

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

TO: Phy Manh Nguyen
(the “**Owner**”)

And To: All Occupants (the “**Occupants**”) of those premises located in Calgary, Alberta and municipally described as:

19 Whitman Crescent N.E.
Calgary, Alberta

RE: Those premises located in Calgary, Alberta and municipally described as:

**19 Whitman Crescent N.E.
Calgary, Alberta**

WHEREAS, pursuant to section 62 of the Public Health Act Chapter P-37 of the Revised Statutes of Alberta 2000, an Executive Officer who, following an inspection, has reasonable and probable grounds to believe that a nuisance exists in or on the place that was the subject of the inspection or that the place or the owner of it or any other person is in contravention of this Act or the regulations, the Executive Officer may issue a written order,

AND WHEREAS I, an Executive Officer of Alberta Health Services, have inspected the above noted premises and found to exist conditions which are or might become injurious or dangerous to the public health or that might hinder the prevention or suppression of disease or are in contravention of the Housing Regulation and/or the Nuisance and General Sanitation Regulation promulgated pursuant to Section 66 of the Public Health Act,

AND WHEREAS such inspection disclosed that the following breaches of the Public Health Act and the Nuisance and General Sanitation Regulation, Alberta Regulation 243/03, the Housing Regulation, Alberta Regulation 173/99, and/or Minimum Housing and Health Standards exist in and about the above noted premises, namely:

- Mould growth and conditions that support mould growth are evident within the premises. Excess heat and humidity produced during the plant growing activities are suitable conditions for mould growth. Mould is evident on drywall within the plant growing areas. Moisture staining is evident on ceilings throughout the property. This is a breach of Section 2(1) of the Nuisance and General Sanitation Regulation and of Sections 3, 4 and 5 of the Housing Regulation.

- Combustion gases from tampered exhaust stacks from the furnace and hot water tank may be discharged into the premises. This is a breach of Section 2(1) of the Nuisance and General Sanitation Regulation and of Sections 3, 4 and 5 of the Housing Regulation.
- Electrical system has been tampered with and holes have been cut through the foundation wall to bypass the meter. This is a breach of Section 2(1) of the Nuisance and General Sanitation Regulation and of Sections 3, 4 and 5 of the Housing Regulation.
- The water system has been bypassed prior to the meter to provide undetected quantities of water for the plant growing operation. Hoses are resting within barrels containing chemical solutions and may result in a backflow concern and contamination of the potable water supply. This is a breach of Section 2(1) of the Nuisance and General Sanitation Regulation and of Sections 3, 4 and 5 of the Housing Regulation.
- Surfaces throughout the growing and mixing areas are contaminated from the use of chemical/fertilizer solutions. Plant growing and related activities were evident throughout the upper bedroom level, the first lower level and the basement level. Contamination is evident throughout. This is a breach of Section 2(1) of the Nuisance and General Sanitation Regulation and of Sections 3, 4 and 5 of the Housing Regulation.
- Hoses are resting within barrels containing chemical solutions and may result in a backflow concern and contamination of the potable water supply. This is a breach of Section 2(1) of the Nuisance and General Sanitation Regulation and of Sections 3, 4 and 5 of the Housing Regulation.
- Structural and interior damages are evident in the premises, including:
 - the large holes cut through the foundation wall for the bypass may affect the integrity of the structure.
 - venting holes have been cut through walls, floors and ceilings throughout the premises.
 - ceilings within the premises are water damaged. Flooring, including linoleum and carpets and laminates, are contaminated; walls, floors and ceilings within the plant growing and chemical mixing areas on the upper and two lower levels are damaged and contaminated.

This is a breach of Section 2(1) of the Nuisance and General Sanitation Regulation and of Sections 3, 4 and 5 of the Housing Regulation.
- Services have been turned off. This is a breach of Section 2(1) of the Nuisance and General Sanitation Regulation and of Sections 3, 4 and 5 of the Housing Regulation.

AND WHEREAS, by virtue of the foregoing, the above noted premises are hereby declared to be **unfit for human habitation**;

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

1. That the above noted premises be vacated immediately.
2. That the above noted premises be **secured from any and all unauthorized entry**.

