



Part 1: General Information

Requester's Information

☒ Landlord ☐ Co-op ☐ Tenant ☐ Co-op Member ☐ Other Party

First Name

R E D S T A R L I G H T L P

Last Name

Mailing Address

E A S T T O W E R 3 2 5 0 B L O O R S T R E E T W E S T

Unit/Apt./Suite

8 0 0

Municipality (City, Town, etc.)

T O R O N T O

Prov.

O N

Postal Code

M 8 X 2 X 9

Day Phone Number

(4 1 6) 2 3 4 - 8 4 4 4

Evening Phone Number

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Fax Number

(4 1 6) 2 3 4 - 8 4 4 5

Unit, Building or Complex Covered by the Request

Street Number

1 6 5

Street Name

O N T A R I O

Street Type (e.g. Street, Avenue, Road)

S T R E E T

Direction (e.g. East)

Unit/Apt./Suite

Municipality (City, Town, etc.)

S T . C A T H A R I N E S

Prov.

O N

Postal Code

L 2 R 5 K 4

Other Parties to the Request

☐ Landlord ☐ Co-op ☒ Tenant ☐ Co-op Member ☐ Other Party

First Name

S E E S C H E D U L E O F P A R T I E S A T T A C H E D

Last Name

Mailing Address

Unit/Apt./Suite

Municipality (City, Town, etc.)

Prov.

Postal Code

Day Phone Number

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Evening Phone Number

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Fax Number

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If there is more than one other party, provide the names, addresses and telephone numbers of the additional other parties on the *Schedule of Parties* form which is available from the Board's website at sjto.ca/LTB.

Part 2: Reasons for Your Request

I am requesting that the Board review the order

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issued on

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 , because it contains a serious error.
dd/mm/yyyy

Shade the box(es) completely next to your reason for applying.

- ☒ **I believe the order contains a serious error,**
☐ **I was not reasonably able to participate in the proceeding**

In the space provided **below**, describe why you are requesting a review of the order.

If you are requesting a review because you believe the order contains a serious error, describe why you believe that the order contains a serious error. For example:

- Did the Board apply the *Residential Tenancies Act, 2006* in a situation where it did not apply?
- Did the order include a remedy that is not appropriate in the circumstances?
- Was a decision in the order affected by information that was misleading or incorrect?
- Did the order fail to comply with the rules of natural justice?

If you are requesting a review because you were not reasonably able to participate in the proceeding, describe why you were not reasonably able to participate. For example:

- Did you not receive the Notice of Hearing?
- Was the Notice of Hearing served incorrectly, for example to the wrong address or to the wrong person?
- Were you physically unable to attend?

Explain in detail why you believe the order contains a serious error or why you were not reasonably able to participate in the proceeding. As well, indicate how you think the order should be changed if your request for review is successful.

If you do not convince the Board that there may be a serious error in the order, or that you were not reasonable able to participate in the proceeding, your Request to Review an Order may be dismissed without further consideration.

SEE SCHEDULE "A" ATTACHED.

Shade the appropriate circle to indicate whether you are asking the Board to stay (put on hold) the order or to lift (remove) a stay.

- ☐ **I am requesting that the Board stay the order I want reviewed.**
An order that is stayed **cannot** be enforced.

Explain why the Board should stay the order you want reviewed.

Attach additional sheets if necessary

- ☐ **I am requesting that the Board lift the stay imposed by the Divisional Court on the order I want reviewed.**

An order that is appealed to the Divisional Court is automatically stayed and the Board cannot consider your Request to Review an Order **unless** it first decides to lift the stay.

Explain why the Board should lift the stay resulting from the appeal to Divisional Court.

Attach additional sheets if necessary

OFFICE USE ONLY:

File Number

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Delivery Method: ☐ In Person ☐ Mail ☐ Courier ☐ Email ☐ Efile ☐ Fax

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Part 3: Signature

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dd/mm/yyyy									

Who has signed the request? Shade the circle completely next to your answer.

☐ Requester ☒ Representative ☐ Other

Information About the Representative

First Name

[illegible]

Last Name _____ I SUC # _____

[illegible]

Mailing Address

[illegible]

Unit/Apt./Suite Municipality (City, Town, etc.) Prov. Postal Code

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Prov.

Postal Code

Day Phone Number Evening Phone Number Fax Number

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Evening Phone Number

Fax Number

E-mail Address

[illegible]

Collecting Personal Information

Under section 185 of the *Residential Tenancies Act, 2006*, the Landlord and Tenant Board has the right to collect the personal information requested on this form. We use the information to resolve your request. After you file the form, your information may also be available to the public. If you have questions about how the Board uses your personal information, contact one of our Customer Service Officers at **416-645-8080** or **1-888-332-3234 (toll free)**.

Important Information from the Landlord and Tenant Board

1. If a hearing is scheduled for your request, you can ask the Board to provide French-language services. If you are the requester, you can fill out the *Request for Accommodation or French-Language Services* form included at the end of this form. If you are one of the other parties, the *Request for Accommodation or French-Language Services* form is available at Board offices and at the Board's website at sjto.ca/LTB.
2. If a hearing is scheduled for your request, you can ask the Board to make special arrangements (called a Request for Accommodation) under the Ontario *Human Rights Code* to help you participate in the hearing. For example, you can ask the Board to make arrangements to provide a sign-language interpreter. You can make a request for accommodation under the *Code* in person, by telephone, or mail. If you are the requester, you can fill out the *Request for Accommodation or French-Language Services* form included at the end of this form. If you are one of the other parties, the *Request for Accommodation or French-Language Services* form is available at Board offices and at the Board's website at sjto.ca/LTB.
3. It is an offence under the *Residential Tenancies Act, 2006* to file false or misleading information with the Landlord and Tenant Board.
4. The Board has *Rules of Practice* that set out rules related to the review process and *Interpretation Guidelines* that explain how the Board might decide specific issues that could come up in the review process. You can read the *Rules and Guidelines* on the Board's website at sjto.ca/LTB or you can buy a copy from a Board office.



Shade the appropriate boxes to indicate whether you need accommodation under the Ontario *Human Rights Code*, or French-language services, or both. We will not include a copy of this form when we give the other parties a copy of the *Request to Review an Order*. However, we will include the information in your application file. The file may be viewed by other parties to the application.

☐ **Accommodation Under the Ontario *Human Rights Code***

The Board will provide accommodation for *Code* related needs to help you throughout the application and hearing process in accordance with the Social Justice Tribunals Ontario policy on accessibility and accommodation. For example, you may need a sign-language interpreter at your hearing. We may contact you about your request. You can obtain a copy of the policy at SJTO.ca.

Please explain: What accommodation do you need?

☐ **French-Language Services**

The Landlord and Tenant Board will assign a bilingual adjudicator to be in charge of the hearing. We will also arrange for a French-English interpreter to attend the hearing.

SCHEDULE “A” TO THE REQUEST TO REVIEW ORDER SOL-40297-13

This request is made by Red Starlight LP (the “Landlord”) pursuant to subsection 21.2(1) of the *Statutory Powers Procedure Act*, R.S.O. 1991, c. S.22 (the “SPPA”), subsection 209(1) and (2) of the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17 (the “RTA”) and Rule 29.1 of the Landlord and Tenant Board (the “Board”) *Rules of Practice* (the “Rules”).

The Landlord requests a Review of the Order of Board Member Petar Guzina (the “Member”) dated January 22, 2016 (the “Final Order”) [see Order at **Tab 1**], on the grounds that he made the following serious errors of fact, law, and an unreasonable exercise of discretion by:

- 1) Disallowing the landlord’s claim for Building Exterior & Balcony Repair [Capital Expenditure Item #3] ;
- 2) Disallowing the landlord’s claim for Common Area Painting [Capital Expenditure Item #4]; and
- 3) Disallowing the landlord’s claim for Exterior Painting [Capital Expenditure Item #7].

Background

The residential complex is a 50 year old - 9 story high-rise apartment building containing 157 rental units.

The Landlord applied for a rent increase above guideline (L5 Application) on August 20, 2013. The matter was initially heard on September 18, 2014 before Vice Chair Jonelle Van Delft. A decision was rendered on October 10, 2014 granting the Landlord’s Application in full [see Order at **Tab 2**].

On October 20, 2014 the Tenant of Unit #609 (LD Blake) filed a Request for Review on the grounds that the Vice Chair’s conduct during the hearing prevented the Tenants from reasonably participating in the hearing. A hearing to determine the Review Request was held before Member Michael Soo on February 5, 2015. Member Soo concluded the Review ought to be granted and the Board scheduled a hearing *de novo*. The Application was re-heard on September 17, 2015 before Member Guzina.

On January 22, 2016 Member Guzina rendered his decision with respect to the Landlord’s Application. The Member determined that three capital expenditure items, totaling in excess of \$696,000.00, should be disallowed.

SERIOUS ERRORS OF FACT AND LAW

The statutory scheme for considering whether an expenditure is an “eligible” capital expenditure consists of a multiple part test. The item or project claimed must first meet the test for a capital expenditure:

“an expenditure for an extraordinary or significant renovation, repair, replacement, or new addition.... the expected benefit of which extends for a least 5 years...”

Once determined, the expenditure must be eligible. To be considered eligible the expenditure must have:

- a. been completed within the 18 month period that falls 90 days before the effective date of rent increase [s. 26(2) of Ontario regulation];*
- b. been incurred – [i.e. paid in full];*
- c. comply with one of more of the enumerated grounds in s. 126(7) of the RTA.*

Serious Error #1(a): Disallowance of the Balcony Rail and Concrete Repairs

The Board heard testimony from the Landlord’s witnesses that the high-rise apartment building that is the subject of the application is 50 years old. The rental units are provided with balconies. The balcony rail guards were original to the building. Repairs to balcony slabs had been undertaken in previous years.

The Landlord relied on an engineering report prepared in 2008 by Pretium Engineering Limited for the previous owner (the “Engineering report”) [see **Tab 3 – Page 9-10**]. The Engineering report found the balcony rail guards did not meet current building standards; they exhibited signs of corrosion; and the design was such that it covered the face of the balcony slab edge which would lead to deterioration of both the concrete slab and guard rail panel.

The Engineering report recommended the landlord consider replacing the balcony rail guards. The Landlord initiated a project to replace the guards given their age, condition, and non-conformity with building standards.

The Tenant’s oral evidence was that repairs had been undertaken in 2010 and that the balconies were fine. The Landlord acknowledged that it appeared some superficial concrete repairs and coating had been undertaken; however, there was no evidence of any modification to the rail guards. The Landlord’s Project Management consultant testified that he observed corrosion of re-bar and corrosion of the support posts for the rail guards.

Since these observations were not reduced to a written report the Board Member found that the work was not necessary and disallowed the capital expenditure. We submit this is a patently unreasonable basis for concluding that replacement of the rail guards was unnecessary.

We submit that Member Guzina committed serious errors of fact and law given the evidence before him; furthermore, he failed to apply the law correctly.

The balcony rail guards were required to be replaced because of the ongoing deterioration of metal and the non-conformity of the rail guards with building standards.

Member Guzina found, despite there being no evidence to support his conclusion, that there was no requirement for the balcony rail guards to be retrofitted to meet a change in the Building Code. The Landlord's witnesses referenced that there was non-conformity with building standards. Those standards are reflected in both the Building Code and the Property Standards Bylaw for the City of St. Catharines.

A copy of the Bylaw was not introduced at the hearing since the Landlord relied on the Engineering report, and oral testimony of the witnesses to establish the applicable standard and since there was no contrary evidence at the hearing. The only challenge to the question of non-conformity with the Building Code came as a unilateral conclusion by the Member following the hearing: a conclusion made without any evidentiary or legal basis. The attached Bylaw mirrors the dimensional requirements set out in the Building Code.

The Property Standards Bylaw applies retroactively. We have attached hereto a copy of Bylaw 76-320 in force at the time the rail guards were replaced [see **Tab 4**]. Section 2.33.1(2) of the Bylaw requires protective guards around balconies that are situated more than 24 inches above ground level [see **Tab 4 – Page 14**].

The Property Standards Bylaw s. 2.33.2 requires a rail guard to be a minimum of 42 inches in height and any opening within the guard may not exceed 4 inches [see **Tab 4 – Page 14**]. It is clear from the engineering report and the Landlord's witnesses that these minimum requirements were not met and the rail guards were in non-compliance with the Bylaw.

Furthermore, it is the Landlord's position, based on the foregoing By-law provisions, that once substantive repairs are initiated with respect to either the balcony slabs or the guard rails then the current provisions of the Building Code apply.

We submit that a capital expenditure is an eligible capital expenditure for the purposes of s. 126(7)(b) where it is necessary to comply with s. 20 (1) of the RTA. This provision requires a Landlord to comply with health, safety, housing, and maintenance standards. The maintenance standard is enshrined in the Property Standards Bylaw for the City of St. Catharines.

In our submission the Member erred in disallowing the expenditure for rail guard replacement and associated concrete balcony slab repairs. The intention behind s. 20 and s. 126 of the RTA is to encourage Landlords to maintain their properties to government standards. Clearly the impetus for the project was to meet these standards. The Member's interpretation of the facts and law was erroneous, overly narrow, "patently unreasonable", and defeats the intention of the legislation.

Notwithstanding the errors noted above the matter should be reviewed taking into account the necessity for compliance with the municipal Property Standards Bylaw.

Serious Error #1(b): Disallowance of Building Exterior Coating Expense

The Landlord's Capital Expenditure Item #3 also included a component cost for treating the exterior of the building with a water repellant breathable coating. The Landlord's evidence was this coating was necessary to prevent water penetration through the brick walls, a comparatively low cost repair which the Landlord employed with success at different sites. The Landlord also made reference to the 2008 Engineering report which identified existing deficiencies in the exterior weather envelope of the building. The report went on to cite longer term concerns and suggested application of the water repellant coating as a means of minimizing water ingress and rate of corrosion of the metal shelf angles which support the brick façade [see **Tab 3 - Page 14**].

The Member erred in disallowing this expense. The Member committed an error of fact and law by fixating on the colour scheme (an "irrelevant consideration") of the water repellant coating rather than the underlying properties and purpose for the coating that were submitted into evidence [see **Tab 5**].

The Member's decision was unreasonable given the documentary evidence and testimony before him. Furthermore, the Landlord is obligated to maintain and repair the building in accordance with s. 20 (1) of the RTA and s. 2.5.1 of the Property Standards Bylaw for the City of St. Catharines [see **Tab 4 - Page 6**].

Again the Members interpretation of the law was overly narrow and did not adequately take into consideration the Landlord's statutory duty to maintain and repair.

