

Request for Decision

Title	Order issued in accordance with the <i>Municipal Government Act</i> – Vuong Appeal
Proposed Motion	That Council uphold the <i>Municipal Government Act</i> Order issued on August 15, 2017 for the property located at 306, 26203 Twp 544, Sturgeon County, Alberta, and that the direction of the Order be actioned forthwith and completed no later than 12:00 p.m., September 19, 2017.
Administrative Recommendation	Administration recommends Council uphold the Order issued in accordance with the <i>Municipal Government Act</i> (MGA) for property located at 306, 26203 Twp 544, Sturgeon County, Alberta and deny the appeal.
Previous Council Direction	None.
Report	<p><u>Background Information</u></p> <ul style="list-style-type: none"> On Wednesday July 5, 2017, police enforcement activity, a search warrant, was conducted by RCMP and Edmonton City Police members at the property located at #306, 26203 Twp 544, Sturgeon County, Alberta. Upon entry and securing the property it was confirmed the dwelling was being used as a clandestine drug laboratory for suspected fentanyl production/processing. Police members were on scene processing and seizing evidence for over 20 hours. On July 7, 2017, as a result of the enforcement activities at this property and evidence found within, Alberta Health Services (AHS) issued an "Order of An Executive Officer, Unfit for Human Habitation Order to Vacate" for this property in accordance with the <i>Public Health Act</i>. On July 12, 2017, AHS issued a subsequent "Order of an Executive Officer." This order required that the homeowner hire the services of a professional remediation company to conduct cleanup of the dwelling, submit a remediation plan to an AHS Executive Officer for approval and provide documentation when all work is completed.



Until such time the premises shall remain vacant and secure from unauthorized entry.

- Between July 17 and August 15, 2017, various discussions were held among Safety Codes staff, Planning and Development staff, AHS Representatives, Enforcement staff and Legal Counsel (RMRF).
- To ensure additional public safety and exercise due diligence on the part of Sturgeon County, a MGA Order was compiled that required the owner of the property located at #306, 26203 Twp 544, Sturgeon County, Alberta to:

"Erect a chain link fence (minimum 6' high). This fence structure must remain closed and be able to be locked and secured to significantly reduce access to laymen persons and possible trespassers. The fence must be adequately signed with visible "Do Not Enter/No Trespassing" signs. The fence must be secured in a manner to the prevent the fence from falling/blowing/being pushed over, etc. All windows and doors are to be secured and covered with an appropriate material which will ensure glass, windows, door frames, doors and other type structures cannot be damaged and will significantly reduce access to laymen persons and possible trespassers. (Examples of appropriate material include: ¼ plywood one sheet boards, metal shutter roll window covers, etc. Examples of inappropriate materials: plastic or poly sheets)."

- On August 16, 2017, the order was signed by Chief Administrative Officer (CAO) Peter Tarnawsky. Later that day, the order was posted on the property, as well a copy of the order was provided to the property manager, Mr. Van Vuong by Enforcement staff. On August 17, 2017, a copy of the order was served personally to the owner, Mr. Phat Vuong by Sturgeon County Enforcement Staff. The order required compliance by August 30, 2017.
- In accordance with provisions of the order the person who receives a written order may request a review, appeal of the order.
- Subsequently, a written request to have the order reviewed was received in the CAO's office. As a result, a time was scheduled to have the property owner attend the regular Council Meeting on September 12, 2017.
- The current presence and volatility of fentanyl production and its usage is well documented and reported daily. This property housed one of largest, if not the largest, manufacturing facilities ever discovered within Alberta, possibly Canada.
- Fentanyl and it derivatives such as carfentanyl are deadly. As reported through RCMP and AHS, this property is believed to have had this product spread throughout the dwelling in all cracks and crevasses.
- It is understood that Mr. Vuong, the owner of a property being rented where these illegal operations were discovered, is a victim.

