

Summary of Evidence:*Board report*

The Board report contains the notice of appeal and any submissions made by the applicant/ appellant, all the materials submitted by the Development Authority that pertain to the application, and any other submissions made by any other parties to the appeal. All the evidence of the Development Authority is contained in the Board report.

Hearing

There were no verbal submissions made.

Preliminary Issue:

The Board dealt with the preliminary issue of whether or not the appeal was submitted within the legislated time period, as prescribed under the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended.

The Development Authority:

The Development Authority did not make a verbal presentation to the Board. Prior to the hearing, the Development Authority, in response to the appeal, submitted additional factors, considerations and rationale for its decision, found on pages 80 and 81 of the Board report.

In Favour of the Appeal:

No one in favour of the appeal addressed the Board. Prior to the commencement of this item, the Board received an email from the appellant, Shahzad Cokar, stating he would not be able to attend the hearing but that the Board should proceed with the matter in his absence.

In Opposition of the Appeal:

No one opposed to the appeal addressed the Board, but a letter of opposition from an affected neighbour was received prior to the hearing.

Decision:

In determining this appeal, the Board:

- Complied with the provincial legislation and land use policies, applicable statutory plans and, subject to variation by the Board, The City of Calgary Land Use Bylaw 1P2007, as amended, and all other relevant City of Calgary Bylaws;
- Had regard to the subdivision and development regulations; and
- Considered all the relevant planning evidence presented at the hearing, the arguments made and the circumstances and merits of the application.

The appeal is struck.**Reasons:**

1 Having considered the written, verbal, and photographic evidence submitted, the Board notes that the appeal pertains to a refusal by the Development Authority of an application for a development permit for new secondary suite at 54 Sherwood Terrace NW. The property has a land use designation of Residential – Narrow Parcel One Dwelling (R-1N) District pursuant to Land Use Bylaw 1P2007.

2 The Board first deals with the preliminary issue of whether the appeal was submitted within the legislated time period as prescribed under the *Municipal Government Act*, RSA 2000, c M-26, as amended.

3 The Board has regard to the following sections of the *Municipal Government Act*.

Section 685 states:

Grounds for appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

(3) [...]

Section 686(1) states:

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or
 - (ii) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,or
- (b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

4 The Board notes that the notification letter of the Development Authority is dated June 27, 2012. It was sent via registered mail to the applicant, Shahzad Cokar, on June 28, 2012.

5 The Board further notes evidence confirming that Canada Post delivered the subject notification letter, on July 01, 2012 and that it was signed for by a person by the name of Cokar on that day.

6 The appellant filed a notice of appeal with the Board on August 01, 2012.

7 Pursuant to section 686(1)(a)(i) of the *Municipal Government Act* a development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days, in the case of an appeal made by a person referred to in section 685(1), after the date on which the person is notified of the order or decision or the issuance of the development permit.

8 Pursuant to section 686(1) of the *Municipal Government Act* the appellant/ applicant's statutory 14-day period for filing an appeal started on July 02, 2012 and the legislated deadline for filing an appeal with the Board was July 15, 2012.

9 The Board finds that it was the responsibility of the appellant to ensure that a notice of appeal was filed on time in accordance with section 686(1) of the *Municipal Government Act*.

10 As the appellant's appeal was filed with the Board on August 01, 2012, the Board finds that the subject appeal was not submitted in accordance with the legislative requirements for filing an appeal pursuant to section 686(1) of the *Municipal Government Act*.

11 In conclusion, the Board finds that it has no jurisdiction to hear the appeal.

12 Therefore, the appeal is struck.

M.A. (Meg) Bures, Presiding Officer
Subdivision and Development Appeal Board

Issued on this 6th day of September, 2012

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