

**Applicant**

**Name:** [REDACTED]

**Title:** Owner

**Organization:** 10017070 Manitoba Ltd.

**Address:** 180 Provencher Boulevard, Winnipeg, MB

**Phone Number:** [REDACTED]

**Email Address:** [REDACTED]

**Respondent**

City of Winnipeg [REDACTED]

Approving Authority

Planning, Property and Development Department

65 Garry Street, Winnipeg, MB

[REDACTED]

[REDACTED]

Date: December 18, 2025

Re: Notice of Adjudication Decision

Dear Parties,

The Applicant and Approving Authority are being notified that after the adjudication hearing on December 10, 2025, the Adjudicator determined:

1. **The Adjudicator has jurisdiction to hear the dispute under section 2(2) of the Permit Dispute Resolution Act.**
2. **The City of Winnipeg was not justified in issuing the Order to Mitigate Unsafe Condition dated June 25, 2025, based on the reasons outlined in the Order.**
3. **The Order to Mitigate Unsafe Condition is hereby set aside.**

A copy of the Adjudicator's decision is enclosed along with this notice.

In light of the determination, the City of Winnipeg must pay the costs specified in the order no later than 30 days after the order has been issued.

The adjudication hearing cost of **\$2250.00** is now outstanding.

Payment should be addressed to:  
Cody Bergen

Adjudicator

Payment should be mailed to:  
Inspection and Technical Services  
508-401 York Avenue  
Winnipeg, MB R3C 0P8

Sincerely,



**Cody Bergen**

Adjudicator - Permit Dispute Resolution

Phone Number: [REDACTED]

Email Address: [REDACTED]

**Applicant**

**Name:** [REDACTED]  
**Title:** Owner  
**Organization:** 10017070 Manitoba Ltd.  
**Address:** 180 Provencher Boulevard, Winnipeg, MB  
**Phone Number:** [REDACTED]  
**Email Address:** [REDACTED]

**Respondent**

City of Winnipeg [REDACTED]  
Approving Authority  
Planning, Property and Development Department  
65 Garry Street, Winnipeg, MB  
204-986-5140  
[REDACTED]

**Date:** December 18, 2025  
**Subject:** Written Permit Dispute Resolution Hearing Decision and Reasons

Dear Parties,  
I am writing to provide the written reasons for the decision rendered following the Permit Dispute Resolution hearing held on December 10, 2025, pursuant to *The Permit Dispute Resolution Act*, C.C.S.M. c. P32.5 (the "PDRA"). I was appointed as adjudicator for this matter and have carefully reviewed all documentary evidence, written submissions, oral submissions, and applicable legislative materials.

**Decision and Written Reasons**

**Background**

This dispute arises from a Compliance Order to Mitigate Unsafe Condition issued by the City of Winnipeg on June 25, 2025, under *The Winnipeg Building By-law No. 4555/87*. The Compliance Order relates to the property municipally known as 180 Provencher Boulevard, which is owned by the Applicant.

The Applicant's building was constructed prior to June 14, 1974. The Compliance Order was issued following construction activity at the neighbouring property, 174 Provencher Boulevard, which the City determined may create increased snow drift loading on the Applicant's building.

The Compliance Order requires the Applicant to retain a professional engineer, prepare engineered designs, obtain permits, and complete remedial construction work.

The Applicant appealed the Compliance Order through the City's internal appeal process, which upheld the Order. The Applicant subsequently applied for a dispute resolution hearing under the PDRA.

The City objected to the adjudicator's jurisdiction and, in the alternative, submitted that the Compliance Order was properly issued.

The hearing was conducted in person.