	<p>The order compiled and issued by the County is meant to support conditions already set out by AHS and to further enhance public safety, not to punish Mr. Vuong.</p> <ul style="list-style-type: none"> When a remediation plan is approved by AHS and undertaken by the approved contractor, Administration's opinion is that security and controlled access to this property becomes an even a higher priority. RMRF, legal counsel for the County, was consulted during this process. <p><u>External Communication</u></p> <ul style="list-style-type: none"> No public communication required. As part of the ongoing collaboration regarding this file, AHS and RCMP will be made aware of the results of the review, appeal. <p><u>Relevant Policy/Legislation/Practices:</u></p> <ul style="list-style-type: none"> <i>Municipal Government Act, Section 546(1)(A)</i>
Implication of Administrative Recommendation	<p><u>Strategic Alignment:</u></p> <p>Strong Local Governance and Regional Leadership – This case is precedent setting for many involved, including RCMP, AHS and Sturgeon County Protective Services. By Council upholding this MGA order it demonstrates strong support for these agencies and a genuine concern for County residents' public safety.</p> <p>Maintain and Enhance Strong Communities – Such orders in instances like this are a required part of the process and is in the best interest of public safety.</p> <p><u>Organizational:</u></p> <p>Upholding this order as issued will ensure Council's support of RCMP, AHS and Protective Services efforts to ensure public safety as the crisis involving fentanyl evolves. Further, it will maintain Council's strong awareness and stance regarding public safety issues.</p> <p><u>Financial:</u></p> <p>If the order is not complied with the County would be required to pay for initial costs to effect to order and then invoice the property owner. If the owner fails to pay by the required time the costs will be placed onto the properties tax roll.</p>
Alternatives Considered	<p>Council could grant the appeal and suspend the order. As a result, the only orders in place regarding this property would be via AHS.</p>
Implications of Alternatives	<p><u>Strategic Alignment:</u></p> <ul style="list-style-type: none"> Such a decision or alternative may not align with strategic focus areas.

	<p><u>Organizational:</u></p> <ul style="list-style-type: none"> Certainly, such a decision could be seen as lacking in regard for safety of residents. <p><u>Financial:</u></p> <ul style="list-style-type: none"> None immediate. This action does help protect the homeowner and Sturgeon County from liability.
Follow up Action	<ol style="list-style-type: none"> If direction of order is upheld staff will monitor to ensure compliance with the order. Should the owner fail to comply with the order administration will take required steps to carry out the order and process payments, invoicing required. Results of review, appeal will be communicated to AHS and RCMP.
Attachment(s)	<ol style="list-style-type: none"> Copy of Mr. Vuong's request for review, appeal. Copy of Sturgeon County MGA Order. Copy of AHS Order dated July 7, 2017. Copy of AHS Order dated July 12, 2107.
Report Reviewed by:	<div>  P. Mahoney, Manager of Protective Services/Fire Chief </div> <div>  Peter Tarnawsky, County Commissioner – CAO </div>

Strategic Alignment Checklist

Vision: Sturgeon County: a diverse, active community that pioneers opportunities and promotes initiative while embracing rural lifestyles.

Mission: Provide quality, cost effective services and infrastructure to meet the diverse needs of the Sturgeon County community, while improving competitiveness and sustainability.

