



SAGE

**Seniors' Action Group
of
Elliot Lake**

**Recommendations To The Elliot Lake Commission of
Inquiry
Regarding the Algo Mall Collapse, June 23, 2012
Phase 1 of Inquiry Only**



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of
Elliot Lake

RECOMMENDATIONS FOR PHASE ONE ONLY
ELLIOT LAKE INQUIRY

PREPARED FOR SAGE BY KEITH MOYER, CHAIRPERSON

RECOMMENDATION #1 For Inclusion in Municipal Act/Building Code In Property Standards Section.

All buildings into which the public will have access, whether they be commercial, office, or, multi residential, multi story occupancy, shall be subject to a full structural inspection and evaluation, by the Municipal Building Department a minimum of once every five [5] years, and,/or, a minimum of sixty [60] days prior to final closing of any change in ownership.

Further:

Any significant occurrence of water leakage, evidence of excessive building envelope or floor cracking or excessive materials delamination, during the five [5] year period, shall require a structural inspection and evaluation in the areas where such conditions are noted, by a Municipal Building Official, shall require an immediate order to the owner to obtain a report from a qualified professional engineer or architect. All reports, photographs, and remedial action recommendations shall immediately be registered on the property title, with a copy forwarded to the local municipal building department.

Further:

All records of remedial actions undertaken by the building owner or agent, as a result of inspection reports and recommendations shall be securely maintained by said owner, and transmitted to any and all subsequent property owners upon finalization of any future sale of the property.

RECOMMENDATION #2 For Inclusion in Municipal Property Standards By-Law

Municipal building officials shall undertake, at least once every five [5] years, full inspections of all buildings to which the public has access, including, but

not limited to, commercial, office, or multi residential, multi story occupancy, and shall have authority to identify problems which are not in compliance with the Ontario Building Code or local Property Standards By-laws, and shall bring such deficiencies to the immediate attention of the building owner or his/her designated representative, in the form of a Notice of Violation, stating deficiencies found and, a deadline in which deficiencies shall be corrected.

Municipal building officials shall revisit properties in question upon expiry of said deadline, and reinspect property to determine compliance, a minimum of every thirty [30] days, until all deficiencies are corrected, and a report shall be placed in the building file for each follow up inspection and, records maintained with the municipality as long as this building is suitable for occupancy.

If deficiencies are not rectified as identified under the Notice of Violation before or at the end of the initial deadline period identified in said Notice, the Chief Building Official shall immediately issue an Order to Comply, with a firm deadline for compliance, and, as above, shall conduct scheduled follow up inspections and record same.

Failure of owner to bring property into compliance within the stated deadline period shall require the municipality to undertake necessary corrective action as soon as possible, and the costs shall be billed directly to the property owner, and a monetary fine, not to exceed \$XXXXX shall be levied to the property owner. Alternatively, the building found not in compliance may be ordered closed and vacated until all deficiencies are corrected to the satisfaction of the Chief Building Official of the municipality, and fine, as stated above, levied. Municipal building officials may, at their discretion, engage independent professional advice to undertake inspections.

Further:

Any and all complaints from the public, regarding building occupancies described above, whether they be written or verbal, to any municipal official, shall be immediately be forwarded to the municipal building department, and a municipal building official shall immediately initiate an inspection of the property, under same criteria as scheduled inspections described above.

RECOMMENDATION #3 For Inclusion in the Municipal Act

Any elected [or appointed]member of Municipal Council, or, any senior Municipal Staff member whom is appointed by Council to sit on any local Board, as defined under the Municipal Act, or, to any Board of Directors of any

company, organization or commission, shall not undertake any confidentiality agreement or Non Disclosure Agreement with any local Board, as defined under the Municipal Act, or, to any Board of Directors of any company, organization or commission under any circumstances, and shall present full minutes of any attended meeting to that Municipal Council at the next Council meeting after these minutes have been made available.

All discussions undertaken and all items contained within said minutes shall be discussed in open council, except for items that qualify as exceptions to open public presentation, as per Section 239 of the Municipal Act of Ontario.

