

## RCPE Presentation to Council - April 17, 2018

- The Reform Coalition of Perth East - We represent a group of concerned residents of Perth East regarding the passage of By-Law 15-2018
- We feel that there were many issues in the way that this By-Law was presented to council and further believe that the far reaching nature of the powers granted are unnecessary and seriously infringe upon the rights of the township residents.
- Under no circumstances is it appropriate for a person to present to council for the justification of a new position, if said person is to then fill said position!

### ***From the Ontario Building Code:***

“property” means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property; (“bien”)

The person who would be appointed to Property Standards Officer spoke to council saying that they will not be entering into buildings or other structures on a property. While this statement may sound reassuring, the power granted does not. Any person with the above title or anyone acting on behalf of that person, has unprecedented access to all property, excluding a dwelling.

### ***From the Ontario Building Code:***

**16** (1) Despite sections 8, 12, 15, 15.2, 15.4, 15.9, 15.10.1 and 15.10.3, an inspector or officer shall not enter or remain in any room or place actually being used as a dwelling unless,

- (a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and entry made only under the authority of a warrant issued under this Act;
- (a.1) a warrant issued under this Act is obtained;
- (b) the delay necessary to obtain a warrant or the consent of the occupier would result in an immediate danger to the health or safety of any person;
- (c) the entry is necessary to terminate a danger under subsection 15.7 (3) or 15.10 (3); or
- (d) the requirements of subsection (2) are met and the entry is necessary to remove a building or restore a site under subsection 8 (6), to remove an unsafe condition under clause 15.9 (6) (b) or to repair or demolish under subsection 15.4 (1). 1992, c. 23, s. 16 (1); 1997, c. 24, s. 224 (9, 10); 2002, c. 9, s. 30; 2006, c. 19, Sched. O, s. 1 (11); 2006, c. 22, s. 112 (9); 2017, c. 34, Sched. 2, s. 20.

We have presented our concerns to Councillor Don Brunk, and he is of the opinion that no changes can be made to By-Law 15-2018 as it was taken from the OBC. He presented a motion that would have been a good step in the right direction for the agricultural community, then quickly rescinded it, for reasons unknown, as the explanation given was contrived and difficult to understand.

So, in our view, given that the Ontario Building Code also states the following, we feel that there is only one action that the council can take given our serious concerns. We feel that access to property without permission or warrant is unjust, and council can correct the issue in the interim until such time as the building code is amended.

## Section 15.1

(2) Where there is no official plan in effect in a municipality, the council of a municipality **may**, by by-law approved by the Minister, adopt a policy statement containing provisions relating to property conditions. 1997, c. 24, s. 224 (8).

### So Therefore:

**15.2** (1) Where a by-law under section 15.1 is in effect, an officer may, upon producing proper identification, enter upon any property at any reasonable time without a warrant for the purpose of inspecting the property to determine,

- (a) whether the property conforms with the standards prescribed in the by-law; or
- (b) whether an order made under subsection (2) has been complied with. 1997, c. 24, s. 224 (8).

As you can see, under no circumstances is council compelled to have a By-Law in place that allows this level of access, as the Code states, MAY, not SHALL.

Further to this issue, when the building department presented its case to fill and title this position, they stated that the Residential Tenancies Act of Ontario would also compel them to comply as the same. Having read the Tenancies Act, we have found no verbiage to justify this explanation. Not once in the Act, as current on e-laws, does it state a municipality must appoint a Residential Tenancies Officer.

Further to this point, what is the great concern with the township merely abiding by the rules of said Act? The statement from the presentation to council *“All Ontario Municipalities will need to have a Property Standards Bylaw that includes the interior of buildings or they will fall under the governing of the Residential Tenancies Act.”* What is the concern?

We need to indicate that at no time do we disagree with the maintenance of Property and Property Standards, at issue is the level of unnecessary access granted. Unfortunately given the verbiage in the Building Code, we see no recourse but to move that:

Council repeal the By-Law 15-2018, appointing the Property Standards Officer and further move that council repeal By-Law 36-2001 the Property Standards By-Law until such a time as the Building Code is amended removing this right to access.