Focus Areas	Not consistent	N/A	Consistent
Strong Local Governance and Regional Leadership			
<i>We promote consistent and accountable leadership through collaborative and transparent processes (Strategic Plan, pg. 27 MDP)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Consistent with neighborhood role (see MDP), master plans, policies 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Considers fiscal stability and sustainability 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Has a positive impact on regional and sub-regional cooperation 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Respect the Natural Environment			
<i>We acknowledge the importance of a healthy environment and will minimize and monitor our impact on ecosystems (Strategic Plan, pg. 27 MDP)</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Compliance with Provincial and Federal regulations and/or legislation 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Ensure effective environmental risk management 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Community Identity & Spirit			
<i>We will build upon our strengths, where together we will create an inclusive, caring community (Strategic Plan, (Strategic Plan, pg. 27 MDP)</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Promotes and/or enhances residents' identification with Sturgeon County 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Enhances service provision through community partnerships 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Supports Sturgeon County's cultural history 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Planned Growth and Prosperity			
<i>We encourage varied and integrated enterprises that enhance our strong economic base, while balancing the needs of the community and natural environment. (Strategic Plan, pg. 27 MDP)</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Does the proposal align with the Integrated Regional Growth Strategy (map/policies) pg. 26 MDP 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Considers cumulative costs and long-term funding implications 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Targets growth around current or planned infrastructure 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Maintain and Enhance Strong Communities			
<i>We are committed to a safe, secure community, where our residents are respected and provided with access to opportunities. (Strategic Plan, pg. 27 MDP)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Positive impact on residents' quality of life 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Supports and promotes volunteer efforts 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Provides programs and services that are accessible to all residents 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Operational Excellence			
<i>We have the organizational capability to deliver consistent and defined levels of service to all stakeholders in a professional, efficient, and cost effective manner</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Staff have the knowledge, skills and capability to perform their jobs 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Streamlines operational processes and policies 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Promotes engagement and professional interaction with stakeholders 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Considers a cost-structure which allows Sturgeon County to remain competitive within a regional, national and global context 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Aug/27/2017

Sturgeon County Council

9613 100 Ave

Morinville AB T8R 1L9

Request for review of order for
address 306 Northern Drive Sturgeon County, AB

Dear Sir or Madam,

This is to inform you that we have engaged Dean May of Mayken HazMAT solutions with the help of AHS. We have sent the proposal of clean up the house from Mayken HazMAT solutions to AHS for review and approval. We are waiting for a response from AHS. Once we received the consent from AHS, Dean May and his crews will proceed with the work to clean up the house. It would take 7 to 10 days to finish his work.

We don't think the 6' high chain link fence is necessary given the work we have undertake to clean the house.

There are already 8 notices posted on the garage doors, ~~front~~ front door, and windows.

The house is locked and we didn't open to anyone until the house is completely cleaned.

Thank you so much for your time and consideration,

Regards,





Date: August 15, 2017

Reference: 20170815-001601

MUNICIPAL GOVERNMENT ACT ORDER

(Issued pursuant to section 546(1)(a) of the Municipal Government Act, R.S.A.2000 c. M-26)

TO: VUONG, Phat



Severed in line with Section 17 of the FOIP Act

RE: Municipal address: 306, 26203 Twp 544, Sturgeon County, Alberta,
Legal description: Lot 4, Block 2, Plan 0924659 (the Property)
Tax roll number: 3710020
(Hereinafter referred to as "the property")

As a result of Enforcement Activities carried out on Wednesday July 5, 2017 involving RCMP, Edmonton Police Services and Sturgeon County Protective Services, (and at a later date the Alberta Health Services), the following conditions exist in and about the above noted property which, in my opinion, are dangerous to the public safety:

Based on information received from that above agencies, the house on the Property was being used as a clandestine drug laboratory for suspected fentanyl production/processing and has been declared unfit for human habitation by Alberta Health Services on July 7, 2017.

In my opinion, as a designated officer of Sturgeon County for the purpose of section 546 of the *Municipal Government Act*, the property, because of it's current state is a danger to public safety and may be detrimental to the surrounding area.

YOU ARE THEREFORE ORDERED TO:

Erect a chain link fence (minimum 6' high) to totally surround the house on the Property. This fence structure must remain closed and be able to be locked and secured to reduce the potential for access to the Property. The fence must be adequately signed with visible "Do Not Enter/No Trespassing" signs.

The fence must be secured in a manner to the prevent the fence from falling/blowing/being pushed over or otherwise flattened.

