

RIWG Presentation to Council UPC – Jan 2021 – Stephen Poole

Thank you for the opportunity to speak to you today. My name is Stephen Poole. I am a retired civil engineer with experience in construction safety, excavation and backfilling.

The Residential Infill Working Group (RIWG) are well-qualified and experienced concerned citizens. We desire to improve the infill experience for everyone: homeowners, builders, future residents of new construction, and the broader community.

My topic is the 2019 Infill Compliance Team (ICT) Report Attachment 6.

At the April 23 2019 Urban Planning Committee meeting, Administration received the following motion:

*“Explore options to introduce an excavation inspection and approval process on infill projects.”*

Administration have not fulfilled this motion. No options for action by Administration are explored. They instead present an incomplete and idealised version of the facts that is mostly irrelevant to the motion to distract and divert readers.

The transfer of unacceptable risk of property damage to neighbours of infill, arising from excavation for infill construction, continues to be the deliberate policy and consistent practice of Administration.

Administration writes: “It is important to note that the NBC-AE (National Building Code – Alberta Edition) does not regulate excavations.”

In fact, the NBC-AE contains provisions that regulate excavations and provisions to prevent damage to both public and private property. They apply to all construction sites, at every stage of construction:

*“An objective of this Code is to limit the probability that, as a result of the design, construction or demolition of the *building* or facility, adjacent *buildings* or facilities will be exposed to an unacceptable risk of structural damage. The risks of structural damage to adjacent *buildings* or facilities addressed in this Code are those caused by—*

OP4.1 – settlement of the medium supporting adjacent *buildings* or facilities

OP4.4 – collapse of the *excavation*”

*“Excavations shall be kept reasonably clear of water”*

Intent: “To limit the probability that water will . . . lead to the . . . excavation collapsing . . . which could lead to harm to persons.” (8.2.2.1)

*“If the stability of adjoining *buildings* may be endangered by the *work* of excavating, adequate underpinning, shoring and bracing shall be provided to prevent*

a) damage to, or movement of, any part of the adjoining *building*, and

b) the creation of a hazard to the public”

Intents:

“To limit the probability that excavation operations will lead to damage to adjacent buildings  
To limit the probability that excavation operations will lead to the failure of any part of adjoining buildings, which could lead to harm to persons.” (8.2.2.2)

Despite the above denial, Administration is fully aware of this content. A FOIPed e-mail of April 17, 2019 from Chad Rich to Jason Syvixay states “. . . the Alberta Building Code regulates some construction aspects of excavation activities, including the design and the supports of an excavation where applicable.”

Attachment 6 states: “The Building Code . . . requires that shoring be designed by a Professional Engineer when considered applicable to the construction activities.” “Safety Codes Officers (SCO) are not Professional Engineers and would not be able to assess when protection may be required, and if so, the design/installation of said protection.”

A Safety Codes Officer familiar with home building **is capable** of recognising a potentially unstable excavation, and certainly one that is beginning to fail with slumping soil, growing surface cracks, leaning fences or trees and other obvious features.

The deliberate policy and consistent practice of Safety Codes is to completely ignore these clear indicators and allow the unacceptable risk to the adjacent property to occur, then to develop and cause damage. This is a Building Code violation. Safety Codes consistently does not enforce Code.

Administration plays down damage incidents as “a small percentage of projects” and avoids any discussion of the extreme, life changing severity of some incidents. In fact, a **significant** number of projects create **unacceptable risk** and have consequences of **extremely high** severity.

Administration states that an SCO may issue an Order where an unsafe condition or imminent danger exists. If SCOs are able to recognise an unsafe condition or imminent danger, then they are indeed able to recognise a potentially unstable excavation.

I recommend ***That City Council pass a resolution to apply to the Safety Codes Council to amend Edmonton’s Quality Management Plan to relinquish the power to enforce the residential infill construction excavation provisions of the Building Code, pass the power to an external agency to impartially and fully enforce those provisions in Edmonton, and engage the Minister of Municipal Affairs to oversee enforcement of those provisions in Edmonton and to conduct a third-party audit of Edmonton’s administration of the Safety Codes Act and regulations.***