Serious Error #2: Disallowance of Interior Common Area Painting Expense

The Landlord's Application included a claim for interior painting of the common area hallways and suite doors located in the building [Capital Expenditure Item #4]. The Landlord's representative Tracy Briscoe testified as to the deteriorated condition of the finishes on the walls and doors. Photographic evidence was tendered in support of the capital expenditure item [see **Tab 6**].

The Member dismissed the item citing that it was not a "major" repair or replacement. We submit that the member erred in disallowing this expense as his interpretation and findings were overly narrow when considering the evidence and scope of work.

The documentary evidence filed with the application described the scope of work which included repair to the walls and ceilings.

Furthermore, the term “major” is not used within the definition of a capital expenditure in s. 18 of the regulation [O. Reg. 516/06]. The definition of a capital expenditure is an “extraordinary or significant renovation, repair, replacement....”

We submit that the Member incorrectly interpreted and applied the ordinary meaning of the definition of a capital expenditure in the regulation. We submit that repairing the surfaces and painting all 157 suite doors and each corridor of a 9 story high-rise apartment building is extraordinary and significant. Furthermore, the cost of the project was a significant and extraordinary expense and one which the Landlord would expect to last for more than 5 years. The Useful Life Schedule to O. Reg. 516/06 anticipates a useful life of 10 years.

Furthermore, the Member erred by failing to consider the definition of “renovation” and by his interpretation of the definition of “repair”. Both definitions include an act of restoring to their original or better condition.

Serious Error #3: Disallowance of Exterior Retaining Wall Painting Expense

The Landlord’s Application included a claim for exterior painting of the retaining wall located along the south perimeter of the property [Capital Expenditure Item #7]. The Landlord’s representative Tracy Briscoe testified as to the deteriorated state of the exterior retaining wall finish. Photographic evidence was tendered in support of the capital expenditure item [see **Tab 7**]. An excerpt of the municipal property standards bylaw was submitted in support of the Landlord’s statutory duty to maintain and repair the exterior wall surface.

Member Guzina appears to have misapprehended the Landlord’s evidence with respect to this item. In Paragraph 23 of the decision he suggests that the Landlord relied on the Engineering report in support of the necessity for this claim. He appears to confuse this item with the coating of the exterior masonry walls of the building. Clearly that was not the situation and Member’s disallowance of this item was patently unreasonable and overly narrow given the statutory requirements of s. 20 (1) of the RTA and s. 2.5.1 of the Property Standards Bylaw for the City of St. Catharines [see **Tab 4 – Page 14**].

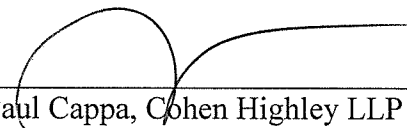
SUMMARY

Member Guzina made numerous serious errors of both fact and law in his decision. Without properly applying the legal tests to objectively determine facts, the Member categorically dismissed in its entirety an application which involved nearly \$700,000 of capital expenses which were clearly made for the purpose of rehabilitating an apartment building which is over 50 years old. The summary manner in which the evidence of experts and un-contradicted evidence of the Landlord’s witnesses was dismissed, and the disregard for legal requirements of building standards, supports a determination that the Member’s interpretation of the law and facts are “patently unreasonable” and fraught with serious errors (and completely contrary to the previous Board Member’s findings).

To the extent that the Member had a degree of discretion in interpreting the law and applying the law to the facts or in making findings based on s. 202 of the RTA, it is submitted that there was a failure by the Member to heed the legislative direction given by s. 1 of the RTA to “balance the rights and responsibilities of residential landlords and tenants” when determining applications. Such balance was patently lacking in this case. If permitted to stand, the summary and arguably arbitrary rejection of such substantial capital expenditures made by the Landlord in the course of meeting its statutory obligations to maintain and repair the residential complex is a major disincentive for any landlord in future to proceed with such capital expenditures. Faced with such risks, landlords are faced with the unpalatable choice of permitting substantial deterioration of rental housing stock (with some risk of minor abatements to some tenants) rather than to engage in substantial preventative maintenance and necessary repairs of the residential complex.

For these reasons, it is submitted that the Order as it relates to Capital Expenditure Items #3, #4, and #7 should be set aside and the matter re-heard with respect to these three items.

All of which is respectfully submitted this 22nd day of February, 2016.



Paul Cappa, Cohen Highley LLP
Agents for the Landlord



Order under Section 126
Residential Tenancies Act, 2006

In the matter of: 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4

Between: RED STARLIGHT LP Landlord

and

Refer to attached Schedule 2 Tenants

RED STARLIGHT LP (the 'Landlord') applied for an order permitting the rent charged to be increased by more than the guideline for one or more of the rental units in the residential complex (refer to attached Schedule 1).

This application was heard in St. Catharines on September 18, 2014 and re-heard on September 17, 2015.

The following parties attended the hearing:

For the Landlord: Paul Cappa (the Landlord's Legal Representative) and John Lawson (the Landlord's Agent).

Tenants: Gerald Speciainy (GS), Jocelyn Malangis (JM), Marlene Sawatsky (MS), Kathy Lynn Pettipas (KLP), Sylvia Ryan (SR), Roanne Seguin (RS), Susan Galloway (SG), LD Blake (LDB), Lynda Johnston (LJ), Maria Edelman (ME), Maurice Dzuibanowski (MD).

Landlord's Witnesses: Tracy Brisco (TB) and Michael Leo Dorian (MLD).

It is determined that:

1. The above guideline increase applied for by the Landlord is for the following capital expenditures: fire system repair; roof safety anchors; building exterior & balcony repair; common area painting; replace exhaust fans; garage entrance repair; exterior painting; drain repair; and building signage.
2. The Landlord requested that the claim for the exhaust fans, drain repair; and building signage be withdrawn and this request was granted.
3. The first effective date for an increase the Landlord may take is December 1, 2013. The 18 month window in which repairs must be completed runs from March 2, 2012, through to September 2, 2013.
4. The Tenants dispute a number of the capital expenditures on the grounds that they

are not eligible capital expenditures or they are substantially cosmetic in nature.

5. The bulk of the evidence by the Landlord was given by Tracy Brisco (TB). TB was a senior project manager in charge of capital expenditures for the Landlord at the time that the repairs were completed. Evidence was also given by Michael Leo Dorian (MLD) who is a project manager with Enerplan, the company retained by the Landlord to consult on the balconies, exterior walls, and rail guards; which comprise the Landlord's claim for items numbered 3 & 7. These were the most contentious and expensive capital expenditure claimed.
6. On behalf of the Tenants I heard from L.D. Blake (LDB) who was the only Tenant to speak and give evidence. LDB was given agency authorization by each of the Tenants in attendance and by many more that did not attend the hearing.
7. A capital expenditure is defined in subsection 18(1) of O. Reg. 516/06:

"capital expenditure" means an expenditure for an extraordinary or significant renovation, repair, replacement or new addition, the expected benefit of which extends for at least five years including,

(a) an expenditure with respect to a leased asset if the lease qualifies as determined under subsection (2), and

(b) an expenditure that the landlord is required to pay on work undertaken by a municipality, local board or public utility, other than work undertaken because of the landlord's failure to do it,

but does not include,

(c) routine or ordinary work undertaken on a regular basis or undertaken to maintain a capital asset in its operating state, such as cleaning and janitorial services, elevator servicing, general building maintenance, grounds-keeping and appliance repairs, or

(d) work that is substantially cosmetic in nature or is designed to enhance the level of prestige or luxury offered by a unit or residential complex;

8. The eligibility of a capital expenditure is addressed in subsection 126(7):

Subject to subsections (8) and (9), a capital expenditure is an eligible capital expenditure for the purposes of this section if,

(a) it is necessary to protect or restore the physical integrity of the residential complex or part of it;

(b) it is necessary to comply with subsection 20 (1) or clauses 161 (a) to (e);

(c) it is necessary to maintain the provision of a plumbing, heating, mechanical, electrical, ventilation or air conditioning system;

(d) it provides access for persons with disabilities;

(e) it promotes energy or water conservation; or

(f) it maintains or improves the security of the residential complex or part of it. 2006, c. 17, s. 126 (7).

9. Exceptions are set out in subsections 126(8) and (9):

(8) A capital expenditure to replace a system or thing is not an eligible capital expenditure for the purposes of this section if the system or thing that was replaced did not require major repair or replacement, unless the replacement of the system or thing promotes,

(a) access for persons with disabilities;

(b) energy or water conservation; or

(c) security of the residential complex or part of it. 2006, c. 17, s. 126 (8).

(9) A capital expenditure is not an eligible capital expenditure with respect to a rental unit for the purposes of this section if a new tenant entered into a new tenancy agreement in respect of the rental unit and the new tenancy agreement took effect after the capital expenditure was completed. 2006, c. 17, s. 126 (9).

10. With respect to the fire system repair, TB testified that the third level of the parking garage (P3) was closed to Tenants because of accessibility issues and the fire system was not working. The Landlord had decided not to repair the fire system in the P3 area as the entire level was closed. However, the Landlord was ordered by the city to ensure the fire system is operational and has done so.

11. The Tenants do not take issue with the necessity of the fire system repair; however, they submit that because the full costs were not incurred by the current Landlord the claim should be adjusted accordingly when calculating the above guideline increase. The Landlord only spent \$28,250.01 of the \$90,145.76 cost claimed as the first \$61,895.75 towards fire system repair was paid for by the previous Landlord prior to the current Landlord purchasing the property in June 2012.

12. *Interpretation* Guideline 14 of the *Landlord and Tenant Board Interpretation Guidelines* under the heading *Capital Expenditures that are "Incurred" and "Completed"* notes that "[s]ubsection 126(1), paragraph 2 of the RTA allows a Landlord to apply for a capital expenditure that they (and/or the previous landlord) have incurred."
13. Subparagraph 126(1)(2) of the Act reads "[e]ligible capital expenditures incurred respecting the residential complex or one or more of the rental units in it." It is silent on whether or not the expenditure must be incurred by the current Landlord, only that it is incurred with respect to the residential complex. I see no reason to depart from *Interpretation Guideline 14* which interprets the section as including capital expenditures incurred by the previous Landlord. I am, therefore, satisfied that the full amount of the fire safety repair is an eligible capital expenditure as it is incurred in accordance with *Interpretation Guideline 14* and it is necessary to protect the physical integrity of the residence complex and improves the security of the residential complex or part of it.
14. The Landlord also claimed painting the interior corridors as an extraordinary capital expenditure. The Landlord painted the corridor walls and the outside of the rental unit doors. I find that the painting of the hallways and the exterior of the rental unit doors is not an eligible capital expenditure because the painting of the corridors and doors is not a major repair or replacement nor is it related to a major repair or replacement. The evidence before me was that this was done to spruce up the corridors.
15. With respect to the garage entrance repairs, the evidence before me is that the concrete wall was chipped along the edges and the existing siding was not keeping the ramp dry. The Tenants' position with respect to the garage is that the job is not complete. The Landlord has replaced the siding of the garage entrance but the Tenants believe that the roof should have also been replaced as it has holes in it. The Landlord testified that the roof was not within the scope of the work. That the Tenants believe more work should have been done does not mean that the work was not completed; the scope of the work is at the Landlord's discretion. I find that the work done to the garage entrance siding was necessary to restore the physical integrity of part of the residential complex and I am satisfied that the garage entrance did require major repair because of the holes.
16. According to the landlord, the roof safety anchors are required by the Ministry of Labour in order to allow workers to "tie off" when engaging in suspended exterior work. The Tenants submitted that as the anchors were only required for the purpose of completing the balcony work, should their argument that the balcony repairs are ineligible succeed, the Landlord should also be prevented from including the cost of the safety anchors. I am not persuaded by the Tenants' argument that the roof safety anchors are inextricably linked to the balcony work. The anchors are safety devices that can be used for any suspended exterior work and are required to comply with safety standards. Accordingly, I find the

installation of the roof safety anchors is necessary to comply with s. 20(1) and is, therefore, an eligible capital expenditure.

17. With respect to the balcony repair, the Landlord relies on a July 24, 2008, property condition report by Pretium Engineering Limited. The report recommends the Landlord consider repairing spalled areas of the balconies and replacing the balcony guards for two reasons. One is to meet the dimensional requirements of the current building code, and the other is to ensure that the lower panel of the guards does not cover the balcony slab edges, which contributes to accelerated deterioration of the guard panel and balcony slab.
18. The Tenants' position with respect to this report is that its observations do not support a finding that the balconies require major repair as only 10% of the slabs had spalling and that the guards were described as being in fair condition. The Tenants position is that this work was not done for structural reasons but for cosmetic reasons, and that this was not necessary work.
19. The Tenants testified that some balcony repair work was completed in 2010 by the previous Landlord, and submitted that because there were balcony repairs in 2010, the 2008 report cannot be relied upon for the current work. The Tenants also submit that the guards were neither loose nor corroded, but were in good condition.
20. The engineering report contains the following *Discussion and Recommendations* with respect to the balconies:

The balcony decks were generally in fair to good condition. The cracks appear to be at the reinforcing steel. They appear to be thermally induced. The cracks are not a structural concern at this time. Repairs to the spalled areas should be completed. The cracks should be routed and sealed in the near future. If left as is, concrete deterioration will continue and extensive repairs will eventually be required. Consideration could be given to waterproofing the balcony slab subsequent to the concrete repairs.

The balcony guards are in fair structural condition. Repairs and refinishing the guards will be required in the near future. The guards do not meet the dimensional requirements of the current Building Code. Complete replacement of the guards is at the discretion of the Owner, but should be considered.

The lower panel on the guards covers the balcony slab edges. This will trap debris and moisture and lead to accelerated deterioration of the guard panel and balcony slab. Modifying or completely replacing the guards could be considered.

