

# Building Standards Advisory

Promoting construction of safe, healthy, habitable buildings

## Orders of a Building Official

### Question

“When writing an order under section 17 of *The Uniform Building and Accessibility Standards Act* (the UBAS Act) to whom should the building official address the order to?”

### Answer

In all situations the order must be given to the *owner*, recognizing that through the course of construction, completion, and occupancy the *owner* may be different parties at different times.

### Background

To understand the process, it is important to consider the following definitions contained in the UBAS Act. The definitions are contained in subsection 2(1) as follows:

“**constructor**” means a person who contracts with an *owner* or his authorized agent to undertake a building construction project, and includes an *owner* who:

- contracts with more than one person for the work on a building construction project; or
- undertakes the work on a building construction project or any part of such a project.

“**owner**” means any person, firm, or corporation that controls the property under consideration.

Further, section 17 of the UBAS Act specifically references who can be the recipients of an order. Depending on the intent of the order, this may include the *owner* of the *building* or his agents, contractors, employees, successors, or assigns the registered *owner* of the land on which the *building* is situated.

Although the UBAS Act provides some latitude on who can be the recipient of an order, in the majority of cases, it will be *owner(s)*.

Compliance with *The Uniform Building and Accessibility Standards Act*, Regulations and the National Building Code of Canada 2010 (NBC 2010) is addressed in this advisory. Words in *italics*, other than Act titles, are defined in the NBC 2010.

Options for the service of an order are found in *The Uniform Building and Accessibility Standards Regulations*, section 13 as follows:

- (1) Where service of a document or notice in writing is to be given pursuant to the Act or the Regulations, service may be affected or notice given by:
  - (a) personal service;
  - (b) registered mail addressed to the person to be served or given notice at his or her last known address;
  - (c) posting the document or notice in a conspicuous location at the site of a building or excavation that is described or identified in the document or notice and that forms part of the subject matter of the document or notice;
  - (d) leaving the document or notice with any person:
    - (i) at the site of a building or excavation that is described or identified in the document or notice and that forms a part of the

- subject matter of the document or notice; or
  - (ii) at any place of business owned or operated by the person to be served or to whom the notice is addressed; who appears to be in control or management of the site or place;
  - (e) leaving the document or notice with any person over 16 years of age at the place of residence of the person to be served; or
  - (f) any of the methods of service provided in the Queen's Bench Rules of Court.
- (2) A document or notice served by registered mail is deemed to have been received on the fifth day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person:
- (a) he or she did not receive the document or notice; or
  - (b) he or she received the document or notice at a later date.

## Hints to Good Order Writing

- Clearly express why the order is being written.
- Clearly state which clause under section 17 it is being written.
- Clearly state exactly what result you require.
- If it pertains to *building* or accessibility standards, detail the provision of the National Building Code, the UBAS Act, or the Regulations that is not being met.
- If it pertains to an unsafe condition, detail exactly why you find it unsafe.
- If it pertains to imminent danger, document very carefully what the imminent danger is and why you took the action you took.
- If it is a zoning issue, don't use a building official's order.
- If it is a nuisance abatement of property standards issue, don't use a building official's order.

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This advisory is published by the Saskatchewan Ministry of Government Relations for purposes of providing information to users on the topic contained herein. In case of conflict between *The Uniform Building and Accessibility Standard Act* (the UBAS Act), the National Building Code of Canada 2010 (NBC 2010) and this advisory, provisions of the UBAS Act and NBC 2010 shall apply.