RECOMMENDATION #4 For Inclusion in the Municipal Act

All Municipal Councils in the Province of Ontario shall institute a Committee of the Whole procedure within their Procedural By-Law for all existing Standing Committees, so as to ensure that all council members are fully made aware of all issues that any Standing Committee is dealing with or undertaking, at the same time. This does not eliminate the need for Standing Committees, but, it will be a more open and informative process for both the public and all council and pertinent staff members.

Advisory and ad-hoc committees shall continue to meet as separate entities, but, council members shall bring forth a report from each such committee at the first Committee of the Whole meeting, following a meeting of such committee.

All committees shall adhere to the definition of "Committee" as provided in the Municipal Act, where said committee shall consist of 50% of its members being elected or appointed members of council in order to be considered as a Committee of Council.

As per the provisions of the Municipal Act, all meetings shall be announced to the public, and open to the public, as per Section 239 of the Municipal Act.

RECOMMENDATION #5 To Be Considered by the Ontario Legislature

The Province of Ontario undertake as soon as possible, to allow oversight of Municipal Governments by the Office of the Ombudsman of Ontario, over and above the current oversight of Closed Session Meetings alone.

RECOMMENDATION #6 To Be Considered by the Ontario Legislature

The Province of Ontario undertake a complete review of the Municipal Conflict of Interest Act, to prevent any elected or appointed member of Council from

voting or entering into Council deliberations on any issue which involves any Municipal dealings with any local Board, as defined under the Municipal Act, or, to any Board of Directors of any company, organization or commission, to which Council has appointed them.

RECOMMENDATION #7 To Be Included in the Municipal Act

All members elected to municipal council, including a mayor or reeve, shall, within six [6] months of being sworn into office, shall undertake a training course, so as to become completely familiar with all provincial legislation under which councils and their obligations, responsibilities, and rights under such legislation are governed. Such provincial legislation shall include, but not be limited to, such as the Municipal Act; the Municipal Conflict of Interest Act; the Ontario Planning Act; and, a council's obligations and limited controls over such legislation as the Libraries Act and the Ontario Building Code Act. This training shall be applicable to all elected council members, whether newly elected or, returning incumbents.

Further:

All elected council members, including the mayor, who are internally appointed to Standing Committees of Council, as defined under the Municipal Act, shall be fully advised of all municipal by-laws pertinent to the subject for which their appointed committee positions shall be expected to deal with in their deliberations.

RECOMMENDATION #8 To Be Included in the Municipal Act

Notification of all meetings of municipal council, committees where council members are part thereof, and any local Board, as defined under the Municipal Act, or, to any Board of Directors of any company, organization or commission, to which council has appointed a member of said council to sit, and, is, under legislation as a meeting "Open to the Public", shall be conveyed to the public by means of posting in the local press [if available]; on the municipal web site; and, directly posted at a clearly visible and accessible location within the municipal office, a minimum of five [5] business days prior to the scheduled meeting.

The only exception for this advance time frame notification shall be Special Meetings held on an emergency or urgent basis, however, these must be posted on the municipal web site immediately upon the calling of said meeting.

Further:

Full written agendas of all such meetings, with the exception of Special Emergency Meetings as per above, shall be posted on the municipal web site at least two [2] business days prior to the scheduled date of such meeting.

Further:

Minutes for all meetings as per above, shall be posted on the municipal web site within five [5] business days following said meetings.

RECOMMENDATION #9 To Be Considered by the Ontario Legislature

It is recommended that the Ontario Legislature consider drafting legislation that would compel all municipal building officials to become fully certified and given para professional status under law, and that no person can be employed as a Building Inspector, Chief Building Official, or, Plans Examiner, by any municipality without having certification through the Ontario Building Officials Association. This para professional Association shall become responsible for certification, upgrading training, complaint investigation and governance of all practicing members.

Further:

Any person, having successfully completed and passed certification through the Ontario Building Officials Association, shall be initially certified as a Building Inspector , and shall require to serve in such a position for a minimum of three [3] years and, complete additional courses through the Ontario Building Officials Association, and pass an additional examination of qualification, before being permitted to serve as a Municipal Chief Building Official. In addition, further courses of study, through the Ontario Building Officials Association shall be successfully undertaken to become employed as a Municipal Plans Examiner, after completion of the initial three [3] year Building Inspector certification.