All windows and doors in the house are to be secured and covered with an appropriate material which will ensure glass, windows, door frames, doors and other type structures cannot be damaged and will significantly reduce access to laymen persons and possible trespassers. (Examples of appropriate

material include: ¼ plywood one sheet boards, metal shutter roll window covers, etc. Examples of inappropriate materials: plastic or poly sheets).

The Property must be maintained regularly and when needed. Maintenance and repairs are your responsibility and are to be done proactively and in a timely manner. (Examples – garbage is to be removed, grass and weeds are to be maintained, graffiti removed or painted over with same shade as the structure area, damage noted to the fence or the house structure to be repaired immediately.)

YOU MUST COMPLY WITH THIS ORDER BEFORE: August 30, 2017, 0600 hours.



Peter Tarnawsky,
CAO, Sturgeon County

Offence for non-compliance:

Pursuant to section 557(c) of the Municipal Government act (Hereinafter referred to as the "Act") a person who contravenes or does not comply with an order under section 546 is guilty of an offence and liable to prosecution.

Pursuant to section 566(1) of the Act a person who is guilty of an offence is liable,

- (a) To a fine of not more than \$10 000, or (b) to imprisonment for not more than one year, or to both fine and imprisonment.

Additional consequences for non-compliance:

Pursuant to section 550(1) of the act if a person fails or refuses to comply with an order under section 546 the municipality may take whatever actions or measures are necessary to deal with the unsafe condition of the Property.

Pursuant to section 550(3) of the Act the expenses and costs of an action or measure taken by the municipality are an amount owing to the municipality by the person who was required to do something by the order under section 546.

Pursuant to section 553.1(1)(c) of the Act when a person owes money to a municipality under section 550(3) the municipality may add the amount owing to the tax roll of any property for which the person is the assessed person.

If you fail to comply with the provisions of this order Sturgeon County will, at its election, take action to enforce the order by taking the action or measures are necessary to bring the Property into compliance with this Order and deal with the unsafe condition of the Property, all expenses and any costs of which will be amount owing to Sturgeon County and will be placed on the tax roll of the property and any other property for which you are the assessed person.

Procedure for requesting a review of the order.

Pursuant to section 547(1) of the Act a person who receives a written order under section 546 may by written notice request a review of the order.

Pursuant to section 547(1)(b) of the Act a written request for a review must be filed within 7 days after the date the order is received.

Requests for review must be received by: Sturgeon County, Attn: Sturgeon County Council, 9613 100 Ave, Morinville, AB., T8R 1L9

Should you have any questions or inquiries on this order contact Sturgeon County Enforcement Services at 780-939-8414



COPY

**ORDER OF AN EXECUTIVE OFFICER
UNFIT FOR HUMAN HABITATION
ORDER TO VACATE**

To: Phat Vuong
"the Owner"

And To: All Occupant(s) of the following Housing premises:

RE: Those housing premises located in Sturgeon County, Alberta and municipally described as: Northern Lights Estates, #306, 26023 Township Road 544.

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

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

- a. Based on information received from the Royal Canadian Mounted Police (RCMP), the housing premises was being used as a clandestine drug laboratory for suspected fentanyl production/processing and it is likely that some of this substance was tracked and/or involuntarily dispersed throughout the housing premises.

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

- a. Based on information received from the Royal Canadian Mounted Police (RCMP), the housing premises was being used as a clandestine drug laboratory for suspected fentanyl production/processing and it is likely that some of this substance was tracked and/or involuntarily dispersed throughout the housing premises. This is in contravention of section 5(2) of the Housing Regulation which states that "No person shall cause or permit any condition in housing premises that is or may become injurious or dangerous to the public health, including any condition that may hinder in any way the prevention or suppression of disease" and/or section 2(1) of the Nuisance and General Sanitation Regulation which states that "No person shall create, commit, or maintain a nuisance."

AND WHEREAS, by virtue of the foregoing, the above noted premises are hereby declared to be Unfit for Human Habitation.