21. Although the engineering report finds the covering of the slab edge by the lower panel of the guards will lead to accelerated deterioration of the guard panel and balcony slab, it does not find that major repair or replacement is required. It notes, *"If left as is, concrete deterioration will continue and extensive repairs will eventually be required."* The evidence before me is that some work was done in 2010. There was no subsequent engineering report with respect to the continued deterioration of the balconies. The only evidence before me in support of the Landlord's position was that of MLD who testified that he witnessed significant concrete cracks and deterioration as well as corrosion of rebar and support posts. He also testified that the support posts of the railing were weakened and the balcony was chipped back 6 to 8 inches to the rebar to remove the posts and the balcony reformed and poured. Some of the balconies had the topside of the slab repaired as well. The number of balconies completed for this was not clarified. The replacement of the guards appears to have been the main impetus for the balcony work with the spalling of the topside of the slabs a secondary consideration. Indeed, MLD testified that his company recommended replacing the balcony guards because their dimensions did not meet the current building code and that it was therefore a good time to do slab work.
22. Given the lack of a subsequent engineering report, the evidence of MLD with respect to the reason for the recommendation, and the fact that there is no requirement that the balcony guards be retrofitted to meet a change in the Building Code, I find that this capital expenditure is not eligible. I am cognizant of the argument that the balcony repair was necessary to protect the physical integrity of the residential complex or parts of it by removing the guards and replacing them with ones that do not cover the balcony slab edge and thereby stop the accelerated deterioration of the slab. However, even if that were the case, the Landlord has not proven that the balconies or the guards required major repair or replacement. The 2008 engineering report does not support such a finding. The testimony of MLD does not support such a finding either as he identifies the dimensions of the guards as the reason for the recommendation that they be replaced. Accordingly, I am not satisfied that the balconies or the rail guards required major repair or replacement.
23. The Landlord also relies on the same engineering report for the exterior painting. The report identifies some issues with staining and mortar joint deterioration, and recommends repair of cracks and mortar joints. It also States that there is "an indication that water is penetrating the walls and that application of a water repellent or breathable coding could be considered;" however, it does not specifically recommend such application. The recommendation and was with the following statement that consideration "consideration should be given to refinishing the exposed slab edges and sheer walls. This is a cosmetic repair and is at the discretion of the owner." The reference here to slab edges is to the concrete floor slabs rather than the balcony slabs.
24. The Tenants submitted numerous photos suggesting that the painting of the

building was done in accordance with the color scheme that is common among many buildings recently renovated by the Landlord and in sharp contrast to the previous look of the building. Given the engineering reports recommendation and the evidence submitted by the Tenants with respect to what they described as branding of the building, I find that the painting of the exterior of the building is substantially cosmetic in nature and therefore is an eligible capital expenditure pursuant to section 18(1)(D) of O. Reg. 516/06.

It is ordered that:

1. The Landlord may increase the rents charged by the percentage increases and within the time periods set out in Schedule 3.
2. The percentage increase set out in Schedule 3 may be taken in addition to the annual guideline in effect on the increase date for the unit.
3. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.



January 22, 2016

Date Issued

Petar Guzina

Member, Landlord and Tenant Board

Southern-RO

6th Floor, 119 King Street West

Hamilton, ON, L8P4Y7

Fax No: 905 - 521 - 7870

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

Important Notes:

1. The landlord may increase the rent charged by the ordered increase within the time period specified if at least 12 months have passed since the last rent increase or since the tenant moved in, and if the landlord has given the tenant at least 90 days proper Notice of Rent Increase. Any part of the ordered increase that is not taken within the time period specified cannot be added to subsequent rent increases in subsequent time periods.

2. If the landlord has given a Notice of Rent Increase for a rent increase that is less than the ordered increase, the landlord may only take the rent increase set out in the Notice.
3. The ordered increase does not affect tenants who moved into the complex on or after September 2, 2013. The landlord cannot add the ordered increase to the rents these tenants pay.

Schedule 3 - Ordered Rent Increase Above the Guideline**First Effective Date of Rent Increase in this Order is December 1, 2013**

The Landlord may increase the rent charged for the units affected by this order by the total percentages set out below and within the time periods set out below. These percentage increases may be taken in addition to the annual guideline in effect on the increase date for the unit.

For the period December 1, 2013 to November 30, 2014

Unit	% inc for Cap. Exp.	Total Increase (excludes guideline)	Weighted Useful Life for Capital Exp. *	Total % for Cap. Exp.
115, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
116, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
117, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
118, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
119, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
120, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
201, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
205, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
207, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
208, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
210, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
211, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
212, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
214, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
215, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
216, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
217, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
218, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
219, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
220, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
302, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
303, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
304, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
305, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
306, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
307, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.09	0.09	20.00	0.09
308, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
309, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
311, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
312, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
314, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.09	0.09	20.00	0.09
315, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
317, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
320, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
401, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
402, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74

* If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the **same Tenant** remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 4 for information about the date and amount of the rent reduction.

The annual guideline for 2013 is 2.5%. On or before August 31st of each year, the government will announce the guideline for the following year.

Schedule 3 - Ordered Rent Increase Above the Guideline**First Effective Date of Rent Increase in this Order is December 1, 2013**

The Landlord may increase the rent charged for the units affected by this order by the total percentages set out below and within the time periods set out below. These percentage increases may be taken in addition to the annual guideline in effect on the increase date for the unit.

For the period December 1, 2013 to November 30, 2014

Unit	% inc for Cap. Exp.	Total Increase (excludes guideline)	Weighted Useful Life for Capital Exp. *	Total % for Cap. Exp.
403, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
404, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
405, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
406, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
407, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
409, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
410, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
412, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
414, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
416, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
417, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
418, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
420, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
502, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
503, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
504, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
506, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
507, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
508, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
509, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
510, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
511, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
512, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
514, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
516, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
517, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
519, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
520, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
601, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
602, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
603, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
604, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
605, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
606, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
607, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
608, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74

* If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the **same Tenant** remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 4 for information about the date and amount of the rent reduction.

The annual guideline for 2013 is 2.5%. On or before August 31st of each year, the government will announce the guideline for the following year.

Schedule 3 - Ordered Rent Increase Above the Guideline**First Effective Date of Rent Increase in this Order is December 1, 2013**

The Landlord may increase the rent charged for the units affected by this order by the total percentages set out below and within the time periods set out below. These percentage increases may be taken in addition to the annual guideline in effect on the increase date for the unit.

For the period December 1, 2013 to November 30, 2014

Unit	% inc for Cap. Exp.	Total Increase (excludes guideline)	Weighted Useful Life for Capital Exp. *	Total % for Cap. Exp.
609, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
610, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
611, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
612, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
615, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
616, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
617, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
618, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
619, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
620, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
701, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
702, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
703, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
705, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
707, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
708, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
709, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
711, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
712, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
714, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
715, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
716, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
717, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
718, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
719, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
801, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
802, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
803, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
804, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
806, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
807, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
809, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
810, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.66	0.66	16.00	0.66
811, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
814, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
815, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74

* If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the **same Tenant** remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 4 for information about the date and amount of the rent reduction.

The annual guideline for 2013 is 2.5%. On or before August 31st of each year, the government will announce the guideline for the following year.

Schedule 3 - Ordered Rent Increase Above the Guideline**First Effective Date of Rent Increase in this Order is December 1, 2013**

The Landlord may increase the rent charged for the units affected by this order by the total percentages set out below and within the time periods set out below. These percentage increases may be taken in addition to the annual guideline in effect on the increase date for the unit.

For the period December 1, 2013 to November 30, 2014

Unit	% inc for Cap. Exp.	Total Increase (excludes guideline)	Weighted Useful Life for Capital Exp. *	Total % for Cap. Exp.
816, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
817, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
818, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
819, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
820, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
901, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
902, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
903, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
904, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
905, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
906, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
907, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
908, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
909, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
910, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
911, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
912, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
914, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
915, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	0.00	0.00	0.00
916, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
918, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
919, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74
920, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.74	0.74	16.00	0.74

* If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the **same Tenant** remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 4 for information about the date and amount of the rent reduction.

The annual guideline for 2013 is 2.5%. On or before August 31st of each year, the government will announce the guideline for the following year.

Schedule 4 - Rent Reduction related to Capital Expenditures

A. Date of Rent Reduction

If the Tenant's rent is increased based on capital expenditures during the period 2013 then:

The date of the rent reduction will be the day before:

- the date of the Tenant's first rent increase under this order, plus
- the number of years for the weighted useful life for capital expenditures for the unit (set out in Schedule 3).

Example:

If the Tenant's rent was increased on June 1, 2007 and the weighted useful life for capital expenditures is 10 years, then the rent will be reduced on May 31, 2017.

If the Tenant's rent was *not* increased based on capital expenditures during the period 2013 but was increased during the later periods set out in the order then:

The date of the rent reduction will be the day before:

- the First Effective Date of Rent Increase in this order, plus
- the number of years for the weighted useful life for capital expenditures for the unit (set out in Schedule 3).

Example:

If the first effective date of increase in this order is April 1, 2007 and the weighted useful life for capital expenditures is 12 years, then the rent will be reduced on March 31, 2019.

B. Amount of the Rent Reduction

If the Tenant's rent is increased by the total percentage increase set out in this order then:

The rent must be reduced by the total percentage increase set out in this order for capital expenditures.

If the Tenant's rent is *not* increased by the total percentage increase set out in this order then:

The rent must be reduced by an amount determined in accordance with the prescribed rules which may be equal to or less than the total percentage increase set out in this order for capital expenditures.



Order under Section 126
Residential Tenancies Act, 2006

In the matter of: 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4

Between: RED STARLIGHT LP Landlord

and

Refer to attached Schedule 2 Tenants

RED STARLIGHT LP (the 'Landlord') applied for an order permitting the rent charged to be increased by more than the guideline for one or more of the rental units in the residential complex.

This application was heard in St. Catharines on September 18, 2014.

The following parties attended the hearing: the Landlord's representative, Paul Cappa, project manager Tracy Brisco, property manager James Mesa, tenant advocate C. P. Woodall, Kerry Goring, Holly Cruise, Gerald Specialny, Jocelyn Malangis, Adam Duguay, Kathy Lynn Pettipas, Sylvia Ryan, Julie Vandervaat, Jane Cousins, Joanne Houde, Glenn Edgley, John Paxton, Kendra McCourt, Bexhet Xhemali, Roanne Seguin, Simone Larsen, Susan Galloway, Carolyn Dressel, Lynda Johnston, Anna Karlova, Maria Edelman, Niki Von Bormann and Angela Aniol.

It is determined that:

1. The application affects 131 of the 157 units in the complex.
2. The first effective date of the intended rent increase above the guideline is December 1, 2013.
3. I accepted the Landlord's request to withdraw capital expenditure # 8 – Drain Repair and capital expenditure # 9 – Building Signage.
4. The Landlord justified a rent increase above the guideline for capital expenditures to the fire system, the roof safety anchor, the building exterior and balcony repairs, common area painting, exhaust fans, the garage entrance, and exterior painting. I reject the Tenant's submission that the balcony repairs were for the purpose of "branding" the building in keeping with other buildings owned by this

same Landlord. I find it implausible that the Landlord would spend \$663,000.00 to market this building to look like others in its holdings. It is more probable than not that the Landlord made capital repairs in keeping with the engineering recommendations received by the Landlord in 2008. I am also satisfied that previous repairs to the balconies were borne by the Landlord. They were not passed on to the Tenants.

5. Similarly, I find the Landlord proved that they were entitled to the costs of common area painting. While it may be that some of the building, and the evidence on this issue was contradictory by the Tenants at the hearing, was painted several years ago, I was persuaded by the Landlord's representative, Tracy Brisco, her oral testimony and the photographs entered into evidence that the building interior did require common area painting. I am satisfied that the painting that was conducted several years ago in parts of the building was not previously borne by the Tenants in this application. This is not a second request for an above guideline increase on common area painting.
6. The weighted useful life for the capital expenditures is 13 years.

It is ordered that:

1. The Landlord may increase the rents charged by the percentage increases and within the time periods set out in Schedule 3.
2. The percentage increase set out in Schedule 3 may be taken in addition to the annual guideline in effect on the increase date for the unit.
3. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
4. If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the same Tenant remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 4 for information about the date and amount of the rent reduction.

October 10, 2014

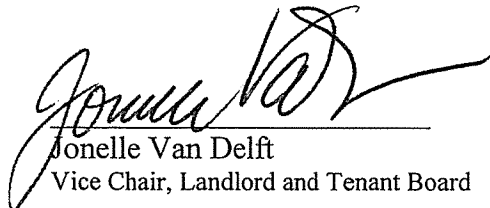
Date Issued

Southern-RO

6th Floor, 119 King Street West

Hamilton, ON, L8P4Y7

Fax No: 905 - 521 - 7870



Jonelle Van Delft
Vice Chair, Landlord and Tenant Board

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

Important Notes:

1. The landlord may increase the rent charged by the ordered increase within the time period specified if at least 12 months have passed since the last rent increase or since the tenant moved in, and if the landlord has given the tenant at least 90 days proper Notice of Rent Increase. Any part of the ordered increase that is not taken within the time period specified cannot be added to subsequent rent increases in subsequent time periods.
2. If the landlord has given a Notice of Rent Increase for a rent increase that is less than the ordered increase, the landlord may only take the rent increase set out in the Notice.
3. The ordered increase does not affect tenants who moved into the complex on or after September 2, 2013. The landlord cannot add the ordered increase to the rents these tenants pay.

Schedule 3 - Ordered Rent Increase Above the Guideline**First Effective Date of Rent Increase in this Order is December 1, 2013**

The Landlord may increase the rent charged for the units affected by this order by the total percentages set out below and within the time periods set out below. These percentage increases may be taken in addition to the annual guideline in effect on the increase date for the unit.

For the period December 1, 2013 to November 30, 2014December 1, 2014 to
November 30, 2015

Unit	% inc for Taxes	% inc for Cap. Exp.	% inc for Utili- ties	% inc for Sec. Serv.	Total Increase (excludes guideline)	% inc for Cap. Exp.	% inc for Sec. Serv.	Total Increase (excludes guideline)	Weighted Useful Life for Capital Exp. *	Total % for Cap. Exp.
115, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
116, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
117, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
118, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
119, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
120, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
201, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
205, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
207, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
208, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
210, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
211, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
212, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
214, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
215, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
216, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
217, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
218, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
219, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
220, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
302, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
303, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
304, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
305, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.74	0.00	1.74	13.00	4.74
306, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76

* If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the **same Tenant** remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 4 for information about the date and amount of the rent reduction.

The annual guideline for 2013 is 2.5%. On or before August 31st of each year, the government will announce the guideline for the following year.

Schedule 3 - Ordered Rent Increase Above the Guideline**First Effective Date of Rent Increase in this Order is December 1, 2013**

The Landlord may increase the rent charged for the units affected by this order by the total percentages set out below and within the time periods set out below. These percentage increases may be taken in addition to the annual guideline in effect on the increase date for the unit.

For the period December 1, 2013 to November 30, 2014:**December 1, 2014 to
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307, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.11	0.00	2.11	13.00	5.11
308, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
309, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
311, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
312, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
314, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.11	0.00	2.11	13.00	5.11
315, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
317, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
320, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
401, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
402, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.84	0.00	2.84	13.00	5.84
403, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.74	0.00	1.74	13.00	4.74
404, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
405, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
406, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
407, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
409, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
410, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
412, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
414, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
416, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
417, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
418, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
420, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
502, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86

* If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the **same Tenant** remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 4 for information about the date and amount of the rent reduction.