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

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

NOTE – THE AGE OF THIS PROPERTY MAKES THE PRESENCE OF ASBESTOS WITHIN BUILDING MATERIALS LIKELY. ALL PRECAUTIONS MUST BE TAKEN. PROPER REMOVAL/HANDLING FOLLOWING CURRENT CODES AND STANDARDS IS REQUIRED AND A WRITTEN ASBESTOS MANAGEMENT/ABATEMENT PLAN IS REQUIRED WHICH WILL INCLUDE CONFIRMATION OF ACCEPTANCE FROM ALBERTA OCCUPATIONAL HEALTH & SAFETY (OH&S) AND POST-ABATEMENT AIR SAMPLING FOR ASBESTOS.

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

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

- c. Retain the services of contractors to make all structural, electrical, and mechanical repairs necessary, all in compliance with applicable codes and regulations, and thereafter provide Alberta Health Services with a report or reports from such contractor or contractors confirming the work performed. ***It is recommended that the cleaning and restoration work be carried out by a member in good standing of the Better Business Bureau (BBB), and/or the Institute of Inspection, Cleaning and Restoration (IICRC), the Environmental Services Association of Alberta (ESAA) or an equivalent professional body.***

- The holes cut through the foundation wall must be properly repaired and must be sealed from the outside to prevent water infiltration into the premises. The repair must be inspected prior to backfilling the exterior excavation.
- All damages shall be properly repaired, inspected and reported on as to the suitability of the repairs prior to replacement of new materials.
- **NOTE THAT ALL INSPECTIONS MUST BE PERFORMED PRIOR TO COVERING UP ANY REPAIR OR INVESTIGATION SITES**

- d. Retain the services of a restoration and mould remediation specialist, approved by Alberta Health Services, to remove and replace or clean, as required, any and all drywall, building materials, and finishing materials, or any other item that is or may be water damaged, infested with or damaged by mould or bacteria or otherwise contaminated with chemicals or other substances of concern, all in accordance with the direction required at item 4.a, above. (Reference should be made to Mould Guidelines for the Canadian Construction Industry located at www.cca-acc.com/mould/.) ***It is recommended that the cleaning and restoration work be carried out by a member in good standing of the Institute of Inspection, Cleaning and Restoration or an equivalent professional body.***

- All materials related to the plant growing operation that are remaining behind, including pots, soil, fans, lights, cutting tools, chemicals and general rubbish, shall be removed and disposed of and a manifest attesting to this disposal provided to Alberta Health Services.
- All furnishings and window coverings throughout shall be removed and professionally cleaned or disposed of and shall not be reinstalled nor stored in an attached garage due to the chance of recontamination.
- Building products requiring removal shall be tested for hazardous content where deemed necessary by the professional consultant.

- All paneling, drywall, vapour barrier, insulation throughout the entire premises, including ceilings and basement rim board areas, shall be removed and disposed of. All wood framing throughout the basement shall be removed and disposed of. All concrete basement walls and floors shall then be thoroughly washed with detergent and water and quickly dried. The concrete basement floor shall not be covered or painted until after remediation and air sampling is complete and has been accepted by Alberta Health Services
 - All carpeting and underlay, linoleum and/or laminate throughout the premises, including all tack boards, shall be removed and disposed of and the sub floor assessed for suitability after thorough cleaning
 - All attic insulation shall be removed and disposed of and replaced with new materials and vapour barrier shall be inspected for soundness and repaired or replaced as necessary. The roof sheathing and roof trusses must be thoroughly cleaned, inspected for damage, and repaired or replaced. Detailed photographic evidence and a written assessment of the attic space and the conditions within shall be taken and submitted to Alberta Health Services along with the initial assessment report.
 - All remaining hard surfaces throughout, including but not limited to walls, floors, doors, cupboards, shall be thoroughly washed with detergent and water.
- e. Ensure that additional, general renovation work, including painting, reinstallation of drywall and laying of new flooring and/or sub floors does not occur until suitable air sample results are received and submitted and the work identified at items 5.a, 5.b, 5.c. and 5.d has been completed to the satisfaction of Alberta Health Services.
- f. Properly dispose of all chemicals and produce a valid manifest attesting to such proper disposal. Chemicals and chemical mixtures are **not to be disposed of in the sanitary nor storm sewers.**
- g. Retain the services of a licensed furnace company to inspect, clean and disinfect the HVAC supply air ducts, floor vents, return air plenums and the furnace within the premises. This required cleaning shall take place as a final step after the completion of all remediation work but before final air sampling. ***It is recommended that the furnace cleaning company be a member in good standing of the Better Business Bureau (BBB) and/or the National Air Duct Cleaners Association or an equivalent professional body.***
- h. Ensure that water, gas and electrical services are properly reinstated by the providers of such utility services.
- i. Ensure that the water distribution system is thoroughly flushed to remove all stagnant water, microorganisms, and any leachates/particulates from plumbing materials and that a sample of the cold water is taken and submitted to a laboratory for bacteriological analysis.