### **Issues Presented**

The following issues were raised and considered:

1. **Does the adjudicator have jurisdiction under the Permit Dispute Resolution Act to hear the dispute?**
2. **If jurisdiction exists, was the City justified in issuing the Compliance Order to Mitigate Unsafe Condition based on the reasons stated in the Order?**

### **Evidence Considered**

In determining these issues, the following evidence was considered:

- The Compliance Order to Mitigate Unsafe Condition dated June 25, 2025
- Structural engineering reports relied upon by both parties
- Written submissions of the Applicant and the City of Winnipeg
- Oral submissions made at the hearing
- *The Permit Dispute Resolution Act*
- *The Buildings Act*
- *The City of Winnipeg Charter*
- *The Winnipeg Building By-law No. 4555/87*

### **Decision / Order**

After thorough review and careful consideration of all the evidence and arguments presented, I hereby make the following decision:

1. **I have jurisdiction to hear this dispute under section 2(2) of the Permit Dispute Resolution Act.**
2. **The City of Winnipeg was not justified in issuing the Order to Mitigate Unsafe Condition dated June 25, 2025, based on the reasons outlined in the Order.**
3. **The Order to Mitigate Unsafe Condition is hereby set aside.**

### **Reasons for the Decision**

#### **1. Jurisdiction**

The Applicant is the subject of an order issued by a municipal approving authority, namely, the City of Winnipeg. The Compliance Order requires the Applicant to undertake future construction work, apply for permits, and bring that work into compliance with applicable building codes and standards.

Although the Applicant's building was constructed prior to 1974 and is not retroactively subject to the Building Code, the City's Compliance Order relies on modern engineering analysis and mandates code-governed remedial construction. Once an order requires compliance through permitted construction work, it engages the "technical requirements of a building construction code or building construction standard" within the meaning of section 2(2) of the PDRA.

The City's reliance on the appeal provisions of *The City of Winnipeg Charter* does not override PDRA jurisdiction. The PDRA is a provincial statute enacted to provide an independent forum for technical building standard disputes, and section 11 of the PDRA expressly prohibits such disputes from being determined through a municipal council appeal process.

Further, reliance on section 3 of the PDRA to limit jurisdiction is misplaced, as that section has not been proclaimed and is not in force. Section 2 of the PDRA expressly applies to municipal approving authorities, including the City of Winnipeg.

Accordingly, the prerequisites for jurisdiction under section 2(2) of the PDRA are met.

My jurisdiction is limited to determining whether the Order improperly applies or enforces technical building standards. Matters of general safety enforcement, municipal policy, or civil liability between neighbouring property owners fall outside the scope of the PDRA and were not considered.

## **2. Justification for the Compliance Order to Mitigate Unsafe Condition**

The City's authority to issue an unsafe condition order under sections 12.1 and 12.2 of the *Winnipeg Building By-law* is not in dispute. The issue is whether the statutory threshold for exercising that authority was met on the evidence before the City.

The Compliance Order does not identify an existing structural failure, distress, or unsafe condition at 180 Provencher Boulevard. Instead, it relies on engineering assessments indicating that future snow drifting conditions created by the neighbouring development may exceed the building's original design capacity.

The evidence demonstrates that the Applicant's building performed adequately under historic loading conditions prior to the neighbouring construction. The alleged hazard is therefore conditional and dependent on the completion and configuration of the development of 174 Provencher Boulevard.

An unsafe condition order requires an existing or imminent hazard supported by evidence. A speculative or contingent risk, particularly one dependent on future actions of another property owner, does not meet that threshold.

Further, the City's reasoning improperly relies on current building code requirements to justify remedial work on a building that is exempt from retroactive code application under *The Buildings Act*. An unsafe condition order cannot be used to indirectly impose code upgrades where the legislation expressly prohibits retroactive application.

Finally, the record demonstrates that the City did not meaningfully consider reasonable alternatives, including mitigation at the source of the increased loading or interim measures tied to the neighbouring development.

Taken together, these deficiencies undermine the justification for issuing the Compliance Order.

**Binding Nature of the Decision**

This decision is final and binding on both parties under the Permit Dispute Resolution Act. The matters addressed herein are not subject to further appeal or review by the approving authority.

**Copies of the Decision**

A copy of this decision will be provided to both parties for their records and compliance.

**Conclusion**

I thank the parties for their cooperation and participation in this proceeding. If clarification is required regarding this decision or its implementation, the parties may contact me using the information below.

Sincerely,



**Cody Bergen**

Adjudicator - Permit Dispute Resolution

Phone Number: [REDACTED]

Email Address: [REDACTED]