The annual guideline for 2013 is 2.5%. On or before August 31st of each year, the government will announce the guideline for the following year.

Schedule 3 - Ordered Rent Increase Above the Guideline**First Effective Date of Rent Increase in this Order is December 1, 2013**

The Landlord may increase the rent charged for the units affected by this order by the total percentages set out below and within the time periods set out below. These percentage increases may be taken in addition to the annual guideline in effect on the increase date for the unit.

For the period December 1, 2013 to November 30, 2014**December 1, 2014 to
November 30, 2015**

Unit	% inc for Taxes	% inc for Cap. Exp.	% inc for Utili- ties	% inc for Sec. Serv.	Total Increase (excludes guideline)	% inc for Cap. Exp.	% inc for Sec. Serv.	Total Increase (excludes guideline)	Weighted Useful Life for Capital Exp. *	Total % for Cap. Exp.
503, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
504, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
506, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
507, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
508, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
509, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
510, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
511, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
512, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
514, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
516, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
517, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
519, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
520, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
601, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
602, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.84	0.00	2.84	13.00	5.84
603, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
604, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.74	0.00	1.74	13.00	4.74
605, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.74	0.00	1.74	13.00	4.74
606, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
607, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
608, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
609, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
610, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
611, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86

* If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the **same Tenant** remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 4 for information about the date and amount of the rent reduction.

The annual guideline for 2013 is 2.5%. On or before August 31st of each year, the government will announce the guideline for the following year.

Schedule 3 - Ordered Rent Increase Above the Guideline**First Effective Date of Rent Increase in this Order is December 1, 2013**

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For the period December 1, 2013 to November 30, 2014**December 1, 2014 to
November 30, 2015**

Unit	% inc for Taxes	% inc for Cap. Exp.	% inc for Utili- ties	% inc for Sec. Serv.	Total Increase (excludes guideline)	% inc for Cap. Exp.	% inc for Sec. Serv.	Total Increase (excludes guideline)	Weighted Useful Life for Capital Exp. *	Total % for Cap. Exp.
612, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
615, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
616, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.84	0.00	2.84	13.00	5.84
617, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.84	0.00	2.84	13.00	5.84
618, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.84	0.00	2.84	13.00	5.84
619, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
620, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
701, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
702, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
703, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
705, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
707, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
708, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
709, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
711, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
712, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
714, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
715, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
716, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.84	0.00	2.84	13.00	5.84
717, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.99	0.00	1.99	13.00	4.99
718, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
719, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	1.76	0.00	1.76	13.00	4.76
801, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
802, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86
803, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00	2.86	0.00	2.86	13.00	5.86

* If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the **same Tenant** remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 4 for information about the date and amount of the rent reduction.

The annual guideline for 2013 is 2.5%. On or before August 31st of each year, the government will announce the guideline for the following year.

Schedule 3 - Ordered Rent Increase Above the Guideline**First Effective Date of Rent Increase in this Order is December 1, 2013**

The Landlord may increase the rent charged for the units affected by this order by the total percentages set out below and within the time periods set out below. These percentage increases may be taken in addition to the annual guideline in effect on the increase date for the unit.

For the period December 1, 2013 to November 30, 2014:

Unit	% inc for Taxes	% inc for Cap. Exp.	% inc for Utili- ties	% inc for Sec. Serv.	Total Increase (excludes guideline)
804, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
806, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
807, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
809, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
810, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
811, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
814, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
815, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
816, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
817, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
818, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
819, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
820, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
901, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
902, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
903, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
904, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
905, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
906, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
907, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
908, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
909, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
910, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
911, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
912, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00

**December 1, 2014 to
November 30, 2015**

% inc for Cap. Exp.	% inc for Sec. Serv.	Total Increase (excludes guideline)
1.76	0.00	1.76
1.99	0.00	1.99
2.86	0.00	2.86
2.86	0.00	2.86
2.75	0.00	2.75
2.86	0.00	2.86
2.86	0.00	2.86
2.86	0.00	2.86
1.99	0.00	1.99
1.99	0.00	1.99
2.86	0.00	2.86
2.86	0.00	2.86
2.86	0.00	2.86
1.99	0.00	1.99
1.99	0.00	1.99
2.86	0.00	2.86
2.86	0.00	2.86
1.76	0.00	1.76
1.99	0.00	1.99
1.74	0.00	1.74
2.86	0.00	2.86
2.86	0.00	2.86
1.76	0.00	1.76
1.76	0.00	1.76
1.76	0.00	1.76

Weighted Useful Life for Capital Exp. *	Total % for Cap. Exp.
13.00	4.76
13.00	4.99
13.00	5.86
13.00	5.86
13.00	5.75
13.00	5.86
13.00	5.86
13.00	5.86
13.00	4.99
13.00	4.99
13.00	5.86
13.00	5.86
13.00	5.86
13.00	4.76
13.00	4.99
13.00	4.74
13.00	5.86
13.00	5.86
13.00	4.76
13.00	4.76
13.00	4.76

* If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the **same Tenant** remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 4 for information about the date and amount of the rent reduction.

The annual guideline for 2013 is 2.5%. On or before August 31st of each year, the government will announce the guideline for the following year.

Schedule 3 - Ordered Rent Increase Above the Guideline**First Effective Date of Rent Increase in this Order is December 1, 2013**

The Landlord may increase the rent charged for the units affected by this order by the total percentages set out below and within the time periods set out below. These percentage increases may be taken in addition to the annual guideline in effect on the increase date for the unit.

For the period December 1, 2013 to November 30, 2014

Unit	% inc for Taxes	% inc for Cap. Exp.	% inc for Utili- ties	% inc for Sec. Serv.	Total Increase (excludes guideline)
914, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
915, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
916, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
918, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
919, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00
920, 165 ONTARIO STREET, ST CATHARINES, ON, L2R5K4	0.00	3.00	0.00	0.00	3.00

**December 1, 2014 to
November 30, 2015**

% inc for Cap. Exp.	% inc for Sec. Serv.	Total Increase (excludes guideline)
2.86	0.00	2.86
1.99	0.00	1.99
2.86	0.00	2.86
2.84	0.00	2.84
2.86	0.00	2.86
2.86	0.00	2.86

Weighted Useful Life for Capital Exp. *	Total % for Cap. Exp.
13.00	5.86
13.00	4.99
13.00	5.86
13.00	5.84
13.00	5.86
13.00	5.86

* If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the **same Tenant** remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 4 for information about the date and amount of the rent reduction.

The annual guideline for 2013 is 2.5%. On or before August 31st of each year, the government will announce the guideline for the following year.

Schedule 4 - Rent Reduction related to Capital Expenditures

A. Date of Rent Reduction

If the Tenant's rent is increased based on capital expenditures during the period 2013 then:

The date of the rent reduction will be the day before:

\$ the date of the Tenant's first rent increase under this order, plus
\$ the number of years for the weighted useful life for capital expenditures for the unit (set out in Schedule 3).

Example:

If the Tenant's rent was increased on June 1, 2007 and the weighted useful life for capital expenditures is 10 years, then the rent will be reduced on May 31, 2017.

If the Tenant's rent was *not* increased based on capital expenditures during the period 2013 but was increased during the later periods set out in the order then:

The date of the rent reduction will be the day before:

\$ the First Effective Date of Rent Increase in this order, plus
\$ the number of years for the weighted useful life for capital expenditures for the unit (set out in Schedule 3).

Example:

If the first effective date of increase in this order is April 1, 2007 and the weighted useful life for capital expenditures is 12 years, then the rent will be reduced on March 31, 2019.

B. Amount of the Rent Reduction

If the Tenant's rent is increased by the total percentage increase set out in this order then:

The rent must be reduced by the total percentage increase set out in this order for capital expenditures.

If the Tenant's rent is *not* increased by the total percentage increase set out in this order then:

The rent must be reduced by an amount determined in accordance with the prescribed rules which may be equal to or less than the total percentage increase set out in this order for capital expenditures.



**Property Condition Report
165 Ontario St.
St. Catharines, Ontario**

Prepared for:



**5310 Explorer Drive
Mississauga, ON L4W 5H8**

Attention: Mr. Daniel Drimmer, M.A., M.B.A.

July 24, 2008
Project: 80-13-089426



**Professional Engineers
Ontario**

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2.2.3. Balconies

Description

Deck	
Structure	Front and rear – cantilevered reinforced concrete slabs Sides – partially cantilevered reinforced concrete slabs
Waterproofing	None

Guards	
Description	Steel frames with solid panels at front and vertical steel pickets at sides
Anchors	Cast into slabs
Photographs	B22, B23, B24, B25, B26, B27

Observations

1. Delamination and spalling was observed on the top sides of approximately 10% of the balcony slabs.
2. Narrow cracks on the top of the balcony slabs running perpendicular to the building were typical. There was generally little evidence of water movement through the cracks. The cracking appears to be positioned at the steel reinforcement and is likely thermally induced.
3. Evidence of previous repairs was observed on the balcony slabs. It was reported that the repairs took place in 2000.
4. The slab soffits have cast drip edges. Peeling paint was observed at the edges and on many balconies past the drip edges to approximately 12" from the edge.
5. The balcony guards are approximately 42" in overall height. The tops of panels are approximately 33-1/2" in height and the opening between the panel and the top rail is approximately 8". The picket spacing at the sides of the guards is 5". The guards are considered climbable (36" minimum to top of panel) and the picket spacing and opening at the top rails exceeds the allowable size (4").
6. The paint finish on the guards and privacy panels is weathered and peeling. Surface corrosion was observed throughout and severe corrosion was noted in a few locations.

Discussion and Recommendations

The balcony decks were generally in fair to good condition. The cracks appear to be at the reinforcing steel. They appear to be thermally induced. The cracks are not a structural concern at this time. Repairs to the spalled areas should be completed. The cracks should be routed and sealed in the near future. If left as-is, concrete deterioration will continue and extensive repairs will eventually be required. Consideration could be given to waterproofing the balcony slab subsequent to the concrete repairs.

The balcony guards are in fair structural condition. Repairs and refinishing the guards will be required in the near future. The guards do not meet the dimensional requirements of the current Building Code. Complete replacement of the guards is at the discretion of the Owner, but should be considered.

The lower panel on the guards covers the balcony slab edges. This will trap debris and moisture and lead to accelerated deterioration of the guard panel and balcony slab. Modifying or completely replacing the guards could be considered.

2.3. Roof Systems

Main Roof

Location	Main
Type	Flat
Estimated Age	20 years
System	Conventional (membrane above insulation)
Protection	Pea gravel
Membrane	Multi-ply built-up asphalt/felt membrane
Insulation	Unknown
Vapour Retarder	Unknown
Deck	Concrete slab
Drainage	4 internal drains
Flashing	Painted metal
Photographs	B28, B29, B30, B31, B32, B33

Observations

1. No destructive testing was conducted; therefore, the exact composition of the roof assembly is unknown.
2. The main roof is divided into two sections by a roof curb.
3. The west end of the roof and the Penthouse roof appear to be older. Ponding, scouring, patching, exposed felts and blisters were observed.
4. Evidence of water leakage was observed on the corridor and suite ceilings at the west end of the building. Evidence of water leakage was also observed at the expansion joint.
5. The balance of the roof appeared to be in better condition, although it appears to be approaching the end of its useful life.
6. There is an expansion joint on the roof. The flashings at the joint are in poor condition and are debonded at laps in the flashing.
7. The masonry chimney has been repaired. The repairs used mismatched brick units wherein two different colours of brick were used.

The operable windows throughout the building are not equipped with limiting devices. Although in some jurisdictions retrofitting existing buildings is not required, Pretium recommends that windows greater than 2 metres above grade be limited to opening no more than 4 inches (as per current Code requirements). The installation of limiting devices is recommended but optional.

The wood balcony doors and frames should be refinished in the near future. The more severely damaged doors should be replaced.

The wood garage doors should be refinished in the near future.

The garage emergency exit doors should be replaced immediately.

A phased sealant replacement program is recommended. The sealants on the south elevation require replacement in the near future. The sealants at the north and east elevations have some remaining life.

2.5. Exterior Walls / Building Envelope

Description

Location	Main
Exterior	Single wythe of glazed clay brick backed with a single wythe of concrete block masonry spanning between the exposed floor slabs.
Insulation	Unknown
Vapour Retarder	Unknown
Interior Finish	Plaster
Photographs	B40, B41, B42, B43, B44

Observations

1. The extent and type of insulation within the wall is unknown, but given the age of the buildings it is likely to be no more than 1 to 2 inches of rigid EPS type insulation, or a 3-1/2" thick batt of fiberglass insulation. The existence of a vapour retarder within the wall system is unknown.
2. The east and a small section of the north elevations have a continuous brick wall that appears to be supported at each floor level by a steel shelf angle. Stains from corroding steel were observed at the floor level. Localized deterioration of the mortar joints at the shelf angle was observed.
3. Localized brick spalling was observed. The spalling was limited to a few small areas on the building. Larger areas of spalled brick were observed on the exterior parking garage walls.
4. A vertical crack spanning most of the height of the building was observed at the south-east corner of the building.
5. Extensive brick replacement has been completed at the chimney. The replacement bricks do not match the original brick in colour or texture.

6. Sealants have been installed at the tops and bottoms of the floor slabs on the west elevation.
7. Efflorescence was observed on the interior of the Penthouse walls.
8. Staining was observed under the windows throughout the building.
9. The paint finish on the exposed concrete floor slabs and shear walls is weathered and peeling.

Discussion and Recommendations

The exterior masonry walls at the east end of the building are supported at each floor level by a steel shelf angle. Staining and mortar joint deterioration indicate that the steel shelf angles are corroding. The corrosion does not appear to be a structural concern at this time; however, the corrosion can eventually result in problems with brick spalling or shelf angle strength diminution.

In the short term, the cracks in the brick mortar joints should be repaired. Areas with loose bricks should be repaired immediately due to the hazard they present. Application of a water repellant or breathable coating could be considered. These actions will minimize water ingress and the rate of corrosion of the shelf angles.

The condition of the shelf angles should be monitored periodically. Notwithstanding the work identified above, the shelf angles will continue to corrode.

Repairs to the spalled bricks on the garage walls are recommended. The garage walls are subject to more freeze-thaw cycles than the building's walls, due to the fact that they are not heated on the inside. This results in accelerated deterioration of the bricks. Application of an insulated cladding system could be considered.