RECOMMENDATION #10 For Consideration by Mr. Commissioner

We understand that Mr. Commissioner is limited by a rather narrow imposed mandate from the Province of Ontario, and cannot delve into occurrences unrelated to the collapse of the mall. However, much evidence has been presented pointing directly to a culture of collusion between the City of Elliot Lake and the local “not for profit” corporation in town, along with the aggressive

involvement of this local “not for profit” in many areas of the business in which the city itself engages. We have heard evidence of secret meetings, at which either they, or, a member of their board of directors, [also a sitting council member] were present. Much potential evidence was prevented from coming forth on these issues, due to the restrictive mandate of the Commission. As to the mall, exclusively, it was plain, from the NORR Engineering report, that during the ownership of the local “not for profit”, conditions at said mall were definitely not beyond the point of no return, however, there appears to have been an unwritten city policy of “Hands Off”, until mere months following a sale to a third owner, there was a flourish of inspections and orders, all be it, not followed up.

We would ask Mr. Commissioner to urge the Province to look deeper into the total dealings and business practices of the City of Elliot Lake.

RECOMMENDATION #11 For Inclusion Into The Professional Engineers Act

Any conditions discovered by an Engineering Firm, commissioned to undertake a Preliminary “visual” building evaluation or inspection, which could have the effect of compromising the physical structure and public safety, shall automatically trigger a clear recommendation, spelled out in the final report, for the owner to immediately commission a more extensive inspection by a qualified professional, which may include destructive inspection and materials testing. All reports, photographs, and remedial action recommendations shall immediately be registered on the property title, with a copy forwarded to the local municipal building department.

Further:

All records of remedial actions undertaken by the building owner or agent, as a result of inspection reports and recommendations shall be securely maintained by said owner, and transmitted to any and all subsequent property owners upon finalization of any future sale of the property.

RECOMMENDATION #12 For Inclusion Into The Professional Engineers Act

All reports filed by a professional engineer to a client shall be written in clear, precise layman language, with clear and definitive Recommendations for remedial and corrective actions. No engineering professional may be held liable for any report recommendations which may err on the side of caution, where public safety may be compromised.

RECOMMENDATION #13 Policy Consideration For Ministry of Labour

All Health & Safety Inspectors shall receive full training for all workplace types which occur or may occur within their assigned area of responsibility and training shall be updated at least every two [2] years, and records of training for each inspector kept as a permanent record by the Ministry.

RECOMMENDATION #14 Policy Consideration For Ministry of Labour

Health & Safety workplace inspectors shall undertake pro-active inspections of all workplaces within their area of responsibility a minimum of once every two [2] years, and while conducting, review all Health & Safety Committee Meeting Minutes and Workplace Inspection Reports required under current legislation, and obtain copies of same and retain on workplace file kept by the Ministry; interview Health & Safety Representative on site and Management, and keep records of all such interviews on workplace file retained by the Ministry. Any problems noted or reported outstanding difficulties shall immediately be referred, via written report, to Ministry of Labour Engineering Division.

RECOMMENDATION #15 Policy Consideration For Ministry of Labour

If the Engineering Division of the Ministry of Labour is requested to inspect a workplace, and if items of concern are discovered relate to potential structural concerns or potential violations to Building Code or other Codes or Legislation, the Engineer shall consult with Municipal Building Officials and report findings and ascertain if the municipality has any outstanding Notices or recorded Violations registered against the workplace, and, file its own report with the municipality.

RECOMMENDATION #16 For Consideration By Mr. Commissioner

We would request that Mr. Commissioner recommend to the Crown that an immediate and in depth investigation be undertaken by the OPP with a view to bringing forth criminal charges against various parties involved with the Algo Centre Mall for such offenses as fraud, attempted fraud, criminal negligence and, numerous instances of perjury. In the words of Lord Chief Justice, Goddard during the Profumo [spelling] Inquiry: “The lack of recall is tantamount to perjury”.

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The Citizens of Elliot Lake who encouraged us, supported us, and inputted