Order of an Executive Officer – Unfit for Human Habitation - Order to Vacate

RE: The premises located in Sturgeon County, Alberta and municipally described as: Northern Lights Estates, #306, 26023 Township Road 544

Page 2 of 2

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

1. That the above noted premises remain vacant and secure from unauthorized entry.

The above conditions were noted at the time of inspection and may not necessarily reflect all deficiencies. You are advised that further work may be required to ensure full compliance with the Public Health Act and regulations, or to prevent a public health nuisance.

DATED at St. Albert, Alberta, July 7, 2017.

Karah Harvey, CPHI(C)
Executive Officer
Alberta Health Services

Severed in line with Section 17 of the FOIP Act

You have the right to appeal

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

may appeal the decision by submitting a Notice of Appeal form within ten (10) days after receiving the order to:

Public Health Appeal Board
c/o Central Reception
Main Floor, Telus Plaza North Tower
10025 Jasper Avenue NW
Edmonton, Alberta, T5J 1S6
Phone: 780-222-5186
Fax: 780-422-0914
Email: HealthAppealBoard@gov.ab.ca
Website: <http://www.health.alberta.ca/about/PHAB.html>

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

Health Legislation, Regulations and Standards

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

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

St. Albert • St. Albert Public Health Centre • Environmental Public Health

23 Sir Winston Churchill Avenue, St. Albert, Alberta, Canada T8N 2S7

www.albertahealthservices.ca/eph.asp

ORDER OF AN EXECUTIVE OFFICER

To: Phat Vuong
"the Owner"

And To: Van Vuong
"the property manager"

RE: The housing premise located in Sturgeon County, Alberta and municipally described as:
Northern Lights Estates, #306 26023 Township Road 544.

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

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

- a. Based on information received from the Royal Canadian Mounted Police (RCMP), including still pictures taken by RCMP and viewed by EPH staff onsite, the housing premises was being used as a clandestine drug laboratory for suspected fentanyl production/processing and it is likely that some of this substance was tracked and/or involuntarily dispersed throughout the housing premises.

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

- a. Based on information received from the Royal Canadian Mounted Police (RCMP), including still pictures taken by RCMP and viewed by EPH staff onsite, the housing premises was being used as a clandestine drug laboratory for suspected fentanyl production/processing and it is likely that some of this substance was tracked and/or involuntarily dispersed throughout the housing premises. This is in contravention of section 5(2) of the Housing Regulation which states that "No person shall cause or permit any condition in housing premises that is or may become injurious or dangerous to the public health, including any condition that may hinder in any way the prevention or suppression of disease" and/or section 2(1) of the Nuisance and General Sanitation Regulation which states that "No person shall create, commit, or maintain a nuisance."

NOW THEREFORE, I hereby ORDER and DIRECT:

1. That the Owner immediately undertake and diligently pursue the completion of the following work in and about the above noted premises, namely:
 - a. Hire the services of a professional remediation company that specializes in hazardous materials remediation to clean the house of fentanyl contamination. Cleaning of the house

- must be completed in such a manner that protects the general public and future occupants from fentanyl contamination during and after the cleanup.
- b. Submit a remediation plan to an Executive Officer of Alberta Health Services for approval and acceptance prior to undertaking any clean-up at house.
 - c. Provide documentation of all work completed to an Executive Officer of Alberta Health Services.
2. That until such time as the work referred to above is completed to the satisfaction of an Executive Officer of Alberta Health Services; the above noted premises shall remain vacant and secure from unauthorized entry.

The above conditions were noted at the time of inspection and may not necessarily reflect all deficiencies. You are advised that further work may be required to ensure full compliance with the Public Health Act and regulations, or to prevent a public health nuisance.

DATED at St. Albert, Alberta, July 12 2017

Karah Harvey CPH(C)
Executive Officer
Alberta Health Services

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- A person who
- a) is directly affected by a decision of a Regional Health Authority, and
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