Efflorescence on the interior of the Penthouse walls indicates that water is penetrating the walls. Application of a breathable coating or cladding system could be considered.

The crack at the south-east corner of the building appears to be thermally induced and is not a structural concern. The crack should be sealed to prevent water ingress. The crack should be monitored and any loose masonry removed due to the hazard it would present.

The sealants at the tops of the floor slabs on the west elevation will trap moisture within the wall. They should be removed.

Consideration should be given to refinishing the exposed slab edges and shear walls. This is a cosmetic repair and is at the discretion of the Owner.

CITY OF ST. CATHARINES

BY-LAW NO. 76-320

A By-law to prescribe standards for the maintenance and occupancy of
property in the City of St. Catharines.

WHEREAS the Council of the Corporation of the City of St. Catharines deems
it necessary to pass a by-law for prescribing standards for the maintenance
and occupancy of property within the City of St. Catharines and for prohibiting
the occupancy or use of such property that does not conform to the standards
and for requiring property that does not conform to the standards to be repaired
and maintained to conform to the standards, or for the site to be cleared of all
buildings, structures, debris or refuse, and left in a graded and levelled condi-
tion, and for prohibiting the removal from any premises of any sign, notice or
placard placed thereon pursuant to this By-law;

AND WHEREAS Section 36 of The Planning Act, R.S.O. 1970, Chapter 349,
as amended by S.O. 1972, Chapter 118, Section 7, provides authority for the
enactment of such a by-law if an Official Plan that contains provisions relating
to property conditions is in effect in a municipality;

AND WHEREAS there is such an Official Plan in effect in the City of St. Catha-
rines;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY
OF ST. CATHARINES enacts as follows:

SECTION 1 - GENERAL

1.1. Short Title

1.1.1 This By-law shall be cited as the "Property Standards By-law".

1.2. Application

1.2.1 Except as herein provided, the standards set in this By-law are
prescribed as the standards for the maintenance of all property
in the City of St. Catharines and all property in the City of St.
Catharines shall be maintained in compliance with these standards.

- 1.2.2 The use of property that does not conform to the standards is prohibited.
- 1.2.3 Property below the standards prescribed by this By-law shall be repaired and maintained to comply with the standards or the land shall be cleared of all buildings or structures and left in a graded and levelled condition, as required by notice given by the Officer.
- 1.3. Definitions
- 1.3.1 "Accessory Building" means a detached or attached building which is subordinate to the main use of the lot and which is not used or intended for use as human habitation.
- 1.3.2 "Balustrade" means a protective barrier that acts as a guard around openings in floors or at the open sides of stairs, landings, balconies, mezzanines, galleries, raised walkways, or other locations to prevent accidental falls from one level to another; such barrier may or may not have openings through it.
- 1.3.3. "Basement" means that portion of a building between two floor levels, with a minimum height of six feet four inches, which is partly underground, but which has at least one-half of its height from finished floor to finished ceiling above the average level of the adjoining ground.
- 1.3.4 "Bathroom" means a room containing at least a toilet and bathtub or shower, or two rooms which contain in total at least one toilet and one bathtub or shower.
- 1.3.5 "Bedroom" means a habitable room used for sleeping purposes.
- 1.3.6 "Boarder" shall mean a person who is provided with meals or room and meals, regularly for pay.
- 1.3.7 "Boarding House" shall mean a house where meals or lodging and meals are provided for pay.
- 1.3.8 "Cellar" means that portion of a building between two floor levels with a minimum height of six feet four inches, which is partially or completely underground, and which has more than one-half of its height from floor to ceiling below finished grade.
- 1.3.9 "City" means the Corporation of the City of St. Catharines.
- 1.3.10 "Committee" means the Property Standards Committee as set out in Section 6 of this By-law.
- 1.3.11 "Corporation" means the Corporation of the City of St. Catharines.
- 1.3.12 "Crawlspace" means that portion of a building between two floor levels, or between a floor level and the ground, with a height of less than six feet four inches.
- 1.3.13 "Dwelling" means a building or structure, any part of which is used or intended to be used for the purposes of human habitation, and includes a building that would be used or would be intended to be used for such purposes except for its state of disrepair.

- 1.3.14. "Dwelling Unit" means one or more rooms connected together as a separate unit in the same structure, and constituting an independent housekeeping unit for residential occupancy by human beings, for living and sleeping purposes.
- 1.3.15 "Fire Chief" means the Fire Chief for the City of St. Catharines and shall include the Fire Prevention Officer
- 1.3.16 "Fire Resistance Rating" means time in hours or parts thereof that a material construction or assembly will withstand fire exposure, as determined in a fire test made in conformity with generally accepted standards as stated in the Building Code of the City of St. Catharines.
- 1.3.17 "Habitable Room" means any room in a dwelling unit used or intended to be used for living, sleeping, cooking or eating purposes, with a minimum height of seven feet, except as hereinafter expressly provided.
- 1.3.18 "Lodging House or Rooming House" shall mean any house or other building or portion thereof in which persons are harboured, received or lodged for hire, but does not include a hotel, hospital home for the young or the aged, or institution, provided the hotel hospital, home or institution is licensed, approved or supervised under any general or specific Act.
- 1.3.19 "Medical Officer of Health" means the Medical Officer of Health for the Niagara Regional Health Unit.
- 1.3.20 "Multiple Attached Dwelling" means a building that is divided vertically into more than two dwelling units, each of which has an independent entrance, and shall include terrace housing and row housing.
- 1.3.21 "Multiple Dwelling" means a building containing three or more dwelling units.
- 1.3.22 "Non-habitable Room" means any room in a dwelling or dwelling unit other than a habitable room, and includes any bathroom, toilet room, laundry, pantry, lobby, communicating corridor, stairway, closet, cellar, recreation room, boiler room or other space for service and maintenance of the dwelling or for public use, or for access, or for vertical travel between storeys.
- 1.3.23 "Notice" means a notice of violation given under Section 6.3 of this By-law.
- 1.3.24 "Occupant" means any person or persons over the age of eighteen years in possession of the property.
- 1.3.25 "Officer" means a property standards officer who has been assigned the responsibility of administering and enforcing this By-law.
- 1.3.26 "Order" means an order made under Section 6.4 of this By-law.

- 1.3.27 "Owner" means the person for the time being managing or receiving the rent of the land or premises in connection with which the work is used whether on his own account, or as agent or trustee of any other person, or who would so receive the rent if such land and premises were let and shall include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property.
- 1.3.28 "Property" means a building or structure or part of a building or structure, and includes the land and premises appurtenant thereto, and all out-buildings, fences, steps, walks, walkways, driveways, parking spaces and erections thereon, whether heretofore or hereafter erected and is divided into:
- (i) "non-residential property" which means property other than residential property;
 - (ii) "residential property" which means property which is occupied or capable of being occupied in whole or in part for the purposes of human habitation and is hereinbefore and hereinafter referred to as a dwelling, and
 - (iii) "vacant land" which means property on which there are no structures of any kind.
- 1.3.29 "Repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform to the standards established in this By-law. All repairs shall be made in conformity with the National Building Code, Ontario Building Code, The Ontario Water Resources Act, The Environmental Protection Act, the regulations of the Hydro-Electric Power Commission of Ontario, and to all applicable by-laws of the City of St. Catharines.
- 1.3.30 "Roomer or Lodger" shall mean a person harboured, received or lodged, in a lodging house in return for compensation.
- 1.3.31 "Safe Temperature" means a temperature or any flammable surface, adjacent to the source of heat, which surface is not too hot for comfort when touched by the hand when any such source of heat has been producing heat continuously for a minimum of two hours.
- 1.3.32 "Semi-detached dwelling" means a building vertically divided into two separate dwelling units, each of which has an independent entrance.
- 1.3.33 "Sewage" means any liquid waste containing animal, vegetable or mineral matter in suspension or solution but does not include roof water or other storm water run-off.
- 1.3.34 "Sewerage System" means the City's sanitary sewerage system or a private sewage disposal system approved by the Medical Officer of Health and/or the Ministry of the Environment.

- 1.3.35 "Standards" means the standards set out in this By-law.
- 1.3.36 "Toilet Room" means a room containing a water closet or toilet.
- 1.3.37 "Vehicle" means a motor vehicle, trailer, boat, motorized snow vehicle, mechanical equipment and any vehicle drawn, propelled or driven by any kind of power, including muscular power.
- 1.3.38 "Yard" means the land other than publicly owned land, around and appurtenant to the whole or any part of a building and used or intended to be used or capable of being used in connection with the said building, whether or not the land is owned by the owner of the building.

SECTION 2 - RESIDENTIAL PROPERTY STANDARDS

- 2.1 Pest Prevention
 - 2.1.1 Dwellings shall be kept free of rodents, vermin and insects, and methods used for exterminating such rodents, vermin or insects shall be in accordance with the provisions of The Environmental Protection Act, S.O. 1971, Chapter 86, and The Pesticides Act, R.S.O. 1970, Chapter 346, and amendments thereto.
 - 2.1.2 Basement or cellar windows used or required for ventilation, and every other opening in a basement or cellar or crawlspace, that might permit the entry of rodents, vermin and insects, shall be screened with wire mesh or other material as will effectively exclude rodents, vermin and insects.
- 2.2 Foundations
 - 2.2.1 The foundation walls and the basement, cellar or crawlspace floor of the dwelling shall be maintained in good repair and structurally sound condition, so as to prevent dangerous settlement, the entrance of moisture, rodents, vermin and insects. Without restricting the generality of this Section, maintenance includes shoring of the foundations, installing subsoil drains at the footing, grouting masonry cracks and waterproofing the walls or floors.
 - 2.2.2 Basements or cellars which are served by a stairway leading from within the dwelling or from outside the dwelling shall have a concrete floor and when required for drainage, a floor drain shall be located at the lowest point of the said floor connected to the sewerage system.
- 2.3 Condition of Dwelling
 - 2.3.1 Every part of a dwelling shall be maintained in a structurally sound condition so as to be capable of sustaining safely its own weight, and any additional load to which it normally may be subject.
 - 2.3.2 Materials which have been damaged or show evidence of dry rot or deterioration shall be repaired or replaced in a workmanlike manner.

2.4 Maintenance

- 2.4.1 Every floor, exterior wall, roof and porch or appurtenance of a dwelling shall be maintained in a manner so as to prevent collapse of the same or injury to the occupants of the dwelling, or to the public.

2.5 Exterior Surfaces

- 2.5.1 The exterior walls of a dwelling and their components shall be maintained so as to prevent their deterioration due to weather and insects, and where necessary, shall be so maintained by the painting, restoring or repairing of the walls, coping or flashing, by the waterproofing of joints, and of the walls themselves by the installation or repairing of termite shields.
- 2.5.2 Exterior walls, roofs and other parts of a dwelling shall be kept free from objects or materials which have been improperly secured or which have become loose or insecure. Such objects or material shall be removed, properly secured or replaced.

2.6 Roofs

- 2.6.1 The roof of a dwelling shall be maintained in a water-tight condition so as to prevent leakage of water into the dwelling, and where necessary, shall be maintained by the repair of the roof and flashing, or by applying water-proofed coatings or coverings.
- 2.6.2 Where an eavestrough and downspouts are installed, the roof drainage shall be discharged into a storm drainage system when available or, in the event that storm drainage system is not available, the roof drainage shall be discharged onto the ground at least four feet from the building when it is physically possible to do so, and providing that it does not adversely affect adjacent properties.

2.7 Dampness

- 2.7.1 The floors, ceilings and walls of every dwelling shall be kept free of moisture, dampness and resulting fungus growths.

2.8 Weatherproofing

- 2.8.1 Windows, exterior doors and basement or cellar hatchways shall be maintained in good repair so as to prevent the entrance of wind and rain into the dwelling, and rotted or damaged doors, door frames, window frames, sashes and casings shall be renewed, and missing and defective door and window hardware, weatherstripping and broken window glass shall be replaced.

2.9 Inside and Outside Stairs

- 2.9.1 Every inside or outside stair, porch, balcony or landing actually in use or available for use shall be maintained in good repair so as to be free of holes, cracks or other defects which constitute possible accident hazards, and all treads or risers that show excessive wear or are broken, warped or loose, and all supporting structural members that are rotted or deteriorated shall be repaired or replaced.

- 2.9.2 Every stairwell or open stairway leading to a higher storey or to a basement with five or more risers, and every porch, balcony or landing more than twenty-four inches above an adjacent surface, shall be equipped with hand rails or balustrades, maintained in good repair so as to provide adequate protection against accident or injury.
- 2.10 Walls and Ceilings
- 2.10.1 Every wall and ceiling in a dwelling unit shall be maintained so as to be easily cleaned and shall be maintained in good repair with respect to fire safety, so as to be free of holes, cracks, loose covering or other defects which would permit flame, excessive heat or water to enter a concealed space.
- 2.10.2 Interior finish materials for acoustical correction, surface insulation, decorative treatment on the surface of walls and ceilings, and interior trim shall be of material that will not, in burning, give off excessive amounts of smoke or objectionable gases so as to be injurious to health.
- 2.10.3 Walls around a bathtub or shower shall be so maintained as to be water resistant and readily cleaned.
- 2.11 Doors
- 2.11.1 Existing doors and frames shall be maintained in a sound operative condition.
- 2.11.2 At least one entrance door in every dwelling unit shall be capable of being locked from both inside and outside.
- 2.11.3 New doors shall comply with the requirements of Ontario Regulation 925/75.
- 2.12 Floors
- 2.12.1 Crawlspace shall have a floor or ground cover in compliance with Ontario Regulation 925/75 .
- 2.12.2 Every floor in a dwelling shall be smooth and level and shall be maintained in good repair so as to be free of all loose, warped, broken or rotted boards, protruding, damaged or deteriorating surfaces or surfaces in a dangerous condition or surfaces that might admit rodents into a room and all defective floor boards shall be repaired, replaced or removed.
- 2.12.3 Where floor boards have been covered with linoleum or some other covering that has become worn or torn so that it retains dirt, or may cause an accident, the linoleum or other covering shall be repaired, replaced or removed.
- 2.12.4 The floor of every bathroom, shower room and toilet room shall be so maintained as to be water resistant and readily cleaned.
- 2.13 General Cleanliness
- 2.13.1 Every floor, wall, ceiling, furnishing and fixture in a dwelling shall be maintained in a sanitary condition, and the dwelling shall be kept free from rubbish and debris.

2.14 Storage Space

- 2.14.1 Every dwelling unit shall be provided with space for the storage of linen and clothes. This may include free standing wardrobes and/or satisfactory hook racks.
- 2.14.2 Every dwelling unit shall be provided with space for general storage. In a multiple dwelling such space may be in a communal general storage area.

