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IN THE MATTER OF THE *SAFETY STANDARDS ACT*
SBS 2003, Chapter 39

AND IN THE MATTER OF an appeal to the
British Columbia Safety Standard Appeal Board

BETWEEN:	**An Electric & Pole Line Company**	**Appellant**
AND:	**District of Maple Ridge**	**Respondent**

REASONS FOR DECISION

INTRODUCTION

[1] This is an appeal by an Electric & Pole Line Company, regarding the decision of a local Safety Manger for the District of Maple Ridge, dated April 18, 2013 (the "Manager's Decision"). The Manager's Decision upholds the earlier decision of an Electrical Safety Officer for the District of Maple Ridge (the "Initial Decision"). At issue is the inspection of electrical permit #12-123730-EL. Both the Initial Decision and the Manager's Decision held that the electrical work performed by the Appellant was properly inspected and that the installation in question was rejected because the requirements for performing electrical work in support of the growing of marijuana were not met. The Appellant states that the work in question is not in support of the growing of marijuana and is simply a service upgrade from 200 Amp to 400 Amp and submits that both the Safety Officer and Safety Manager erred in reaching the conclusion that they did.

HISTORY OF THE APPEAL

[2] The Appellant's Notice of Appeal was received by the Board on May 9, 2013. The Respondent, the District of Maple Ridge, had 14 days from receipt of the Notice of Appeal to file its response. Such response was due on May 24, 2013, but was not filed. On May 29th the Respondent's counsel requested a time extension to file its response. A time extension was granted by the Board to June 3, 2013 at 4:00 p.m. However, the Respondent missed this deadline as well and ultimately filed its response on June 4, 2013. Nevertheless, an Appeal Management Conference was held on July 3, 2013 via teleconference. Prior to the Appeal Management Conference, both parties were notified of the date and time of the conference and were emailed directions outlining how to call into the teleconference. The Appellants' representative, attended on behalf of the Appellants. Nobody attended on behalf of the District of Maple Ridge despite waiting for 15 minutes. Nobody contacted the Board to advise that the Respondent was having technical difficulties. Due to the Respondent's lack of attendance, I ordered that the appeal proceed without further input or participation from the Respondent. Accordingly, the appeal proceeded as ordered at the Appeal Management Conference and submissions were only received from the Appellant. After receiving the Appellant's submissions, I determined that further information was necessary in order to determine the appeal and requested a teleconference with the Appellant's representative, in order to question him under oath to provide clarification of the evidence before the Board.

ISSUES

[3] The issue that must be determined is whether the Safety Manager erred in refusing the Appellants' request for electrical connection under permit #12-123730-EL.

FACTS

[4] As mentioned above, evidence and submissions were only received from the Appellants. As a result, other than the limited information set out in the Respondent's filed Response, the evidence of the Appellant is uncontested.

[5] On behalf of the Appellant, the representative applied for and received a permit to do an electrical service upgrade at a property in Maple Ridge, British Columbia. The

District of Maple Ridge issued permit #12-123730 on December 6, 2012 (the "First Permit").

[6] The property in question is a large property and has a house and three garage/accessory buildings located on it. The house has its own separately metered electrical service, which the representative upgraded from 200A 120/240V to 400A 120/240V under the First Permit. The other buildings receive power from a completely separate metered electrical service that is not connected to the house.

[7] The representative requested an inspection of the upgraded electrical service on December 14, 2012. The local Safety Officer for the District of Maple Ridge attended the site for the inspection on December 17, 2012. The representative was not present for the inspection. The Safety Officer rejected the inspection because permits had not been issued for a medicinal marijuana growing operation at the property.

[8] The evidence before the Board indicates that a medicinal marijuana grow-op is in one of the accessory buildings on the property and is licensed federally with Health Canada.

[9] On January 3, 2013, the representative applied for a permit to inspect the owner's installed wiring in one of the accessory buildings. Permit #13-104891 was issued for this purpose (the "Second Permit"). Via email, the representative advised the Safety Officer that he had pulled the Second Permit and inspected the work and requested that he authorize the connection to the house under the First Permit.

[10] The representative requested a review of the Safety Officer's decision to deny connection on January 14, 2013. Shortly thereafter, the representative submitted a second Electrical Inspection Certificate. This second inspection request was also denied by the Safety Officer. The representative requested a review of this decision as well. Both his initial request and this second request were dealt with in the Manager's decision of April 18, 2013.

