW THEREFORE, I hereby **ORDER** and **DIRECT**:

1. The Owner immediately undertake and diligently pursue the completion of the following work in and about the above noted premises, namely:
 - a. That all products that may rot or decay be removed from the premises and be properly disposed of.
 - b. Retain the services of an **Environmental Health or Indoor Air Quality Consultant** to:
 - (i) assess the conditions within the above noted premises including the carrying out of environmental air quality analyses of the interior spaces (including the attic, wall and floor cavities, and crawlspaces) for water and mould damage; and
 - (ii) prepare for review by Alberta Health Services a detailed assessment report and scope of work plan, including a hazardous materials audit and management plan.

Testing and reporting shall follow the requirements outlined in Alberta Health Services' Fungal Air Testing Protocol and must include extensive intrusive and destructive testing and shall and must include inspection and assessment of hidden cavities and surfaces such as, but not limited to, cutting access holes (or using boroscopes) into walls and ceilings, lifting carpets or vinyl sheet flooring, removing wallpaper for investigation purposes. The consultant's report shall describe, amongst other things, the building construction, finishes, materials and components and the results of their investigations along with recommendations for restoration, repair, and the remediation as required for reoccupation of the building. ***The Consultant should have current, active membership in a related professional organization or certifying body and shall be first approved in writing by Alberta Health Services.***

- c. Prior to performing any work inside the above noted premises apply for and obtain all permits and approvals required by law, including, but not limited to, Environmental Restoration, Electrical, Plumbing, Gas and/or Mechanical permits. (The Environmental Restoration permit may require that you obtain the services of a **Professional Engineer (Alberta)** to provide an intended Scope of Work report which shall describe the building construction, finishes,

materials and components and the results of their investigations along with recommendations for restoration, repair, and remediation as required for reoccupation of the building. Any such Report shall be forwarded to Alberta Health Services.) ***It is important that services (electricity and natural gas) be reinstated to allow the provision of light, heat and hot water to facilitate proper cleaning.***

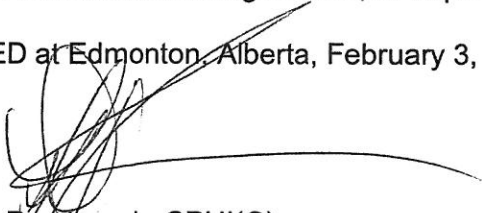
- d. Retain the services of a restoration and mould remediation specialist, approved by Alberta Health Services, to remove and replace or clean, as required, any and all drywall, building materials, and finishing materials, or any other item that is or may be water damaged, infested with or damaged by mould or bacteria or otherwise contaminated with chemicals or other substances of concern, all in accordance with the direction required at item 4.a, above. (Reference should be made to Mould Guidelines for the Canadian Construction Industry located at www.cca-acc.com/mould/.) ***It is recommended that the cleaning and restoration work be carried out by a member in good standing of the Institute of Inspection, Cleaning and Restoration or an equivalent professional body.***
- **All materials related to the plant growing operation that are remaining behind, including pots, soil, fans, lights, cutting tools, chemicals and general rubbish, shall be removed and disposed of and a manifest attesting to this disposal provided to Alberta Health Services.**
 - **All furnishings and window coverings throughout shall be removed and professionally cleaned or disposed of and shall not be reinstalled nor stored in an attached garage due to the chance of recontamination.**
 - **Building products requiring removal shall be tested for hazardous content where deemed necessary by the professional consultant.**
 - **All paneling, drywall, vapor barrier, insulation throughout the basement and the basement stairway, including ceilings and rim board areas, shall be removed and disposed of.**
 - **All remaining hard surfaces throughout, including but not limited to walls, floors, doors, cupboards, shall be thoroughly washed with detergent and water.**
- e. Ensure that additional, general renovation work, including painting, reinstallation of drywall and laying of new flooring and/or sub floors does not occur until suitable air sample results are received and submitted and the work identified at items 1.b, 1.c, 1.d. and 1.e has been completed to the satisfaction of Alberta Health Services.
- f. Properly dispose of all chemicals and produce a valid manifest attesting to such proper disposal. Chemicals and chemical mixtures are **not to be disposed of in the sanitary nor storm sewers.**
- g. Retain the services of a licensed furnace company to inspect, clean and disinfect the HVAC supply air ducts, floor vents, return air plenums and the furnace within the premises. This required cleaning shall take place as a final step after the completion of all remediation work but before final air sampling. ***It is recommended that the furnace cleaning company be a member in good standing of the Better Business Bureau (BBB) and/or the National Air Duct Cleaners Association or an equivalent professional body.***

- h. Ensure that water, gas and electrical services are properly reinstated by the providers of such utility services.
- i. Ensure that the plumbing system is in a good and safe operating condition.
Water supply:
- If the potable water in the building has been disconnected for some time, particularly in large buildings, the building distribution system should be flushed to move all stagnant water, microorganisms, and any leachates/particulates from pipes.
 - The cold water supply should exhibit a measurable chlorine residual.
 - Cold water samples should be submitted for microbiological/bacteriological testing at the Environmental Health Officer's discretion. Ideally, two consecutive samples, each sample having been taken one week apart, must have satisfactory microbiological test results.
- j. Provide a detailed remediation and repair report which includes copies of all disposal manifests for removed materials, invoices for new, replacement materials, work orders, receipts, results, photos, inspection certificates and any other documentation pertaining to the work required hereby to Alberta Health Services.
- k. Take any further steps in the interests of preserving and maintaining the health of any person who may, in the future, occupy the above noted premises as may be required by the Executive Officer.

2. The work referred to in paragraph 1 shall be completed by April 8, 2014

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 regulations, or to prevent a public health nuisance.

DATED at Edmonton, Alberta, February 3, 2014



Dean Rombough, CPHI(C)
Executive Officer
Alberta Health Services

YOU HAVE THE RIGHT TO APPEAL

A person who a) is directly affected by a decision of a Regional Health Authority, and
 b) feels himself aggrieved by the decision

may appeal the decision within ten (10) days after receiving the order to the Public Health Appeal Board located at Reception, Main Floor. Telus Plaza, 10025 Jasper Avenue, Edmonton, Alberta, T5J 1S6, Telephone 780-427-2813 Fax 780-422-0914.

The terms of this Order remain in effect notwithstanding the filing or proposed filing of any such appeal. If you appeal, you may also make an application to the Board for a stay of this Order pending the appeal.

A copy of the Public Health Appeal form may be obtained by contacting Alberta Health Services at 780-342-0122 or the Public Health Appeal Board 780-427-2813.

You are advised that all orders remain in effect pending such an appeal

HEALTH LEGISLATION, REGULATIONS AND STANDARDS

Electronic versions of the Public Health Act and Regulations are available at the Alberta Queen's Printer Bookstore 10611 - 98 Avenue, Main Floor, Park Plaza, Edmonton, Alberta, T5K 2P7 or www.qp.gov.ab.ca.

Health Legislation and regulations are available for purchase. Please contact Alberta Queen's Printer Bookstore 10611 - 98 Avenue, Main Floor, Park Plaza, Edmonton, Alberta, T5K 2P7 or www.qp.gov.ab.ca.

Copies of standards are available by contacting the Health Protection Branch of Alberta Health at 780-427-4518, or by visiting: www.health.alberta.ca/about/health-legislation.html