- j. Provide a detailed remediation and repair report which includes copies of all disposal manifests for removed materials, invoices for new, replacement materials, work orders, receipts, results, photos, inspection certificates and any other documentation pertaining to the work required hereby to Alberta Health Services.
- k. Take any further steps in the interests of preserving and maintaining the health of any person who may, in the future, occupy the above noted premises as may be required by the Executive Officer.

That, until such time as the work referred to in paragraph 5 is completed to the satisfaction of the undersigned or by another executive officer of Alberta Health Services, the above noted premises shall remain vacant and shall be secured from unauthorized entry. Entry may be authorized only for the purposes of complying with this Order, and full personal protective equipment should be worn. Until otherwise directed by Alberta Health Services, full personal protective equipment should be worn by any person seeking entry.

The above conditions were noted at the time of inspection and may not necessarily reflect all deficiencies. You are advised that further repairs may be required to ensure full compliance of the Housing Regulation and/or the Nuisance and General Sanitation Regulation, or to prevent a Public Health Nuisance.

This order remains in effect until the nuisance has been corrected to the satisfaction of an Executive Officer of Alberta Health Services. Failure to comply with this order will result in further action.

No person shall conceal, deface, destroy, or remove a notice posted pursuant to the Public Health Act.

Dated at Calgary, Alberta, this 11th day of October, 2011.

Vicki Wearmouth, CPHI(C)
Executive Officer/Public Health Inspector

YOU HAVE THE RIGHT TO APPEAL

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

**may appeal the decision within ten (10) days after receiving the order to the Public Health Appeal Board located at 24th Floor, Telus Plaza, 10025 - Jasper Avenue, Edmonton, Alberta, T5J 1S6
Telephone (780) 427-2813.**

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

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

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

HEALTH LEGISLATION, REGULATIONS AND STANDARDS

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

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

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

AIRDRIE Regional Health Centre

604 Main Street South
Airdrie, AB T4B 3K7
Phone: 403-912-8400
Fax: 403-912-8410

BANFF Health Unit

303 Lynx Street
PO Box 1266
Banff, AB T1L 1B3
Phone: 403-762-2990
Fax: 403-762-5570

CALGARY - Southport Atrium

10101 Southport Road SW
Calgary, AB T2W 3N2
Phone: 403-943-2288
Fax: 403-943-8056

CANMORE Public Health

#104, 800 Railway Avenue
Canmore, AB T1W 1P1
Phone: 403-678-5656
Fax: 403-678-5068

CLARESHOLM Public Health

5221 2nd Street W
PO Box 1391
Claresholm, AB T0L 0T0
Phone: 403 625-4061
Fax: 403-625-4062

COCHRANE Community Health Centre

60 Grande Boulevard
Cochrane, AB T4C 0S4
Phone: 403-851-6000
Fax: 403-851-6009

OKOTOKS Health and Wellness Centre

11 Cimarron Common
Okotoks, AB T1S 2E9
Phone: 403-995-2600
Fax: 403-995-2639

STRATHMORE Public Health Office

650 Westchester Road
Strathmore, AB T1P 1H8
Phone: 403-361-7200
Fax: 403-361-7244

www.albertahealthservices.ca/eph.asp