[11] The Safety Manager agreed with the local Safety Officer and denied the Appellant's application for inspection of electrical work pertaining to the residence. The

Safety Manager's rationale for doing so is that the use of the residence had changed as it was being used as a licensed medicinal marijuana growing operation. The municipality relied upon the district's Building Bylaw and the district's handout entitled "Interim Requirements for Federally Licensed Medical Marijuana Grow Operations" to say that because the use of the residence had changed that the electrical inspection could not pass until the property was in compliance with all local bylaws including the interim requirements set out on the bulletin.

[12] As mentioned above, I questioned the representative under oath on October 8, 2013. He confirmed under oath that the house was not used for growing marijuana, medicinal or otherwise and that he had seen no signs of a "grow-op" in the residence and had been told by the homeowner that the residence was not associated with the separate business of growing medical marijuana and that the homeowner had not advised the electrical inspector that a growing operation existed in the residence. The representative further confirmed under oath that the house and garage each had separate electrical servicing from BC Hydro.

LAW

[13] The legislation governing this Appeal is the *Electrical Safety Regulation*, BC Reg 100/2004 (the "Electrical Regulation") under the *Safety Standards Act*, SBC 2003, c. 39 (the "Act"). While this is the applicable legislation, because the residence in question is located within the District of Maple Ridge, a jurisdiction that has assumed responsibility for the enforcement of the *Act* within its boundaries, the applicable municipal bylaws are also relevant, namely Maple Ridge Building Bylaw No. 6925 – 2012 (the "Building Bylaw").

[14] I note that the Electrical Regulation refers to specific regulated work and products and is applied on a job-by-job basis (i.e. there can be several separate electrical products or electrical works at any given municipal address). I also note that the Building Bylaw refers specifically to individual buildings and not separate fee simple lots. In fact, the Building Bylaw specifically refers to separate accessory buildings and treats them separately from primary buildings on a property.

ANALYSIS

[15] As mentioned above, after hearing the representative's testimony under oath, I find that the residence was not being used as a growing operation.

[16] Accordingly, with no evidence to the contrary presented to the Board, I find that the use of the residence has not changed and remains residential. As the electrical service to the residence is separate from that to the accessory building, I find that the existence of a possible medicinal marijuana growing operation in a separately metered building on the property does not impact the inspection and approval of the separate residence as it is the electrical works at issue in the building applicable to the permit that are at issue. While the municipality appears to be within its rights to refuse electrical hook-up to the accessory building until such time as all requirements for a medical marijuana growing facility are complied with, the issue of the electrical work done at a separately metered residence is a different matter that should not be affected by an adjacent growing operation.

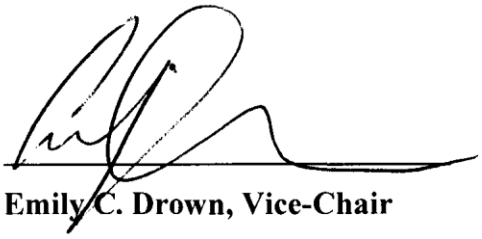
[17] Because the residence and accessory buildings are separately metered by the electrical authority the Safety Manager has no reason to refuse certification of the electrical work performed by the appellant at the residence in question on the ground that a medical marijuana growing operation may exist in another separately metered building on the property.

[18] Of course, if the two buildings were not separately serviced, this would be an entirely different matter with a very different outcome. It would also be a different matter if the residence was found to be operating as a medicinal marijuana growing operation. However, the evidence before the Board does not support such an assertion.

[19] Given the nature of this Appeal, it is most unfortunate that the District of Maple Ridge chose not to be more involved with the hearing of the appeal. Their submissions on the issue of municipal bylaws and the treatment of the medicinal marijuana grow-op would have been valuable to the Board.

CONCLUSION

[20] The decision of the Safety Manager is varied so far as it relies on the existence of a medical marijuana growing operation for the reason for denying the certification of the Appellant's work. If the work done by the Appellant passes code, the Safety Manager ought to pass the inspection and connect the electrical upgrades to the residence with respect to permit #12-123730-EL.



Emily C. Drown, Vice-Chair