2.15 Access to Enclosed Space

- 2.15.1 An access opening of at least one foot eight inches by two feet four inches shall be provided to every crawl space or other enclosed space, and to every attic and roof space exceeding two feet in height.

2.16 Water

- 2.16.1 Every dwelling unit shall be provided with an adequate supply of potable running water from a source approved by the Medical Officer of Health.
- 2.16.2 Every sink, wash basin, bathtub or shower required by this By-law shall have an adequate supply of hot and cold running water.
- 2.16.3 Every water heater installed for the purpose of supplying hot running water to the occupants of a dwelling unit shall be capable of heating water to a temperature of 120 degrees Fahrenheit, (49 degrees Celsius).
- 2.16.4 A supply of water sufficient to adequately flush the toilet shall be supplied to every toilet.

2.17 Sewerage System

- 2.17.1 Every plumbing fixture in every dwelling shall discharge the water, liquids or sewage into drainage piping which shall be connected to a municipal sewerage system, or a system approved by the Medical Officer of Health and/or the Ministry of the Environment.

2.18 Plumbing

- 2.18.1 All plumbing, drain pipes, water pipes and plumbing fixtures in every dwelling, and every connecting line to the sewerage system shall be maintained in good repair and free from leaks and defects, and all water pipes and appurtenances thereto shall be protected from freezing and all waste pipes shall be connected to the sewerage system through water seal traps.

2.19 Toilet, Kitchen and Bathroom Facilities

- 2.19.1 Every dwelling unit (except as otherwise provided in Section 2.19.2) shall contain plumbing fixtures consisting of at least one of each of the following:
 - (a) a toilet or water closet
 - (b) a kitchen sink and
 - (c) a bathtub or shower.

- 2.19.2 The occupants of not more than two legal non-conforming dwelling units, as defined in the applicable area zoning by-law, may share a single bathroom provided
- (a) a total of not more than ten persons occupy the dwelling units, and
 - (b) access to the bathroom can be gained without going through habitable rooms of another dwelling unit or through an open area which is not normally heated during the season in which heat is required.
- 2.19.3 Where a dwelling unit contains rooms intended to be used in conjunction with a rooming or lodging house, the occupants may share a single bathroom provided that
- (a) a total of not more than ten persons occupy the dwelling units, and
 - (b) for each additional ten persons or part thereof, there shall be an additional toilet and bathtub or shower, and
 - (c) access to the bathroom can be gained without going through habitable rooms of another dwelling unit or through an open area which is not normally heated during the season in which heat is required.
- 2.19.4 All bathrooms and toilet rooms shall be located within and accessible from within the dwelling.
- 2.19.5 All bathrooms and toilet rooms shall be fully enclosed so as to provide privacy for the occupant.
- 2.19.6 No toilet or urinal shall be located within a room that is used for:
- (a) the preparation, cooking, storing or consumption of food, or
 - (b) sleeping purposes.
- 2.20 Kitchen Facilities
- 2.20.1 A cooking space with an adequate and approved heat supply shall be provided for each dwelling unit.
- 2.20.2 There shall be a clear space above any exposed cooking surface of a cooking apparatus of at least twenty-four inches. The cooking apparatus must conform to the appropriate provincial regulations governing the type of fuel being used for such cooking apparatus.
- 2.21 Heating System
- 2.21.1 Every dwelling shall be provided with a heating system capable of continuously maintaining a room temperature under all conditions, of 70 degrees F. (21 degrees C.) in all habitable : bathrooms and toilet rooms, unless otherwise permitted by the Medical Officer of Health, between the 15th day of September in each year and the 31st day of May of the following year.

- 2.21.2 The heating system required by section 2.21.1 shall be maintained in good working condition so as to be capable of heating the dwelling safely to the required standard.
- 2.21.3 No room heater shall be placed so as to cause a fire hazard to walls, curtains or furniture, and shall not impede the free movement of persons within the room where the heater is located.
- 2.21.4 All heating and cooking apparatus or equipment involving combustion shall be properly connected to a chimney or a flue which provides sufficient outlet for the escape of all noxious gases, so as to prevent any health, fire, or accident hazard, by a rigid and permanently sealed connection.
- 2.21.5 All heating and cooking apparatus or equipment involving combustion shall be properly connected to the supply line by a rigid and permanently sealed connection.
- 2.21.6 Solid fuel-fired barbeques shall not be used within a multiple dwelling, including balconies.
- 2.22. Furnace Room - Air Supply and Fuel Storage
- 2.22.1 In multiple dwellings with a common central heating system, the heating system shall be located in a separate room having floors, walls, ceiling and doors with a fire resistance rating of not less than one hour. The room shall not be used for the storage of fuels or any other material and shall be kept clear of all debris and rubbish.
- 2.22.2 A space that contains a heating unit shall have natural or mechanical means of supplying air by ventilation duct from out of doors in such quantities as to provide adequate combustion
- 2.22.3 Where a heating system, or part of it, or any auxiliary heating system, burns solid or liquid fuel, a space or receptacle for the storage of the fuel shall be provided and maintained in a convenient location and properly constructed so as to be free from fire or accident hazards.
- 2.22.4 Fire dampers, where required, shall be installed and maintained in compliance with By-law 62-99, as amended.
- 2.23 Chimneys
- 2.23.1 Any mechanism or structure used in the process of burning fuel or combustible material shall be properly vented to the outside air by means of a smoke pipe, vent pipe or similar adequate chimney subject to section 2.21.4
- 2.23.2 Every chimney, smoke pipe, flue and gas vent actually in use or available for use on a dwelling, shall be maintained so as to prevent the escape of gases into the dwelling. Without limiting the generality of the foregoing, maintenance shall include keeping all open joints sealed, and repairing all broken and loose masonry. Every chimney, smoke pipe, flue and gas vent on a dwelling shall be installed and maintained so that under all conditions of use, the temperature of any combustible material adjacent thereto, insulated therefrom, or in contact therewith, does not exceed a safe temperature.

- 2.23.3 Every chimney, smoke pipe, flue and gas vent actually in use or available for use shall be kept clear of obstruction.
- 2.24. Fireplaces
- 2.24.1 Fireplaces and similar installations used or intended to be used for burning fuels in open fires, shall be connected to approved chimneys, smoke pipes, flues and gas vents, and shall be installed so that nearby adjacent combustible material and structural members shall not be heated so as to exceed a safe temperature.
- 2.25 Electrical Service Installation
- 2.25.1 Electrical wiring conduit and electrical services in every dwelling shall be in compliance with and maintained according to the regulations made by the Hydro-Electric Power Commission of Ontario, pursuant to the Power Commission Act, and lighting equipment shall be installed throughout the dwelling so as to provide adequate illumination for the intended use of each space.
- 2.25.2 Fuses or overload devices shall not exceed limits set by the Hydro Electric Power Commission of Ontario.
- 2.25.3 In every dwelling, an adequate and safe illuminating device shall be installed in every bathroom, toilet room, laundry room, furnace room and kitchen.
- 2.25.4 All common halls and stairs in multiple dwellings shall be continuously lighted by a minimum of ten foot candles of light.
- 2.26 Ventilation
- 2.26.1 Every habitable room, other than a living room or a dining room, shall have an opening or openings for natural ventilation, and such opening or openings shall have a minimum aggregate unobstructed free flow area of three square feet, and shall be located in the exterior walls or through skylight openings of roof ventilators. Openings shall be adequately screened to prevent the entry of insects.
- 2.26.2 An opening for natural ventilation may be omitted if mechanical ventilation is provided which changes air once each hour.
- 2.26.3 Every bathroom or room containing a toilet or urinal shall be provided with an opening or openings for natural ventilation located in an exterior wall or through skylight openings and all such openings shall have a minimum aggregate, unobstructed free flow of one square foot. Openings shall be adequately screened to prevent the entry of insects, vermin and rodents.
- 2.26.4 An opening for natural ventilation may be omitted from a bathroom or room containing a toilet or urinal, where a system of mechanical ventilation has been provided such as an exhaust fan with a duct leading to outside the dwelling.

- 2.26.5 All systems of mechanical ventilation shall be maintained in good repair.
- 2.26.6 Every basement or cellar or crawlspace shall be vented to the outside air by means of screen windows which can be opened, or by louvres with screen openings, the area of which shall not be less than one square foot for every five hundred square feet of enclosed area.
- 2.26.7 Every enclosed attic or roof space shall be vented by openings to the exterior to provide at least one square foot of unobstructed vent area for every three hundred square feet of attic or roof space, and the vents may be roof, eave or gable end type or any combination thereof.
- 2.27 Maintenance of Yards
- 2.27.1 All yards shall be kept clean and free from rubbish or other debris and from objects or conditions that might create a health, fire or accident hazard.
- 2.27.2 All yards shall be kept free from excessive growth of weeds and grasses. Noxious plants, as defined in the Noxious Weeds Act, shall be eliminated from all yards.
- 2.27.3 Any vehicle, including a boat or trailer or part thereof, which is in a wrecked, discarded, dismantled, partly dismantled, inoperative or abandoned condition shall not be parked, stored or left in a yard but this shall not prevent the occupant of any premises from repairing a vehicle for his own use and not for commercial purposes while such repair is actively carried on.
- 2.28 Drainage
- 2.28.1 All yards shall be provided and maintained with adequate surface water drainage, including suitable provisions for its disposal without causing erosion, so as to prevent recurrent ponding or the entrance of water into a basement or cellar.
- 2.28.2 Sewage shall be discharged into the sewerage system as provided in Section 2.17.1 and sewage of any kind shall not be discharged onto the surface of the ground whether into a natural or artificial surface drainage system or otherwise.
- 2.29 Walks
- 2.29.1 A hard surfaced walk shall be provided from every dwelling unit to the street, or to a hard surfaced driveway that connects to the street.
- 2.29.2 Steps, walks, driveways, parking spaces and similar areas of the yard shall be maintained so as to afford safe passage under normal use and weather conditions.

2.30 Fences and Accessory Buildings

2.30.1 Accessory buildings and all fences shall be kept in good repair and free from fire, health or accident hazards and shall be protected by paint, preservative or other weather resistant material.

2.30.2 Where an accessory building or a yard is found to harbour noxious insects or rodents, all necessary steps shall be taken to eliminate such insects or rodents, and to prevent their recurrence.

2.30.3 Where an accessory building or fence is not maintained in accordance with these standards, it shall be repaired or removed from the yard.

2.31. Garbage Disposal

2.31.1 Every dwelling and every dwelling unit within the dwelling shall be provided with sufficient receptacles to contain all garbage, rubbish and ashes.

2.31.2 All household garbage and refuse shall be stored in a sanitary manner in plastic bags or other containers and made available for removal in accordance with By-law No. 71-119 of the City of St. Catharines, and shall not be permitted to accumulate and remain on the premises to an extent or for a length of time which might constitute a fire, health or accident hazard.

2.31.3 Outside receptacles shall be:

(a) made of a water-tight construction;

(b) provided with a cover adequate to prevent the escape of garbage, refuse and debris; and

(c) maintained in a clean state.

2.32. Occupancy Standards

2.32.1 The maximum number of occupants in a dwelling unit shall not exceed one person per one hundred square feet of habitable room floor area.

2.32.2 For the purpose of computing the habitable floor area, the floor area under a ceiling which is less than seven feet high shall not be counted unless there is a sloping ceiling, then the habitable floor area shall be in accordance with regulations in the Building By-law 62-99 as amended.

2.32.3 A bedroom shall be a habitable room and no hallway shall be used as a bedroom.

2.32.4 (a) No room in a dwelling shall be used as a bedroom unless it has a minimum width of six and one-half feet and a minimum floor area of sixty square feet, and a room used as a bedroom by two or more persons shall have a floor area of at least forty square feet for each person using the room.

(b) At least one-half of the required minimum floor area shall have a ceiling height of seven feet, and no floor area with a ceiling height of less than four feet six inches shall be counted.

- 2.32.5 A non-habitable room shall not be used as a habitable room.
- 2.32.6 In multiple dwellings, each habitable room shall be separated from the common central heating system, water heating system and incinerator by a fire separation having a fire resistance rating of at least one hour.
- 2.33. Protective Guards in Multiple Dwellings exceeding Three Storeys in Building Height
- 2.33.1 Guards as hereinafter defined shall be provided for all unprotected openings and open spaces in multiple dwellings exceeding three storeys in building height in the following locations:
- (1) Around every roof to which access is provided for other than maintenance.
 - (2) Around every raised floor, mezzanine, balcony, gallery, bridge, exterior passageway or other location when the difference in elevation between floor levels or between floor and ground levels is greater than twenty-four inches.
 - (3) Around every open side of a landing in a public stairway.
 - (4) Across every window or glass panel in an exit stairway, public hallway or corridor or any area accessible to the public that extends to less than forty-two inches above the stairs, landing or floor.
 - (5) Except as provided in sentence (6) across any window located more than six feet above the ground level and that extends within thirty inches of the floor unless such window has fixed glazing.
 - (6) All opening windows within a dwelling unit may be equipped with latching or automatic engaging devices to control the window opening and screens, in lieu of the protective guard provided such windows are manufactured to the appropriate Government specifications as outlined in Section (3) of Article 3.6.2.2. of Ontario Regulation 925/75.
- 2.33.2 For the purpose of this Section, a guard shall be at least forty-two inches in height and the size of any opening through such guard shall be such a size as to prevent the passage of a spherical object having a diameter of four inches. Every required guard shall be designed so that no member, attachment or opening located between four inches and thirty-six inches above floor level will facilitate climbing.

SECTION 3 - NON-RESIDENTIAL PROPERTY STANDARDS

- 3.1. Maintenance of Yards
- 3.1.1 All yards shall be kept clean and free from rubbish or other debris, and from objects or conditions that might create a health, fire or accident hazard.

