

BOARD ORDER NO. MGB 053/16

FILE: D15-J03352

IN THE MATTER OF THE *Emergency Management Act*, being Chapter E-6.8 of the Revised Statutes of Alberta 2000.

AND IN THE MATTER OF THE *Municipal Government Act*, being Chapter M-26 of the Revised Statutes of Alberta 2000.

AND IN THE MATTER OF AN APPEAL TO THE MINISTER of Municipal Affairs (the “Minister”) by Duncan and Jennifer Smith, of a decision made by the Alberta Emergency Management Agency (the “AEMA”) pursuant to the *Alberta Disaster Assistance Guidelines* (the “Guidelines”).

AND UPON THE Minister of Municipal Affairs referring the Appeal to the Municipal Government Board (the “MGB”), acting in its capacity as the Disaster Advisory Committee (the “Committee”).

BEFORE

Members:

L. Yakimchuk, Presiding Officer

D. Roberts, Member

J. Zezulka, Member

Case Managers:

P. Gill

A. Drost

Assistant Case Managers

J. Fitzel

R. Lee

EXECUTIVE SUMMARY

The Smiths own a residence in the Hamlet of Exshaw in the Municipal District of Bighorn. During the June 2013 flood (“Flood”), water from a combination of sewer backup and overland flooding reached up to five feet in the basement. After the Flood, numerous cracks were observed in the foundation walls. Accordingly, the Smiths applied for financial assistance under the Disaster Recovery Program (“DRP”).

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Engineering reports were commissioned to help decide how much (if any) assistance should be provided under the DRP. However, the reports were inconsistent: Two recommended a rebuild of the foundation, while a third stated there is no structural damage to the foundation.

Party Positions before the Committee

After evaluating the engineering reports submitted by the Appellants and those of its own engineers, the DRP concluded that some damage to the Appellants' foundation was pre-existing and, thus, ineligible for compensation. However, the DRP was willing to consider compensating the Appellants up to a maximum of \$4,250.00 to reinforce the north wall as a precautionary measure.

The DRP considers further compensation is unjustified, given that the DRP only covers damages directly caused by natural disaster and is not intended to return property to better than its previous condition. The DRP requires evidence of significant structural damage before it will authorize a rebuild. In its view, the engineering reports failed to establish that the Flood compromised the structural integrity of the foundation to any appreciable magnitude.

The Appellants disagree with this conclusion. They point to evidence from their own engineers that say flooding caused damage to their foundation and that the cost of appropriate repairs would be similar to the cost of a complete rebuild. Furthermore, the old foundation would require continuous monitoring if repaired and not rebuilt, so the basement would become undevelopable.

Committee's Findings

The Committee finds that the Smiths are eligible for DRP assistance pursuant to section 3.6 of the *Guidelines* to rebuild the foundation of the Residence.

The Committee accepts the Appellants' engineering evidence that the costs of repairs needed to ensure the integrity of the foundations are similar to costs of rebuilding them. Furthermore, the foundation will require continuous monitoring if it is repaired rather than rebuilt. This factor would result in an undevelopable basement, since the walls would have to remain exposed. Therefore, the Committee finds that the Smiths should receive additional financial assistance in the amount of \$44,737.50 to rebuild the foundation of their Residence.

RECOMMENDATION

The Committee recommends that the Minister determine that the Appellants, Duncan and Jennifer Smith, are eligible for assistance to rebuild the foundation of their Residence pursuant to

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the *Alberta Disaster Assistance Guidelines* and, therefore, the Appellants are eligible for the rebuilt cost of their foundation.

The recommendation results in \$44,737.50 provided to the Smiths.

Dated at the City of Edmonton, in the Province of Alberta, this 31st day of August, 2016.

DISASTER ADVISORY COMMITTEE

(SGD.) L. Yakimchuk, Presiding Officer