

**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 A PRELIMINARY APPLICATION  
TO THE PUBLIC HEALTH APPEAL BOARD BY ALBERTA HEALTH SERVICES  
OF THE APPEAL 14/2015 OF THE ORDER OF AN EXECUTIVE OFFICER  
ISSUED BY ALBERTA HEALTH SERVICES  
IN EDMONTON DATED OCTOBER 7, 2015.  
HEARING HELD NOVEMBER 20, 2015**

**Appearances**

Mr. Ivan Bernardo, Q.C., Legal Counsel, Alberta Health Services/Respondent

Mr. Abdullah Shah, Property Manager, 1443028 Alberta Ltd./Home Placement Systems, Appellant

**Introduction**

The Order of an Executive Officer dated October 7, 2015 was issued pursuant to the *Public Health Act* and its *Regulations* regarding a residential rental property located at 12040–65 Street, Edmonton, Alberta. The Order was directed to the owner and property managers of 1443028 Alberta Ltd. and Home Placements Systems.

The Order outlined the conditions of the premises that were or may become injurious or dangerous to the public health or which might hinder in any manner the prevention or suppression of disease. It also declared the premises unfit for human habitation and directed the occupants to vacate the premises on or before October 15, 2015.

In addition, the Order directed the owner to arrange for air quality and asbestos testing on the property, complete the identified work and arrange for a full report from a professional engineer regarding the structural integrity of the building.

The Notice of Appeal was received by the Public Health Appeal Board on October 21, 2015 and the grounds of appeal were: "The order was issued with false information and a misuse of authority".

On October 30, 2015 Alberta Health Services requested a Preliminary Hearing which was heard on November 20, 2015 via teleconference.

**Issue**

Should the Appellants be required to clarify the particular issues they will be appealing at the appeal hearing, prior to the appeal hearing?

**Alberta Health Services' Submissions**

On October 30, 2015 Alberta Health Services requested a Preliminary Hearing to determine if the appeal should be permitted to proceed. They submitted that the appeal was frivolous and vexatious and the Appellants should demonstrate the appeal had merit before a hearing was scheduled.

On November 18, 2015 Alberta Health Services advised that they would be asking for information from the Appellants as follows:

- What findings of fact as enumerated from a to kk on pages 1-2 of the Order will be appealed; and
- Will the applicability of the Act, Regulations or Standards be disputed; and
- Which of the prescriptive aspects of the Order, set out in pages 6 and 7 of the Order, are opposed and what are the grounds.

The Notice of Appeal served by the Appellants was too broad and vague. Alberta Health Services requested that the Appellants narrow the issues that will be raised at the appeal hearing so that they could properly prepare for the hearing and conserve resources.

**Appellants' Submissions**

The Appellants questioned why the onus was on them to provide the details of the appeal. They advised that the issues that would be appealed were:

- the Executive Officer did not properly exercise her professional discretion in issuing the Order;
- 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
- the notice to the tenants to vacate the premises was only one day.

## Reasons

Alberta Health Services' application is with regard to case management of the appeal hearing. They wish to have clarification of all the issues that will be raised at the appeal hearing. The Board found this to be a reasonable request given the broad and vague grounds of appeal set out in the Notice of Appeal and the large number of potential items of dispute set out in the Order.

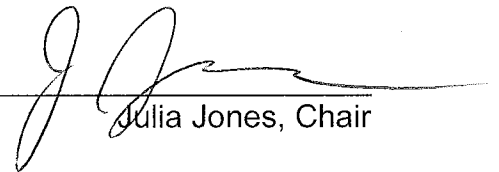
## Decision

At the appeal hearing the Appellants may raise the following issues to appeal the Order:

- 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
- the notice to the tenants to vacate the premises was only one day.

If the Appellants wish to raise the issue that the Executive Officer did not properly exercise her professional discretion in issuing the Order or any other matter not set out above, they must provide further details to the Board and Alberta Health Services in writing prior to December 15, 2015.

Per \_\_\_\_\_



Julia Jones, Chair

Also Sitting:

Linda Cloutier, Member

Linda Klein, Member

December 8, 2015