- 3.1.2 All yards shall be kept free from excessive growth of weeds and grasses. Noxious plants, as defined in The Noxious Weeds Act, shall be eliminated from all yards.
- 3.1.3 No vehicle which is in a wrecked, discarded, dismantled, or inoperative condition, and no mechanical equipment, automotive and mechanical parts shall be parked, stored or left in the yard unless such vehicles, mechanical equipment, automotive and mechanical parts are required for business purposes as part of a business licensed for such purpose, where a licence is required or zoning permits.
- 3.1.4 Where a business requires outdoor storage for any purpose, no articles, goods or materials shall be stored in the open on the lot or exposed to public view, unless the same is surrounded by a decorative screen fence at least six feet in height.
- 3.1.5 Steps, walks, driveways, parking spaces and similar areas of the yard shall have a stable, dust-free surface and shall be maintained so as to afford safe passage under normal use and weather conditions.
- 3.1.6 The lawns, hedges and bushes shall -
 - (a) be kept trimmed, and
 - (b) not be overgrown or unsightly.
- 3.1.7 The yard shall be cultivated or protected by suitable ground cover which prevents the erosion of the soil.
- 3.2. Sewage and Drainage
 - 3.2.1 Sewage or organic waste shall be discharged into a sewerage system.
 - 3.2.2. Rain water from a roof area of 500 square feet or more shall be conveyed to a storm sewer and, if such a storm sewer is not available, the rain water shall be disposed of in such a manner as not to create a nuisance.
 - 3.2.3 Storm water shall be drained from the yard so as to prevent recurrent ponding or the entrance of water into a basement or cellar.

3.2.4 Roof drainage or surface water shall -

- (a) be drained from the lands so as to prevent recurrent ponding or entrance of water into a basement or cellar, and
- (b) not be channelled to discharge on sidewalks, stairs or neighbouring property.

3.2.5 Sub-surface drainage shall be installed where there is recurring excessive ponding caused by surface water.

3.3. Safe Passage

3.3.1 Steps, walks, driveways, parking spaces and similar areas of the yard shall be maintained so as to afford safe passage under normal use and weather conditions.

3.4. Accessory Buildings

3.4.1 An accessory building shall be kept -

- (a) in good repair;
- (b) free from health, fire and accident hazards; and
- (c) protected by paint, preservative or other weather-resistant material.

3.5. Fences

3.5.1 A fence or retaining wall shall be -

- (a) installed around the parking area of drive-in eating establishments except at the private approaches, and
- (b) constructed in such a manner as to prevent all cartons, wrappers, paper, rubbish and debris from blowing onto adjoining property.

3.5.2 All fences around or on non-residential property shall be -

- (a) kept in good repair;
- (b) free from accident hazards; and
- (c) protected by paint, preservative or other weather-resistant material.

3.6. Signs

3.6.1 All signs and billboards shall be maintained in good repair and any signs which are excessively weathered or faded, or those upon which the paint has excessively peeled or cracked shall, with their supporting members, be removed or put into a good state of repair.

Maintenance of Buildings

3.7. Garbage Disposal

- 3.7.1 Every building shall be provided with sufficient receptacles to contain all garbage, rubbish, ashes and trade waste.
- 3.7.2 Receptacles shall be acceptable plastic bags or other containers that are -
- (a) made of water-tight construction;
 - (b) provided with a tight-fitting cover; and
 - (c) maintained in a clean state.
- 3.7.3 Plastic bags shall not be stored outdoors unless protected from damage.
- 3.7.4 Every building shall be provided with rodent-proof storage space for garbage and trade waste.
- 3.7.5 Containers shall be made available for the disposal of refuse which may be discarded by customers and the yard shall be kept free of such refuse.

3.8. Pest Prevention

- 3.8.1 The property shall be kept free of rodents, vermin and insects at all times and methods used for exterminating rodents or insects or both shall be in accordance with the provisions of The Pesticides Act, R.S.O. 1970, Chapter 346, as amended, and all Regulations passed pursuant thereto.
- 3.8.2 A basement or cellar window used or required for ventilation and any other opening in a basement or cellar, including a floor drain that may permit the entry of rodents, shall be screened with wire mesh, metal grill or other durable material as will effectively exclude rodents.

3.9. Basement Floors

- 3.9.1 Basement, cellar or crawlspaces which are not served by a stairway leading from the building or from outside the building may have a dirt floor provided it is covered with a moisture proof covering.
- 3.9.2 Basements or cellars which are served by a stairway leading from the building or from outside the building shall have a concrete floor and, where required, with a floor drain located at the lowest point of said floor and connected to a sewerage system.
- 3.9.3 A concrete floor in a basement or cellar shall be free from major cracks, breaks or such as to create a hazardous condition.

3.10. Foundations

- 3.10.1 The foundation walls shall be maintained in good repair and structurally sound and when required shall be so maintained by shoring of the walls, installing subsoil drains at the footing, grouting masonry cracks, parging and waterproofing the walls.
- 3.10.2 Every building, unless of the slab-on-grade type, shall be supported by foundation walls or piers which extend below the frost line or to solid rock.
- 3.10.3 All footings, foundation walls, piers, slabs-on-grade shall be of masonry or other suitable material.
- 3.10.4 Subsections 3.10.2 and 3.10.3 do not apply to accessory buildings.

3.11. Condition of Building

- 3.11.1 Every part of a building shall be maintained in a structurally sound condition so as to be capable of sustaining safely its own weight and any load to which it may be subject.
- 3.11.2 Materials or objects which have been damaged or show evidence of rot or other deterioration shall be repaired or replaced.
- 3.11.3 All exterior surfaces shall be of materials which by themselves or when treated provide adequate protection from the weather.

3.12. Exterior Surfaces

- 3.12.1 The exterior walls and their components shall be maintained so as to prevent their deterioration due to weather or insects, and shall be so maintained by -
- (a) painting, restoring or repairing of the walls, coping or flashing; or
 - (b) the waterproofing of joints and of the walls themselves.
- 3.12.2 All canopies, marquees, signs, awnings, stairways, fire escapes, stand pipes, exhaust ducts and similar overhang extensions shall be -
- (a) maintained in good repair,
 - (b) properly anchored, and
 - (c) protected from the elements and against decay and rust by the periodic application of a weather coating material such as paint or other protective treatment.
- 3.12.3 All air conditioners which are installed and operated directly over a public sidewalk shall be equipped with proper devices for the prevention of condensation drainage upon the sidewalk.

- 3.12.4 All air conditioners shall be maintained in a safe mechanical and electrical condition.

3.13. Roofs

- 3.13.1 The roof, cornice and flashing shall be maintained in a watertight condition so as to prevent leakage of water into the building.

3.14. Dampness

- 3.14.1 The interior floors, ceilings and walls shall be kept free from dampness arising from the entrance of moisture through an exterior wall or a roof, or through a cellar, basement or crawlspace floor.

3.15. Doors and Windows

- 3.15.1 All exterior openings for doors and windows shall be fitted with doors or windows.
- 3.15.2 Windows, exterior doors and basement or cellar hatchways shall be maintained in good repair so as to prevent the entrance of wind or rain into the building.
- 3.15.3 Doors, door frames, window frames, sashes, casings and weatherstripping that have been damaged or show evidence of rot or other deterioration shall be painted, repaired or replaced.
- 3.15.4 Broken glass and missing or defective door and window hardware shall be repaired or replaced.
- 3.15.5 All windows intended to be opened and all exterior doors shall have hardware so as to be capable of being locked or otherwise secured from inside the building.

3.16. Stairs, Porches and Balconies

- 3.16.1 Every inside or outside stair, porch, balcony or landing actually in use or available for use shall be maintained in good repair so as to be free of holes, cracks or other defects which constitute possible accident hazards, and all treads or risers that show excessive wear or are broken, warped or loose, and all supporting structural members that are rotted or deteriorated, shall be repaired or replaced.

3.17. Balustrades and Handrails

- 3.17.1 Every stairwell or open stairway leading to a higher storey or to a basement with five or more risers, and every porch balcony or landing more than 24 inches above an adjacent surface, shall be equipped with handrails or balustrades, maintained in good repair so as to provide adequate protection against accident or injury.

3.18. Walls and Ceilings

3.18.1 Every wall and ceiling shall be -

- (a) maintained so as to be easily cleaned, and
- (b) free of holes, cracks, loose coverings or other defects which would permit flame or excessive heat to enter the concealed space.

3.18.2 Where occupancies are separated vertically, the dividing walls shall -

- (a) be continued in the basement from the top of the footings or the floor to the underside of the finished floor space,
- (b) be continued in the attic from the top of the finished ceiling surface to the underside of the finished roof surface,
- (c) consist of two 1/2 inch layers of gypsum wallboard or material of equivalent fire resistance rating, and
- (d) be tightly sealed with caulking of mineral wool or similar non-combustible material.

3.18.3 Where the dwelling unit and non-residential occupancy are separated horizontally, there shall be a finished ceiling separating these occupancies, which shall -

- (a) consist of two 1/2" layers of gypsum wall board or material of equivalent fire resistance rating, and
- (b) be tightly sealed with caulking or mineral wool or similar non-combustible material.

3.19. Floors

3.19.1 Every floor shall be smooth and level, and maintained in good repair so as to be free of all loose, warped, protruding, broken or rotted boards that may cause an accident or allow dirt to accumulate.

3.19.2 Where floor boards have been covered with linoleum or some other covering that has become worn or torn so that it retains dirt or may cause an accident, the linoleum or other covering shall be repaired, replaced or removed.

3.19.3 Every toilet room shall have a floor of water repellent construction.

3.20. Cleanliness

3.20.1 Every floor, wall, ceiling, fixture, appliance and equipment shall be maintained in a clean and sanitary condition as is appropriate to the use which is being made of the building.

3.20.2 The building shall be kept free from rubbish, debris or any condition which constitutes a fire, health or accident hazard.

3.21. Egress

3.21.1 There shall be provided two means of egress from every floor area, where in the opinion of an officer, the existing exits are inadequate for the safety of every person in the building.

3.21.2 All means of egress shall be -

(a) maintained in good repair, and

(b) free of objections or conditions which constitute an accident or fire hazard.

3.22. Heating System

3.22.1 Where persons are employed in duties and operations in an enclosed space or room within a building and not engaged in physical activity, the heating equipment shall be capable of providing sufficient heat in such spaces or rooms to maintain a temperature of not less than 70° F. or 21° Celsius during normal working hours.

3.22.2 The heating system required by subsection 3.22.1 shall be maintained in good working condition so as to be capable of heating the building safely to the required standard.

3.22.3 Auxiliary heaters shall not be used as a primary source of heat.

3.22.4 A room heater shall not be placed so as to

(a) cause a fire hazard to walls or any other equipment;
or

(b) impede the free movement of persons within the room where the heater is located.

3.22.5 Where a heating system or part of it or any auxiliary heating system burns solid or liquid fuel, a place or receptacle for the storage of the fuel shall be -

(a) provided and maintained in a convenient location,
and

(b) properly constructed so as to be free from fire or accident hazards.

3.22.6 An adequate supply of fuel shall be available at all times.

3.22.7 Equipment burning fuels shall be properly vented by a connecting duct or flue pipe leading to a chimney or a vent flue.

- 3.22.8 Where combustible materials are stored in the basement, the fuel-burning heating system shall be enclosed.
- 3.22.9 Every chimney, smoke pipe, flue and vent shall be maintained so as to -
- (a) prevent gases from leaking into the building or property; and
 - (b) be free of any defects.
- 3.22.10 A fuel burning central heating system in a mixed use building shall be located in a separate room having walls, ceiling and doors with a fire resistance rating of not less than one hour.
- 3.22.11. Subsection 3.22.10 does not apply where -
- (a) there is a fire separation between the dwelling unit and the non-residential property having a fire resistance rating of one hour, or
 - (b) the dwelling unit and non-residential property are occupied by the same tenant.
- 3.22.12 Where, in the opinion of an Officer, there exists a hazardous condition due to storage in or use of space adjacent to a heating system, the furnace shall be enclosed in accordance with the provisions of subsection 3.22.10 hereof.
- 3.22.13 The enclosure referred to in subsections 3.22.10 and 3.22.12 shall be vented to provide sufficient combustion air for the heating equipment directly from the outside air.
- 3.23. Plumbing
- 3.23.1 All plumbing, drain pipes, water pipes and plumbing fixtures in every building and every connecting line to the sewerage system shall be maintained in good working order and free from leaks and defects.
- 3.23.2 All water pipes and appurtenances thereto shall be protected from freezing.
- 3.23.3 All waste pipes shall be connected to the sewerage system through water seal traps.
- 3.24. Toilet Room Facilities
- 3.24.1 Buildings where people work shall have a minimum of one water closet and one wash basin supplied with an adequate supply of hot and cold running water located in an enclosed room and accessible from within the building.
- 3.24.2 All toilet rooms shall be fully enclosed and with a door capable of being locked so as to provide privacy for the user.

- 3.24.3 All toilet facilities and toilet rooms shall be kept clean and neat at all times.
- 3.24.4 The toilet room walls and ceiling of every toilet room shall be provided with a smooth surface and where paint is used as the surface coating it shall be maintained and painted as is necessary for cleanliness.
- 3.24.5 Every toilet room shall be provided with toilet paper, soap and individual towels or other means of drying.
- 3.24.6 Every toilet room shall be provided with an opening or openings for natural ventilation located in an exterior wall or through openable parts of skylights and all such openings shall have a minimum aggregate unobstructed free flow area of one square foot.
- 3.24.7 An opening for natural ventilation may be omitted from a toilet room where a system of mechanical ventilation has been provided, such as an exhaust fan with a duct leading to outside the building.
- 3.24.8 Where mechanical ventilation is used, the provisions of subsection 3.27.3 of Section 3.27 apply.
- 3.25. Electrical Service
- 3.25.1 Fuses or overload devices shall not exceed limits set by the Hydro-Electric Power Commission of Ontario.
- 3.25.2 Where, in the opinion of the Officer, a hazardous condition exists, extension cords which are not part of a fixture shall not be permitted on a semi-permanent or permanent basis.
- 3.25.3 The electrical wiring and all electrical fixtures located or used in a building shall be installed and maintained in good working order and in conformity with the regulations of the Hydro-Electric Power Commission of Ontario.
- 3.26. Light
- 3.26.1 Sufficient windows, skylights and electrical lighting fixtures shall be provided and maintained in order to furnish illumination in all passageways and stairways whenever the building is in use, and in all stairways provided for use in case of fire or other emergency.
- 3.27. Ventilation
- 3.27.1 Every room where people work shall have an opening or openings for natural ventilation which openings shall -
- (a) have a minimum aggregate unobstructed free flow area of three square feet, and
 - (b) be located in the exterior walls or through openable parts of skylights

- 3.27.2 An opening for ventilation may be omitted if mechanical ventilation is provided which changes the air once each hour.
- 3.27.3 Where mechanical ventilation is used, the ventilating duct which is on the exterior wall shall be located not less than six feet from a window located in an adjoining building.
- 3.28. Basement, Cellar or Unheated Crawlspce
- 3.28.1 Every basement, cellar or unheated crawlspce shall be adequately vented to the outside air by means of screened windows which can be opened or by louvers with screened openings, the area of which shall not be less than one per cent of the floor area for basements and one square foot per 500 square feet of crawlspce area.
- 3.28.2 An opening for natural ventilation may be omitted from the basement or unheated crawlspce where a system of mechanical ventilation has been provided which changes the air once each hour.

SECTION 4 - VACANT LAND

- 4.1. Vacant land shall be kept clean and free from rubbish or other debris, and objects or conditions that may create a health, fire or accident hazard.
- 4.2 All vacant land shall be graded, filled up or otherwise drained so as to prevent recurrent ponding of storm water.

SECTION 5 - PROTECTION OF PERSONS AND PROPERTY FROM FIRE

- 5.1. All residential property, non-residential property and vacant land shall comply with the terms of the St. Catharines Fire Prevention By-law being City of St. Catharines By-law No. 76-319 .

SECTION 6 - ADMINISTRATION AND ENFORCEMENT

- 6.1. Application
- 6.1.1 This By-law shall apply to all property within the limits of the City of St. Catharines.
- 6.1.2 Where a provision of this By-law conflicts with a provision of another by-law in force in the City of St. Catharines, the provisions of this By-law shall prevail.
- 6.1.3 If any section of this Property Standards By-law is for any reason held to be invalid, that section shall be deemed to be severable and the remaining sections shall remain in effect until repealed.

6.1.4 Notwithstanding any notice, direction or order issued or given hereunder, it shall be the responsibility of the owner to ensure that property owned by the owner is repaired and maintained in accordance with the provisions of this By-law.

6.2. Officers

6.2.1 The office of the Property Standards Officer is hereby created and the person appointed from time to time to this office shall be responsible for the administration and enforcement of this By-law, subject to review by the Property Standards Committee.

6.2.2 The Property Standards Officer may, from time to time, designate other persons to act as his assistant in the administration and enforcement of this By-law.

6.2.3 The Property Standards Officer and any person acting under his instructions may at all reasonable times and upon producing proper identification, enter and inspect any property.

6.2.4 The Officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling, without the consent of the occupier, except under the authority of a search warrant issued under Section 16 of The Summary Convictions Act.

6.3. Notice of Non-Conformity

6.3.1 If, after inspection, the Officer is satisfied that in some respect the property does not conform to the standards prescribed in this By-law, the Officer shall issue and serve or cause to be served by personal service or send by prepaid, registered mail, a Notice of Non-Conformity.

6.3.2 The Notice shall be served upon or mailed to the owner of the property and all persons shown by the records of the Registry Office, the Land Titles Office, and the Sheriff's Office, to have any interest therein, and may at the same time, provide all occupants with a copy of such Notice.

6.3.3. The Notice shall state -

- (a) that the property does not conform to the standards prescribed in this By-law;
- (b) the particulars of non-conformity;
- (c) the date, time and place of a hearing to be held by the Officer to hear representations;
- (d) that any person served with the Notice, or his representative is entitled to appear at the said hearing and make such representation and present such evidence as he so desires, and that in the event he does not appear at the said hearing, a decision may be made by the Officer in his absence;

- (e) the address of the Officer for service;
- (f) Any person affected by an Order made by the Officer pursuant to the Notice, has the right of appeal to the Property Standards Committee and stating the manner in which such an appeal may be made;
- (g) Any other information which the Officer deems necessary.

6.4. Orders

6.4.1 After the time afforded by the Notice for making representations, the Officer may make and serve or cause to be served or send by prepaid registered mail to the Owner of the property and all persons shown by the records of the Registry Office, the Land Titles Office and the Sheriff's Office, to have any interest therein, an Order.

6.4.2 The Order shall contain:

- (a) the municipal address or the legal description of the property;
- (b) reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse, and left in a graded and levelled condition;
- (c) the period in which there must be a compliance with the terms and conditions of the Order;
- (d) notice that, if such repair or clearance is not done within the time specified in the Order, the municipality may carry out the repair or clearance at the expense of the Owner; and
- (e) the final date for giving Notice of Appeal from the Order.

6.4.3 The Officer may grant an extension of the time limited for compliance with any Order given by him pursuant to the provisions of this By-law, provided there is evidence of intent to comply with any such Order, or that conditions exist which, in the opinion of the Officer, prevent immediate compliance.

6.5. Service

6.5.1 A Notice under Section 6.3.1 or an Order under 6.4.1, when sent by registered mail, shall be sent to the last known address of the person to whom it is sent.

6.5.2 If the Officer is unable to effect service under Section 6.3.1 or Section 6.4.1, he shall place a placard containing the terms of the Notice or Order in a conspicuous

place on the property, and the placing of the placard shall be deemed to be sufficient service of the Notice or Order on the Owner or other persons, and no other person shall pull down, obstruct or deface such placard.

- 6.5.3 An Order under Section 6.4.1 may be registered in the proper Registry Office or Land Titles Office, and upon such registration any person acquiring any interest in the land subsequent to the registration of the Order, shall be deemed to have been served with the Order on the date on which the Order was served under Section 6.4.1. When the requirements of the Order are found by the Officer to have been satisfied, the Officer shall forthwith register in the proper Registry Office or Land Titles Office a certificate that such requirements have been satisfied, which certificate shall operate as a discharge of such Order.
- 6.5.4 Following an inspection of a property, the Officer may, or on the request of the Owner, shall issue to the Owner a certificate of compliance if, in his opinion, the property is in compliance with the standards of this By-law. The fee for such a certificate issued at the request of the Owner shall be \$10.00.
- 6.6. Property Standards Committee
- 6.6.1 The Property Standards Committee is hereby established which shall consist of not less than three ratepayers of the City of St. Catharines, who shall hold office for a term of three years, except that in making the first appointments to the Committee the Council shall designate members who shall hold office:
- (a) until the first day of January of the year following the date of appointment;
 - (b) until the first day of January of the second year following the date of appointment; and
 - (c) until the first day of January of the third year following the date of appointment,
- respectively, so that as nearly as possible, one-third of the members shall retire each year.
- 6.6.2 Members shall hold office until their successors are appointed and are eligible for re-appointment. When a member ceases to be a member before the expiration of his term, the Council shall appoint another person for the unexpired portion of that term.
- 6.6.3 A member of the Council of the City of St. Catharines or an employee of the City of St. Catharines, or of a local board thereof, shall not be eligible to be a member of the Committee, but a teacher employed by a Board of Education or School Board is not deemed to be an employee for the purposes of this Section.

- 6.6.4 The members of the Committee shall elect one of themselves as Chairman. When the Chairman is absent through illness or otherwise, the Committee may appoint another to act as Chairman pro tempore. The Committee shall make provision for a secretary for the Committee. Any member of the Committee may administer oaths.
- 6.6.5 The Secretary shall keep on file minutes and records of all applications and the decisions thereon, and of all other official business of the Committee, and Section 216 of The Municipal Act applies mutatis mutandis to such documents.
- 6.6.6 The members of the Committee shall be paid such compensation as Council may, from time to time, provide.
- 6.6.7 A majority of the Committee constitutes a quorum. The Committee may adopt its own rules of procedure but before hearing an appeal under Section 6.7.2 shall give notice or direct that notice be given of such hearing, to such persons as the Committee consider should receive such notice.
- 6.7. Appeal to Property Standards Committee
- 6.7.1 Where the Owner or occupant or any person affected by an Order under Section 6.4.1 upon whom an Order has been served in accordance with Section 6.5.1, is not satisfied with the terms or conditions of the Order, he may appeal to the Committee by sending Notice of Appeal by registered mail to the Secretary of the Committee within fourteen days after service of the Order and, in the event that no appeal is taken, the Order shall be deemed to have been confirmed.
- 6.7.2 Where an appeal has been taken, the Committee shall hear the appeal within fourteen days, and shall have all the powers and functions of the Officer, and may confirm the Order to demolish and repair, or may modify or quash it, or may extend the time for complying with the Order, provided that in the opinion of the Committee the general intent and purpose of the By-law and of the Official Plan are maintained.
- 6.7.3 The Committee shall cause a copy of the Decision of the Committee to be sent to the Owner and the occupants, and to any person affected by the decision, at their last known addresses, and to the Officer, by prepaid registered mail, within fourteen days of the decision.
- 6.8. Appeal to County Court
- 6.8.1 The Corporation of the City of St. Catharines or any Owner or occupant or person affected by a decision under Section 6.7.2 may appeal to a Judge of the County Court for the Judicial District of Niagara North by so notifying the Clerk of the Corporation in writing, and by applying for an appointment within fourteen days after the sending of a copy of the decision.

6.8.2 The Judge shall, in writing, appoint a day, time and place for the hearing of the appeal, and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes.

6.8.3 The appointment shall be served in the manner prescribed by the Judge.

6.8.4 The Judge on such appeal has the same powers and functions as the Committee.

6.9. Finality of Order

6.9.1 The Order as deemed to have been confirmed pursuant to Section 6.7.1 or as confirmed or modified pursuant to Section 6.7.2, or in the event of an appeal pursuant to Section 6.8.1 as confirmed or modified by the Judge, shall be final and binding upon the Owner and occupants, who shall make the repair or effect the demolition within the time and in the manner specified by the Order.

6.10. Remedies

6.10.1 Where an Order has been served or sent out pursuant to Section 6.4.1, the owner of the property shall repair and maintain the property to the satisfaction of the Officer or clear the property and leave it in a graded and levelled condition, in accordance with the particulars set forth in the Order.

6.10.2 Following the issuance of the Order, the Officer may issue a Notice prohibiting the use of the property that does not conform to standards.

6.10.3 The Officer may cause to be placed in a prominent position on the property which does not conform to the standards contained in this By-law, a placard stating that such property does not conform to the minimum standards set out in this By-law and in what particulars it fails to conform to the standards, and no person shall pull down, obstruct or deface such placard.

6.10.4 If the owner or occupant of the property fails to demolish the property or to repair in accordance with an Order as confirmed or modified, the Corporation in addition to all other remedies shall

- (a) have the right to demolish or repair the property accordingly, and for this purpose with its servants and agents from time to time, to enter in and repair the property, and
- (b) not be liable to compensate such Owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the Corporation, in order with the provisions of this Section.

- 6.10.5 Where the Corporation, its servants or agents demolishes or repairs property pursuant to Section 6.10.1, the Corporation may recover the expenses it incurs in so doing by action or in like manner as municipal taxes.
- 6.10.6 Every Owner who contravenes any provision of this By-law is guilty of an offence and is liable upon summary conviction to a fine of not more than \$500.00 for each day that he is in contravention of an Order that is final and binding.

SECTION 7 - REPEAL OF FORMER BY-LAW

- 7.1 By-law No. 74-244 be and the same is hereby repealed.

PASSED this *13th* day of *November* 1976.



CLERK.



MAYOR.

Durex®

Dur-X-Cel 100

Exterior Grade Acrylic Latex Paint

PRODUCT DESCRIPTION:

DUR-X-CEL 100 is a 100 % flat acrylic based paint.

BASIC USES:

DUR-X-CEL 100 is used as a premium quality paint for exterior masonry and concrete surfaces.

DUR-X-CEL 100 can be pigmented to match almost any colour.

ADVANTAGES:

- exceptional exterior durability
- excellent water repellency; protects wall from moisture penetration
- breathable coating; allows water vapour within the wall system to evaporate
- excellent adhesion to substrate
- abrasion resistant
- colourfast (no colour change under ultra-violet rays)

LIMITATIONS:

DUR-X-CEL 100 is not recommended for use:

- over previously treated surfaces without proper preparation

- surfaces where oils and other contaminants are present
- when ambient, surface and material temperatures are below 5°C (41°F) during application and curing period
- under hot sun conditions nor under high humidity conditions
- for 48 hours prior to, during and for minimum 24 hours after inclement weather conditions

APPLICATION:

DO NOT SUBSTITUTE NOR COMPENSATE **DUR-X-CEL 100** WITH WATER OR OTHER ADDITIVES.

Substrate to be treated must be dry, clean and sound, free of weak and powdery surfaces, free from ice, snow, dew and frost, oil, grease and other deleterious materials detrimental to a positive bond.

Check with **Durabond Products Limited** for questionable surfaces.

Thoroughly stir **DUR-X-CEL 100** in its' own pail before each use. Discard all frozen materials, materials which have formed solid lumps at the

TECHNICAL DATA

Physical Properties:

Product type:	Water based acrylic coating
Appearance:	Dense paint-like consistency
Viscosity:	10,000 to 15,000 cps
Ph level:	9.0 to 9.5
Toxicity:	Non-toxic

Performance Characteristics:

Please refer to Dur-X-Cel 50 data sheet in Group D for test results.

DURabond

Manufacturers and Distributors of High Quality Construction Products

D-7

09910

PROTECTIVE COATINGS
EXTERIOR GRADE PAINT

bottom of the container and materials which do not appear to be of a homogeneous viscosity.

Using a 6.4 mm (1/4") pile roller dip roller into stirred pail of material. Apply the paint with several passes of the roller, evenly spreading the paint over the entire substrate surface. Allow a minimum of 24 hours for drying between coats.

CLEAN-UP:

Clean all tools promptly after each use with clean water. Do not allow paint to dry on tools. **Durex Cleaning Solution CS-100** is available to aid cleaning of soiled areas where the **DUR-X-CEL 100** has dried.

STORAGE:

Store **DUR-X-CEL 100** in a dry, vented, waterproof location, stacked off the ground with ambient temperatures above 5°C (41°F). Keep materials dry, protected from rapid temperature changes, from dampness and moisture and away from direct sunlight.

KEEP FROM FREEZING.

PACKAGING:

DUR-X-CEL 100 is packaged in 18.9 litre pails.

DUR-X-CEL 100 is available in 28 standard colours. Custom colour matching is available upon

request at a slight additional charge.

COVERAGE:

Coverage will vary according to the porosity of the substrate, colour of original substrate and colour of the **DUR-X-CEL 100** to be applied.

Average coverage:

one coat : 5.6 m²/L (1200 ft²/pail)

two coats : 3.9 m²/L (800 ft²/pail)

A TEST SAMPLE SHOULD BE APPLIED TO ESTABLISH PRACTICAL COVERAGE ON THE ACTUAL SUBSTRATE.

WARRANTY:

Durabond Products Limited fully warrants their products when used and applied in strict accordance with the printed instructions on product mixing and product application. In any case **Durabond's** responsibility shall not exceed either the refund of the purchase price, or the replacement of the purchased product.

TECHNICAL SERVICES:

Technical assistance for unique applications and design is available upon request from **Durabond Products Limited**.

DURABOND

Manufacturers and Distributors of High Quality Construction Products

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